

ORDINANCE NO. 2009-25

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, CREATING A NEW SECTION OF THE ZONING AND LAND DEVELOPMENT CODE, MAKING IT UNLAWFUL FOR OWNERS OF SINGLE FAMILY HOMES AND TOWNHOUSES, EXCEPT IN THE MH-1 ZONING DISTRICT, TO RENT OR LEASE A DWELLING FOR A PERIOD OF LESS THAN THREE MONTHS OR MORE THAN THREE TIMES IN A TWELVE MONTH PERIOD; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR THE CONTINUATION OF CERTAIN SHORT TERM RENTALS THAT EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS ORDINANCE; REQUIRING EXISTING SHORT TERM RENTALS TO APPLY FOR A BUSINESS TAX RECEIPT FOR EACH PROPERTY PURSUANT TO SECTION 12-31(87)(b) OF THE CITY CODE; ESTABLISHING REQUIREMENTS FOR OBTAINING AND CONTINUING A BUSINESS TAX RECEIPT; PROVIDING FOR THE REPEAL OF ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE CODIFICATION OF THIS ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, within the City of North Miami Beach, some residences are being used as tourism or resort businesses by providing rentals to the public more than three times in a twelve month period for periods of less than three months; and

WHEREAS, after review of the City Code of Ordinances it has become evident that the City Code is silent as to short term rentals in single family homes and townhouses; and

WHEREAS, the Mayor and City Council recognize that clarification of the zoning ordinance regarding continued short term rentals of less than three months is needed; and

WHEREAS, the Mayor and City Council find that the City's zoning regulations never permitted short term residential land use in its residential zoning districts as a specific permitted

ORDINANCE NO. 2009-25

use, and the City's zoning regulations state that only those land uses listed as specifically permitted are allowed, while those not listed are prohibited, some citizens instituted in residential areas short term rental businesses simply because short term rental was not mentioned at all in the permitted use regulations; and

WHEREAS, while the Mayor and City Council recognize that individuals who have established short term rentals of single-family residents as of the effective date of this ordinance acted in good faith, and should not be penalized for their actions; and

WHEREAS, the Mayor and City Council wish to ensure that those who acted in good faith are treated fairly by providing a transitional provision in this ordinance to allow the temporary continuation of their short term rentals and apply for a business tax receipt; and

WHEREAS, having a record of those participating in short term rentals, will be in the best interest for the health and safety of its citizens and will ensure a better quality of life for its citizens and residents; and

WHEREAS, the City of North Miami Beach Planning and Zoning Board, as the local planning agency, held on October 13, 2009, a duly noticed public hearing and the Board, voted unanimously to approve this short term rental ordinance.

NOW, THEREFORE,

BE IT ORDAINED by the City Council of the City of North Miami Beach, Florida.

Section 1. The foregoing recitals are true and correct.

Section 2. Section 24-90.1 is proposed to be added to the Zoning and Land Development Code, as follows:

Section 24-90.1 Short-Term Rentals in Residential Zoning Districts

(A) It shall be unlawful for the owner of one or more single family dwelling units, including town houses but excluding mobile homes in the MH-1 zoning district, to rent or lease a dwelling to another person(s) more than three times in a twelve month period for a period of three months or less. The lease or rental of a single-family residential dwelling, including town houses, more than three times within a twelve-month period shall create a presumption that the owner is acting in violation of this section.

(B) This section shall not apply to duly licensed group homes listed in the zoning district regulations as either permitted or conditional uses.

(C) Violations of this section shall be subject to enforcement as provided by Section 166.0415, Florida Statutes. In addition to any penalty herein provided, or otherwise provided by law or the Code of Ordinances of the City of North Miami Beach, Florida for the violation of any provision of this Code or any condition duly imposed by the City, the City may bring suit in the Circuit Court to enjoin, restrain, or otherwise prevent the violation of any provision of this Code or any condition duly imposed by the City.

(D) In order to be fair to those who acted in good faith and instituted short term rentals in residential zoning districts without first obtaining a code interpretation from the Director of Community Development, the properties that were engaged in short term rentals more than three times in a twelve month period of less than three months duration prior to the effective date of this section shall be permitted to apply for a Business Tax Receipt, pursuant to Section 12.31(87)(b) for each property, engaging in short term rentals.

(1) The Business Tax Receipt shall specifically state that it is issued to allow rentals of less than three months duration, only so long as: 1) the property is not rented for a duration of less than seven (7) days; and 2) the ownership of the property or the business renting the property does not change. Upon change of ownership of either the property or the business, or upon the lease of the property for less than seven (7) days duration, the Business Tax Receipt allowing rentals for periods of less than three months shall expire, and the property shall be subject to the terms of this section.

(2) No business tax receipt shall be issued until the owner/applicant shows proof of compliance with state and county requirements, and provides sufficient proof that the short-term rentals were established prior to the effective date of this section.

Section 3. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

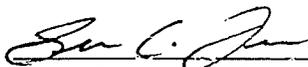
Section 4. If any section, subsection, clause or provision of this ordinance is held invalid the remainder shall not be affected by such invalidity.

Section 5. It is the intention of the City Council of the City of North Miami Beach and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami Beach, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

APPROVED BY TITLE ONLY on first reading this 3rd day of November, 2009.

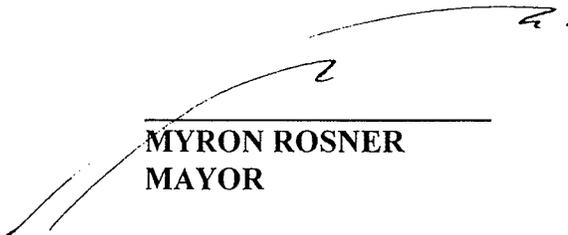
APPROVED AND ADOPTED on second reading this 17th day of November, 2009.

ATTEST:



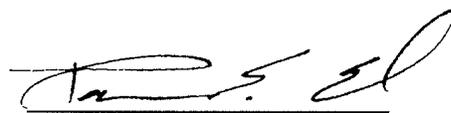
SUSAN A. OWENS
CITY CLERK

(CITY SEAL)



MYRON ROSNER
MAYOR

APPROVED AS TO FORM



DARCEE S. SIEGEL
CITY ATTORNEY

Sponsored by: Mayor and City Council

ORDINANCE NO. 2009-25

COUNCILPERSON	YES	NO	ABSTAIN	ABSENT
Mayor Myron Rosner	X			
Councilman Philippe Derosé	X			
Vice Mayor John Patrick Julien	X			
Councilwoman Barbara Kramer	X			
Councilman Frantz Pierre		X		
Councilwoman Phyllis Smith	X			
Councilwoman Beth Spiegel		X		

ORDINANCE NO. 2009-25