AGENDA
CITY OF HOLMES BEACH CITY COMMISSION WORK SESSION
PATRICIA A GEYER COMMISSION CHAMBERS
5801 MARINA DR, HOLMES BEACH, FL 34217
TUESDAY – NOVEMBER 24, 2015
IMMEDIATELY FOLLOWING THE 7:00 P.M. REGULAR MEETING

1. CALL TO ORDER

2. ROLL CALL

3. QUESTIONS AND COMMENTS FROM THE PUBLIC AND PRESS

NEW BUSINESS

4. DRAFT ORDINANCE 15-20
   "AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA CLARIFYING AND AMENDING ITS REGULATIONS FOR RECREATIONAL WATER FEATURES AMENDING ARTICLE VI, SECTION 6.8U BY MODIFYING SUBSECTION 6.8 U.1.B(1) PROHIBITING THE LOCATION OF RECREATIONAL WATER FEATURES BETWEEN ANY PORTION OF THE FACE OF A BUILDING AND A FRONT LOT LINE, PROVIDING FOR TERMINATION OF THE MORATORIUM IMPOSED BY ORDINANCE 15-14; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE."

UNFINISHED BUSINESS

5. DRAFT ORDINANCE 15-21 - VACATION RENTAL CERTIFICATE ORDINANCE
   "AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA ADOPTING A NEW CHAPTER 4 IN THE CODE OF ORDINANCES OF THE CITY OF HOLMES BEACH TO BE TITLED, "REGULATION OF VACATION RENTAL UNITS"; PROVIDING FOR INTENT; PROVIDING FOR A GENERAL FRAMEWORK FOR THE REGULATION OF VACATION RENTAL UNITS; PROVIDING FOR DEFINITIONS; PROVIDING FOR FINDINGS OF FACT; PROVIDING A REQUIREMENT FOR A VACATION RENTAL CERTIFICATE; PROVIDING REQUIREMENTS FOR APPLICATIONS; PROVIDING STANDARDS AND REQUIREMENTS FOR VACATION RENTAL UNITS; PROVIDING REQUIREMENTS FOR VACATION RENTAL PARKING; PROVIDING REQUIREMENTS FOR ACCESSORY USES FOR VACATION RENTAL UNITS; PROVIDING FOR USE OF AGENTS BY VACATION RENTAL PROPERTY OWNERS; PROVIDING FOR OCCUPANCY LIMITS; PROVIDING FOR LANDSCAPING AND BUFFERING REQUIREMENTS; PROVIDING FOR ADVERTISING REQUIREMENTS; PROVIDING FOR LEGAL NONCONFORMITIES AND A PROCESS TO ADDRESS SAME; PROVIDING FOR TRANSITION DURING IMPLEMENTATION PROCESS; PROVIDING FOR A PROCESS FOR CONVERSION OF EXISTING LEGAL NON CONFORMING RESIDENTIAL STRUCTURES TO VACATION RENTAL USE; PROVIDING FOR FEES ASSOCIATED WITH VACATION RENTAL UNITS APPLICATIONS, INSPECTIONS AND MONITORING; PROVIDING FOR ENFORCEMENT AND FOR PENALTIES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE."

ANNOUNCEMENTS

6.

- ☐ THURSDAY & FRIDAY – NOVEMBER 26 & 27 – THANKSGIVING HOLIDAY – OFFICES CLOSED
- ☐ SUNDAY – NOVEMBER 29 – 8:00 A.M. – 4:00 P.M. – FLEA MKT @ RADER'S REEF
- ☐ WEDNESDAY – DECEMBER 2 – 4:00 P.M. – PARKS & BEAUTIFICATION MTG – TBD
- ☐ THURSDAY – DECEMBER 3 – 5:30 P.M. – 7:30 P.M. – NEIGHBORHOOD WATCH TRAINING CLASS
- ☐ MONDAY – DECEMBER 7 – 2:00 P.M. – ITPO @ HOLMES BEACH
- ☐ TUESDAY – DECEMBER 8 – 7:00 P.M. – CITY COMMISSION REGULAR MEETING WITH WORK SESSION TO FOLLOW
- ☐ THURSDAY – DECEMBER 10 – 7:00 P.M. – CITY COMMISSION WORK SESSION
- ☐ SATURDAY – DECEMBER 12 – 10:00 A.M. – 12:00 NOON – PRIVATEERS CHRISTMAS PARADE
- ☐ SATURDAY & SUNDAY – DECEMBER 12 & 13 – 10:00 A.M. – 4:30 P.M. – WINTERFEST ARTS & CRAFT SHOW @ CITY FIELD – BENEFITING THE ANNA MARIA ISLAND ART LEAGUE
- ☐ WEDNESDAY – DECEMBER 16 – 2:00 P.M. – BIEO @ LONGBOAT KEY –
- ☐ SATURDAY – DECEMBER 19 – SUNSET – SIDEWALK ASTRONOMY @ CITY FIELD
- ☐ THURSDAY & FRIDAY – DECEMBER 24 & 25 – HOLIDAY – CITY OFFICES CLOSED

7. QUESTIONS AND COMMENTS FROM MAYOR AND COMMISSION

8. QUESTIONS AND COMMENTS FROM CITY ATTORNEY

9. QUESTIONS AND COMMENTS FROM STAFF

10. QUESTIONS AND COMMENTS FROM PUBLIC AND PRESS

11. ADJOURNMENT

Should any interested party seek to appeal any decision made by this City Commission with respect to any matter considered at this meeting, they will need to insure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based. In accordance with the Americans with Disabilities act and 286.26 Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the office of the City Clerk no later than 3 days prior to the meeting at telephone (941) 708-5800 for assistance; if hearing impaired, telephone (800) 955-8771 (TDD) for assistance.

#4

ORDINANCE 15-20

AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA CLARIFYING AND AMENDING ITS REGULATIONS FOR RECREATIONAL WATER FEATURES AMENDING ARTICLE VI, SECTION 6.8.U BY MODIFYING SUBSECTION 6.8 U.1.b.(1) PROHIBITING THE LOCATION OF RECREATIONAL WATER FEATURES BETWEEN ANY PORTION OF THE FACE OF A BUILDING AND A FRONT LOT LINE, PROVIDING FOR TERMINATION OF THE MORATORIUM IMPOSED BY ORDINANCE 15-14; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission foresees that the continued allowance of recreational water features and ancillary structures thereto, in the spaces in front of residential dwellings is likely to increase and that the location of such recreational water features in these front spaces may result in overdevelopment, or the appearance of overdevelopment, of individual lots and

WHEREAS, the City Commission foresees that the continued allowance of recreational water features and ancillary structures thereto, in the spaces in front of residential dwellings is likely to increase and that the location of such recreational water features in these front spaces results in activity and situations not conducive to the continued tranquility desired in the City's residential neighborhoods, and

WHEREAS, the City Commission foresees that the continued allowance of recreational water features and ancillary structures thereto, in the spaces in front of residential dwellings is likely to increase and that the location of such recreational water features in these front spaces will contribute to changing the character of the City, particularly it residential areas.

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

Section 1. Findings of Fact. The above referenced "whereas" clauses are adopted herein as findings of fact.

Section 2. Article VI, Zoning, Section 6.8.U, Recreational water features, shall be amended by modifying subsections 6.8.U.1.b to read as follows:

U. Recreational water features.

b. Except for in-ground pools located in waterfront yards with seawalls, recreational water features and associated decks and ancillary structures, are subject to the following limitations and requirements:

(1) No recreational water feature, deck or other structure ancillary to a recreational water feature may be located in any required yard.

(2) No recreational water feature, deck or other structure ancillary to a recreational water feature may be located in the space, extending the full width of the lot, between any building and a lot line fronting on a street (i.e., front lot line) and measured perpendicular to the building; and also including any area between any portion of the face of a building and a front lot line, except as follows:

(a) A free-standing waterfall, grotto or fountain with a maximum fixed height of six feet neither meeting the definition of, nor ancillary to, a recreational water feature may be located within the area described in subsection (b), above.

(b) A swimming pool and associated deck may be located in the area described in subsection (2), preceding, provided the following conditions are met:

i. The principal structure to which the swimming pool is to be accessory was in existence prior to (insert date of ordinance);

ii. The Applicant documents, to the City's satisfaction that there is no other location on the lot or parcel where a reasonably sized (?) swimming pool and deck may be practically (?) placed and that such impracticality is not due to a desire to increase the size of the principal structure (?);

iii. The swimming pool and associated deck are screened from public view along all street frontages by an opaque structure, opaque hedge or opaque fence, at least six feet in height above the surface of the pool.

iv. The Applicant has submitted to the City a site plan which will be reviewed by the City Commission at a public hearing (?)

Section 3. Termination of Moratorium. Ordinance 15-14 shall terminate 30 days after the adoption of this Ordinance.

Section 4. Severability. In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, or application thereof, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this ordinance, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this Ordinance, which shall remain in full force and effect. This

ordinance shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as expressed herein.

Section 5. Effective Date. This Ordinance shall be effective upon adoption by the City Commission and approval by the Mayor in accordance with the Charter of the City of Holmes Beach.

PASSED AND ADOPTED, by the City Commission of the City of Holmes Beach, Florida, in regular session assembled, this _____ day of _____, 2015.

First Reading: _____

Publication Date_____

Second Reading and Public Hearing Date_____

_____
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

#5

ORDINANCE 15-21

AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA ADOPTING A NEW CHAPTER 4 IN THE CODE OF ORDINANCES OF THE CITY OF HOLMES BEACH TO BE TITLED, "REGULATION OF VACATION RENTAL UNITS"; PROVIDING FOR INTENT; PROVIDING FOR A GENERAL FRAMEWORK FOR THE REGULATION OF VACATION RENTAL UNITS; PROVIDING FOR DEFINITIONS; PROVIDING FOR FINDINGS OF FACT; PROVIDING A REQUIREMENT FOR A VACATION RENTAL CERTIFICATE; PROVIDING REQUIREMENTS FOR APPLICATIONS; PROVIDING STANDARDS AND REQUIREMENTS FOR VACATION RENTAL UNITS; PROVIDING REQUIREMENTS FOR VACATION RENTAL PARKING; PROVIDING REQUIREMENTS FOR ACCESSORY USES FOR VACATION RENTAL UNITS; PROVIDING FOR USE OF AGENTS BY VACATION RENTAL PROPERTY OWNERS; PROVIDING FOR OCCUPANCY LIMITS; PROVIDING FOR LANDSCAPING AND BUFFERING REQUIREMENTS; PROVIDING FOR ADVERTISING REQUIREMENTS; PROVIDING FOR LEGAL NONCONFORMITIES AND A PROCESS TO ADDRESS SAME; PROVIDING FOR TRANSITION DURING IMPLEMENTATION PROCESS; PROVIDING FOR A PROCESS FOR CONVERSION OF EXISTING LEGAL NON CONFORMING RESIDENTIAL STRUCTURES TO VACATION RENTAL USE; PROVIDING FOR FEES ASSOCIATED WITH VACATION RENTAL UNITS APPLICATIONS, INSPECTIONS AND MONITORING; PROVIDING FOR ENFORCEMENT AND FOR PENALTIES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Holmes Beach's Comprehensive Plan requires that the residential and family character of the City be maintained and protected while recognizing the economic benefit resulting from the tourist trade; and

WHEREAS, the Comprehensive Plan limits the number of overnight occupants of a resort housing unit to six (6) persons or two (2) per bedroom whichever is greater; and

WHEREAS, there has been an increase in both the number of residential structures being used for vacation rental purposes in the City and the time such units are occupied as opposed to being vacant or unrented; and

WHEREAS, in Section 509.032, Florida Statutes, the State Legislature has granted authority to local government to regulate vacation rental units; and

WHEREAS, the Commission has deemed it in the best interest of its citizens and residents to adopt regulations for vacation rental units; and

WHEREAS, the Commission has studied this issue, reviewed regulations

adopted by other jurisdictions, sponsored focus groups to obtain input from the public and stakeholders, received public comment at numerous work sessions and meetings prior to adopting this ordinance; and

WHEREAS, the Commission has determined that this ordinance is consistent with the Comprehensive Plan and the public, health, safety and welfare; and

WHEREAS, the Commission has determined that residents are entitled to the quiet enjoyment of their property as one of the right of ownership; and

WHEREAS, the ordinance has been duly advertised and additional comments were solicited at a public hearing prior to its final action.

NOW THEREFORE, be it ordained by the City Commission of the City of Holmes Beach, Florida as follows:

Section 1. A new chapter 4 to be titled "Regulation of Vacation Rental Units" is added to the Holmes Beach Code of Ordinances which chapter shall read as follows:

"REGULATION OF VACATION RENTAL UNITS

Section 4-1. Purpose and Intent.

The purpose of this ordinance is to establish and enforce standards for vacation rental units in the residential zones of the City in a manner which protects the residential character and quality of life in the neighborhood where the vacation rental units are located while not unduly restricting the owner of the vacation rental unit from use of the vacation rental property. The statutory authority for this regulation is found in Section 509.032(7), Florida Statutes. Further, this vacation rental ordinance shall be construed and implemented to achieve the following intent and purposes of the City commission:

A. To establish the regulations, procedures and standards for the review and approval of all vacation rental units in the City.
B. To preserve and foster the public health, safety, aesthetics, and general welfare, and to aid in the harmonious and orderly development of the City in accordance with its comprehensive plan.

C. To establish a review process that is efficient in terms of time and expense; effective in addressing the impacts of vacation rental units; and equitable with regard to regulations and procedures, while respecting the rights of property owners.
D. To implement the City's comprehensive plan.
E. To insure the safety of structures that are used as vacation rental units and/or short term rentals.

Section 4.2. Interpretation.

In the interpretation and application of this ordinance, all standards, criteria and requirements shall be liberally construed in favor of the purposes and goals of the City of Holmes Beach and deemed neither to limit nor repeal any other lawful regulatory powers of the City.

Where this ordinance conflicts with or overlaps other ordinances or regulations, the more stringent shall prevail.

If any issue arises concerning the application of regulations, definitions, development criteria, performance standards or any other provisions of this ordinance, the Code Enforcement officer shall be responsible for their interpretation. Responsibility for interpretation by the Code Enforcement officer shall be limited to standards, regulations and requirements of this ordinance. Such responsibility shall not be construed to substitute for or abrogate any right or responsibilities specified to the mayor or the City commission or any board or official named in other sections of the City's Code of Ordinances. The Code Enforcement officer shall rely upon the goals, objectives and policies adopted in the City of Holmes Beach Comprehensive Plan in making any such interpretation.

Section 4.3. General Framework.

This ordinance addresses specific issues relevant to use of vacation rental units and also contains appropriate cross references to the City's Land Development Code, and other City ordinances including but not limited to the alcoholic beverage ordinance (Chapter 6), the Florida Building Code (Chapter 14), the noise ordinance (Chapter 30) and Traffic and Vehicles (Chapter 62).

Section 4.4. Definitions.

The following rules shall be observed in the application and interpretation of provisions of this ordinance, except when the context clearly requires otherwise:

A. The words "shall", "should" or "must" are mandatory; the word "may" is permissive.
B. Words used or defined in one tense or form shall include other tenses or derivative forms.
C. Words in the singular shall include the plural; words in the plural shall include the singular; words in the masculine shall include the feminine.
D. The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
E. The word "used" or "occupied" includes the words intended, designed or arranged to be used or occupied.
F. In the event of a conflict between the text of this ordinance and any illustrations, captions, figures or other graphic material, the text shall control.
G. Unless specifically defined below, words or phrases used in this ordinance shall have the meaning of common usage, which gives this ordinance its most reasonable application

Unless the context shall clearly require otherwise, the following terms, shall have the following meanings for purposes of this ordinance:

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, is not part of the common living area and has a storage closet. (See Ordinance 14-02)

Irreversible Violation: Means any action, deed or accomplishment that is incapable of being reversed as it relates to the Code Enforcement citation program.

Repeat Violation: A violation of a provision of this ordinance or other City ordinances by a person who has previously been found to be in violation or has previously accepted and paid a citation issued by the City for the same provision of a City code or ordinance

within 3 years prior to the subsequent charge of violation. (See Section 2-177)

Sleeping Room: 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.

Vacation Rental Occupancy: Occupancy when it is the intention of the parties that the occupancy will temporary. There is a rebuttal presumption that, when the dwelling unit occupied is not the sole residence of the guest, the occupancy is transient.

Vacation Rental Occupant: Any person that is present at the vacation rental unit as a lessee or guest of the lessee

Vacation Rental Public Lodging Establishment: Includes 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 Unit(s): Any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project. For purposes of this ordinance and the Land Development Code, the term "vacation rental unit(s)" is synonymous with the term "resort housing" and "short term rentals" and is subject to all zoning requirements imposed on resort housing units.

Violation shall have the same meaning as set forth in Section 2-117, Code of Ordinances. All definitions contained in the City's Land Development Code, Chapter 2-116, Chapter 14, and Chapter 30-51 et seq of the City's Code of Ordinances shall apply to this ordinance provided; however, in the event of any conflict, the more stringent shall prevail.

Section 4.5. Application for Vacation Rental Certificate.

1. No later than ____(TBD)____ __, 2016, all owners of properties used as a vacation rental unit shall be required to submit an application for a vacation rental unit certificate to the City on a form promulgated by the City. Provided an application together with the required application fee is received prior to the

deadline, the property owner will be allowed to continue renting the property while the application is being processed by the City and inspections are scheduled; provided the owner has a valid Business Tax Receipt issued by the City. The City acknowledges the fact that bookings are completed months in advance. The City will also allow for a reasonable amount of time for the property to come into compliance in the event of a failed inspection.

2. At a minimum, the vacation rental unit application shall include the following information:

Property Management

- Name
- Address
- Phone
- Local Emergency Contact and Phone
- Email address

Property Owner

- Name
- Address
- Phone including the land line number at the property
- Local Emergency Contact and Phone
- Email address

Vacation Rental Unit Address

Proof of Ownership (one of the following proofs of ownership must be submitted)

- Copy of recorded deed (attachment)
- Recent profile from Property Appraiser (attachment)
- Verification of active status for corporate owners (attachment)
- Taxpayer identification number for owners not U.S. citizens

Parcel Identification Number assigned by County Property Appraiser's Office

Property Description

- Single Family
- Duplex
  - Copy of recorded party wall agreement (attachment)
- Condominium
  - Copy of proof of active condominium association (attachment)
- Number of Bedrooms
- Number and Location of Onsite Parking Spaces
- A copy of the manner in which the property is advertised including the website(s) used and the "name" of property i.e. "Mermaid's Hideaway"

3. The property owner or an agent of the property owner shall submit a notarized affidavit to the City for each vacation rental unit attesting to the following:
   a. That the property complies with FEMA regulations limiting use of ground level space
   b. That the property owner has an active license from DBPR for use of the property as a public lodging establishment
   c. That the property owner has an active resale certificate for sales tax issued by the State of Florida
   d. That the property owner collects and remits the required tourist development tax pursuant to Chapter 212, F.S.
   e. That the vacation rental property complies with all ordinances of the City of Holmes Beach.
4. Payment of fees as set forth in Section 4-9 below.
5. The City has the discretion to request any additional information required to demonstrate compliance with all state laws and City ordinances including but not limited to parking plans, landscaping plans, surveys, etc.

Section 4-6. Standards and Requirements.

1. All vacation rental units must meet the minimum standards for habitable structures set forth in the Florida Building Code, the Florida Fire Code and the Florida Life Safety Code.

   a. *Swimming pool, spa and hot tub safety.* An in-ground or above-ground swimming pool, spa or hot tub offered or made available as an amenity at a vacation rental unit shall comply with current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes. The property owner or vacation rental agent shall cause the swimming pool drain system, any underwater lighting system, and the electrical pump system of such swimming pools, spas, and hot tubs to be inspected annually by an appropriately licensed technician. The property owner or vacation rental agent shall maintain a contemporaneous log of such inspections, which shall be made available to the City for inspection upon request during normal business hours.
   b. *Swimming pool, spa and hot tub hours of use.* In-ground or above-ground swimming pools, spas and hot tubs offered or made available as an amenity at a vacation rental unit may only be used in a manner that complies with the City's noise ordinance.

c. *Swimming pool, spa and hot tube screening.* In all vacation rental units located in the R-2, R-3 and R-4 residential districts and those vacation rental units located in the R-1 district that are vested, in-ground and above-ground swimming pools, spas, and hot tubs shall be screened by a six-foot, 100 percent opaque fence. The fence shall be constructed with a vinyl acoustic material within the fence or along the interior side of the fence. Swimming pool equipment shall be separately screened on all open sides with a six-foot 100 percent opaque fence constructed with vinyl acoustical material. (NOTE: check noise ord. requirements)

d. *Bedrooms.* All bedrooms within a vacation rental unit shall meet the applicable requirement of the Florida Building Code, and the Florida Fire Code and Life Safety Code.

e. *Smoke and carbon monoxide (CO) detection and notification system.* An interconnected, hard-wired smoke alarm and carbon monoxide (CO) alarm system shall be installed within the vacation rental unit and maintained on a continuing basis consistent with the requirements of Section R314, Smoke Alarms, and Section R315, Carbon Monoxide Alarms, of the Florida Building Code – Residential. The Building Official may approve installation of alternate systems in existing structures.

f. *Fire extinguisher.* A portable, multi-purpose dry chemical 2A:10B:C fire extinguisher shall be installed, inspected and maintained in accordance with NFPA 10 on each floor of a vacation rental unit. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location of the fire extinguisher.

g. *Emergency egress maintenance and lighting.* Halls, entrances and stairways within a vacation rental unit shall be clean, ventilated and well lighted day and night. Hall and stair runners shall be kept in good condition. Rails shall be installed on all stairways and around all porches and steps.

h. *Local phone service.* At least one land line telephone with the ability to call 911 shall be available in the main level common area in the vacation rental unit.

i. *Prohibition on slides or diving boards or platforms.* Pursuant to Section _____ of the Land Development Code (LDC), vacation rental units shall not have slides, diving boards or diving platforms unless those recreational features

are determined to be legal non-conforming uses in an existing vacation rental unit.

j. *Parking:* All residential units within the City are required to provide one on site parking space per bedroom. Only two of the required spaces for vacation rental units may be tandem (See Section _____ of LDC). All required parking spaces must be clearly delineated on the vacation rental property. Parking spaces must be a minimum of 10' by 20' or 9' by 18'. Vacation rental occupants are prohibited from parking on adjacent City right-of-way.

k. *Temporary Uses Prohibited:* The vacation rental occupants of vacation rental units are prohibited from utilizing the vacation rental property for weddings, wedding receptions, music venue with live music, gatherings or parties for more than 30 guests, or similar activities disruptive to the residential character of the neighborhood.

l. *Limitations on Accessory Uses:* Accessory uses such as recreational water features, grottos, waterfalls are prohibited on vacation rental properties pursuant to Section ____ of the LDC.

Section 4-7. Use of Agents.

1. An owner of a vacation rental unit may designate an agent to manage the unit on his behalf. The City will provide a form for such purpose which form must be completed, notarized and submitted to the City. The agent must accept the agent designation on a form provided by the City. The designation of an agent does not relieve the owner of the responsibility to comply with all state and local statues and ordinances.
2. An agent who accepts a designation to act on behalf of a vacation property owner is held to the same standard as the property owner with respect to compliance with all statutes and ordinances and pursuant to Section 2-117, City's Code of Ordinances may be cited for non-compliance with any code, rule or ordinance applicable to the property.
3. A vacation rental property owner can withdraw an agent authorization by submitting a new properly executed agent authorization form to the City. The City may rely on the latest form it has of the owner's intent.

Section 4-8. Maximum Occupancy.

The maximum overnight occupancy of a vacation rental unit shall not exceed six (6) persons or two (2) persons per bedroom, whichever is greater. The number of bedrooms shall be determined based upon building permits issued by the City or other competent evidence if such building permits cannot be located.

Section 4-9. Fees.

The following fees are adopted to implement this ordinance:

- Initial Application (includes inspection) $150.00
- Renewal Application Fee (every two years) $150.00
- Re-Inspection Fee $ 50.00
- Change of Authorized Agent Fee $ 35.00
- Non-conforming Status Determination Fee $250.00
- Transfer of Ownership Fee $ 75.00

Section 4-10. Violations and Penalties.

Penalties for violations shall constitute a warning. If the warning goes unheeded, the Code Enforcement Officer shall a first violation with a $250.00 fine. If the Code Enforcement Officer issues a second violation for the same type of violation (i.e. noise), the second violation shall be accompanied by a $500.00 fine. Any subsequent violations for the same type of violation shall continue to be accompanied by $500.00 fines until compliance is reached.

At the discretion of the Code Enforcement Officer, a repeat offender shall appear before the Magistrate for finding of facts.

- Warning notice
- 1st Violation $250.00
- 2nd Violation $500.00
- 3rd Violation
- Irreversible Violation

Section 4-11. Solid Waste Handling and Containment.

Vacation rental property owners will supply approved carts for containment of solid waste based upon the number of bedrooms in the vacation rental unit set forth in Ordinance 15-06 and Section 6.2 of the franchise agreement between the City and Waste Pro which is attached hereto (Exhibit A) and one approved cart for recyclable materials.

Section 4-12. Quiet hours and pool hours.

Quiet hours for vacation rental units shall be from 10:00 p.m. to 8:00 a.m. daily. All occupants of vacation rental units must comply with the City's noise ordinance.

Section 4-13. Vacation Rental Units Advertising Requirement.

All advertising for vacation rental units must contain information concerning the City's occupancy limit, the maximum parking available on the property and a link to the City's rules and regulations on the City's website.

Section 4-14. Required Posting of Vacation Rental Information.

(a) In each vacation rental unit, on either the back of 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 agent or owner;
2. The maximum occupancy of the vacation rental unit;
3. Notice that quiet hours are to be observed between 10:00 p.m. and 8:00 a.m. daily and that during these hours no excessive or boisterous noise or sound is permitted;
4. The maximum number of vehicles that can be parked at the vacation rental unit, along with a sketch of the location of the onsite parking spaces. No vehicles of the vacation rental occupants may park on City's rights of ways;
5. The days and times of garbage, yard waste and recycling pickup;
6. Notice of sea turtle nesting season and sea turtle lighting regulations, if applicable; and
7. The location of the nearest hospital and urgent care facility.

(b) There shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map – Minimum 8-1/2" by 11".

Section 4-15. Existing Legal Non-Conformities.

The burden of proof to demonstrate that a vacation rental unit or any of the accessory uses or structures on the vacation rental property qualify as a legal non-conforming structure or use for the purpose of obtaining relief from any provision of this ordinance or any other City code or ordinance shall be on the property owner. The final decision of whether a legal non-conformity exists shall be made by the Building Official. The Building Official's decision may be appealed to the City Commission.

Section 4-16. Conversion of Existing Legal Non-Conforming Residential Units to Vacation Rental Units.

Throughout the City there exist residential units that are usually non-conforming for a variety of reasons. At some future time, the owner of a legally non-conforming residential unit may wish to convert that unit to a vacation rental unit. A property owner shall have the burden of proof to demonstrate that the vacation rental unit is a legal non-conforming use and structure. If the non-conforming aspects of the property make it infeasible or economically impracticable to bring the property and structure into full compliance with all City codes and ordinances, the Building Official shall approve issuance of the vacation rental certificate with appropriate conditions designed to bring the

structure and property more into compliance. The Building Official's decision may be appealed to the City Commission.

Section 4-17. Transition Schedule.

(TBD if needed)

Section 2. Severability. In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, or application thereof, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this ordinance, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as expressed herein.

Section 3. Effective Date. This Ordinance shall be effective upon adoption by the City Commission and approval by the Mayor in accordance with the Charter of the City of Holmes Beach.

PASSED AND ADOPTED, by the City Commission of the City of Holmes Beach, Florida, in regular session assembled, this _____ day of _____, 2015.

First Reading: _____
Publication Date:_____
Second Reading and Public Hearing Date:_____

_____
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

Exhibit A of Ordinance 15- ___

6.2 **Residential Resort Housing Units.** Resort housing units have created special circumstances requiring special attention in waste collection services.

6.2.1. Types of Refuse Collection. The Operator shall provide collection of three types of waste in the City of Holmes Beach: (1) Solid Waste (excluding human body wastes and Hazardous Material); (2) Landscape debris; and (3) Recyclable material.

6.2.2. Approved Carts. The Operator shall furnish one 64 gallon rolling Cart with lid to collect Solid Waste and one 64 gallon rolling Cart with lid for single stream recycling for resort housing units with up to 3 sleeping rooms. The property owner of resort housing units with 4 to 6 sleeping rooms are required to have one additional Cart for Solid Waste, at the property owner's expense, for a total of two Carts for Solid Waste and one for recyclables. The property owner of resort housing units with 7 or more sleeping rooms are required to have two additional Carts for Solid Waste, at the property owner's expense, for a total of three Carts for Solid Waste and one for recyclables. Carts shall be color coded and designated as Solid Waste or recyclables.

6.2.3. Approved Containers. Approved containers shall be provided by the property owner for landscape debris or possible overflow of Solid Waste. Approved

containers shall be no more than 32 gallon capacity, and weight no more than 40 pounds when full. The approved containers must have two handles for ease of lifting. Additionally, an approved container may be a heavy plastic bag with a tie-type fastening devise, securely tied, not to exceed a 32 gallon capacity or weigh more than 40 pounds. Landscape debris of not more than 4 feet in length must be secured in bundles for pick-up and placed curbside.

6.2.4. Collection Schedule. The Operator shall provide the City with a Solid Waste pick-up on Monday; recyclable pick-up on Monday; recyclable pick-up on Tuesday; landscape debris on Wednesday; and Solid Waste on Friday. When holidays, as defined by Manatee County landfill hours, fall on Mon day, Solid Waste, recyclables and landscape debris shall be picked up the day after regularly scheduled day. Friday pick-up of Solid Waste shall not be affected by a holiday scheduled week. Collections shall not be made on Saturday or Sunday except in a true emergency. Collection times may not begin before 7:00 am or go beyond 7:00 pm.

6.2.5. Side Door Service. Property owners may request side door services for all scheduled weekly pick-ups. Side Door Service requires an additional fee for subscribers.

6.2.6. Special Haul Service. Operator shall provide special haul services when requested by the Customer for a special fee. Special haul items include white goods (appliances) and bulk items (furniture).