

**ORDINANCE NO. 2018-05**

AN ORDINANCE OF THE CITY OF INDIAN HARBOUR BEACH, FLORIDA ADOPTING A NEW ARTICLE V OF CHAPTER 10 OF THE CODE OF THE CITY OF INDIAN HARBOUR BEACH, FLORIDA, RELATING TO "VACATION RENTALS," PROVIDING A GENERAL FRAMEWORK FOR THE REGULATION OF VACATION RENTALS; MAKING FINDINGS OF FACTS; PROVIDING FOR ENFORCEMENT; REQUIRING VACATION RENTAL REGISTRATION; PROVIDING REQUIREMENTS FOR REGISTRATIONS; SPECIFYING DUTIES OF VACATION RENTAL OWNERS AND ALLOWING AGENTS; PROVIDING MAXIMUM OCCUPANCY AND GRANDFATHERING OF OCCUPANCY; PROVIDING REQUIREMENTS FOR VACATION RENTALS; REQUIRING RENTAL AGREEMENT PROVISIONS AND POSTINGS; AND PROVIDING FOR SEVERABILITY, CODIFICATION AND EFFECTIVE DATE.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF INDIAN HARBOUR BEACH, FLORIDA:**

**SECTION 1.** A new Article V of Chapter 10 "Vacation Rentals" of the Code of Ordinances of the City of Indian Harbour Beach is hereby adopted to read as follows:

**ARTICLE V. VACATION RENTAL**

**Division A. General Provisions**

**Sec. 10-75. Authority, Scope and Purpose.**

This chapter is enacted under the home rule power of the City of Indian Harbour Beach in the interest of the health, peace, safety and general welfare.

Section 509.013, Florida Statutes, provides a distinction between "transient public lodging establishments" which are rented, or advertised or held out for rental to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less; and "nontransient public lodging establishments" which are rented, or advertised or held out for rental to guests for periods of at least 30 days or 1 calendar month, whichever is less.

Section 509.242(1)(c), Florida Statutes, further provides for a subset of transient public lodging establishments, called "vacation rental" which is 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.

It is the intent of this Chapter to regulate vacation rentals as defined by Florida Statutes, which are located in the R-1A, R-1AA, R-1AAA and R-2 zoning districts of the City of Indian Harbour Beach, which collectively are referred to herein as "Vacation Rentals".

In 2011, the Florida Legislature passed House Bill 883, (Chapter 2011-119, Laws of Florida), amending Florida Statutes, Section 509.032(b) to provide that “[a] local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.”

In 2014, the Florida Legislature passed Senate Bill 356 (Chapter 2014-71, Laws of Florida), amending that same statute to read “[a] local law, ordinance, or regulation may not prohibit vacation rentals, or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.”

The official statement of legislative intent of Senate Bill 356 as reflected in the House of Representatives’ Final Bill Analysis, dated June 19, 2014, states that the “Effect of the Bill” is as follows:

“The bill permits local governments to create regulation that distinguishes vacation rentals from other residential property. In the past, local government regulations have included noise, parking, registration, and signage requirements for vacation rentals.

“The bill does not allow local governments to create regulations that would prohibit vacation rentals or restrict the duration or frequency of vacation rentals. These types of regulation remain preempted to the state.

“The grandfather provision in existing law exempting any local law, ordinance, or regulation adopted on or before June 1, 2011, is maintained. Any local law, ordinance, or regulation passed before that date that prohibits or restricts vacation rentals based on the duration or frequency may continue to be enforced.”

This Chapter does not prohibit Vacation Rentals, or the duration or frequency of Vacation Rentals, nor is it the intention of the City of Indian Harbour Beach to do so, but rather this Chapter is intended to address life safety and compatibility concerns in the interests of the health, peace, safety, and general welfare.

#### **Sec. 10-76. Findings of Facts**

Based on information presented to the city by residents of Indian Harbour Beach and owners and operators of Vacation Rentals, the practical first-hand experience and observations of City Council Members, common sense deductions of City Council Members based on long term experiences in Indian Harbour Beach, information learned by City Council Members from various residents, information from the U.S. Census, as well as evidence and testimony presented at public hearings before the City Council, 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®, the City Council finds:

(1) Residents residing within their residential dwellings are inherently familiar with the local surroundings, local weather disturbances, local hurricane evacuation plans, and

means of egress from their residential dwellings, thereby minimizing potential risks to themselves and their families.

(2) In contrast, transient occupants of Vacation Rentals, due to their transient nature, are typically not familiar with local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from the Vacation Rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation.

(3) Certain Vacation Rentals may be presently located within the R-1A, R-1AA, R-1AAA and R-2 zoning districts of the City of Indian Harbour Beach.

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

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

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

(7) 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 Vacation Rentals.

(8) According to the U.S. Census, (2010) the City of Indian Harbour Beach has an average household size of 1.68 persons.

(9) According to the U.S. Census, (2010) the City of Indian Harbour Beach has an average family size of 2.21 persons.

(10) According to the U.S. Census, (2010) the City of Indian Harbour Beach has an average household size of owner-occupied units of 2.11 persons.

(11) According to the U.S. Census, (2010) the City of Indian Harbour Beach has an average household size of renter-occupied units of 2.32 persons.

(12) Vacation Rentals situated in R-1A, R-1AA, R-1AAA and R-2 zoning district can and do create a great disparity in occupancy.

(13) The City finds that such rentals increase the demands upon code enforcement, police, fire and emergency services beyond those created by non-vacation rental residential dwelling units.



(14) Vacation rental use and longer term residential use and ownership are generally incompatible, due to rapid turnover associated with short term vacation residential use and its disruptive effect on the peaceful use and enjoyment of residential areas.

(15) The primary reasonable investment-backed expectation of owners of residential dwelling units in the City is the use that is a residence and not a vacation rental.

(16) Vacation rentals is a use that is more in nature, that is best accommodated by hotels, motels and timeshares; and,

(17) The regulation of vacation rentals will contribute to the stability of existing residential neighborhood.

(18) The regulation of vacation rentals will protect visitors to the City by assuring that fire and safety inspections are periodically conducted, that they receive necessary information about the dwelling which they have rented, and notifying them of the owner of the dwellings obligation to provide for their safety and welfare.

(19) The regulation of vacation rentals is necessary in order to protect the public health, safety and welfare of the City, its residents and its visitors.

#### **Sec. 10-77. Definitions**

The following terms as used in this Chapter are defined as set forth hereinafter:

“Bedroom” means any room in a Vacation Rental which has a bed or other place for sleeping and a separate closet that is an integral part of the permanent construction within the bedroom or an ensuite bathroom, and complies with the Florida Fire Code and Florida Life Safety Code as a bedroom, but shall not include a bathroom, a kitchen, a dining room, or any main living area. If a room has been added, altered, or converted without any required building permit having been granted, such room shall not be deemed a bedroom. If a previously approved bedroom exists as of the effective date of this code and does not have a separate closet that is an integral part of the permanent construction of the structure, but rather utilizes an armoire or other furniture piece for clothing storage, the requirement for a closet to qualify as a bedroom is waived.

“City Code” shall mean the City of Indian Harbour Beach Code of Ordinances, Zoning Code, Land Development Regulations, Comprehensive Plan and Future Land Use Map and applicable Resolutions.

“Living Area”. The area under roof designated primarily for habitation and specifically excluding garages. As used in this chapter, the total living area shall be computed as follows: The exterior dimensions of all enclosed spaces within the framework of the building unit (length and width), multiplied and totaled, as follows:

- (1) Any room or area accessible from any other room or area within the framework shall constitute living area.

- (2) A room or area must be totally enclosed by walls and covered by roofing.
- (3) A room or area must be protected from the elements.
- (4) A utility room within the framework of the main building and accessible within the main living area constitutes living area.

“Occupant” means any person who occupies a Vacation Rental overnight.

“Owner occupied” means the Vacation Rental is then occupied by person(s), at the Vacation Rental Owner’s consent, who do not pay rent for the occupancy of the Vacation Rental, when such persons are members of the family of the Vacation Rental Owner. Family shall be defined as provided in Appendix A, Article V of the Indian Harbour Beach Code of Ordinances.

“Peer-to-Peer Platform/Entity” shall mean any person, service, business, company, marketplace, or other entity that, for a fee or other consideration, provides property owners and responsible parties a platform or means to offer vacation rentals to transient occupant whether through the internet or other means.

“Responsible Party” shall mean the owner, or the person designated by the owner of the Vacation Rental to be called upon to answer for the maintenance of the Vacation Rental and the conduct and acts of Vacation Occupants of residential properties.

“Transient public lodging establishments” means 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” is collectively a vacation rental as defined under Florida Statutes, and any transient public lodging establishment which is located in the R-1A, R-1AA, R-1AAA or R-2 zoning district of the City of Indian Harbour Beach.

“Vacation Rental Owner” is the fee simple owner of the Vacation Rental, whether an individual, partnership, corporation, limited liability company, trust, or other entity. In the event the Vacation Rental Owner is not an individual, the Vacation Rental Owner shall designate a responsible natural person to perform the functions and duties of a Vacation Rental Owner herein. The duties and functions of a Vacation Rental Owner may, at the option of the Vacation Rental Owner, be performed by an agent of the Vacation Rental Owner, so long as the Vacation Rental Owner notifies the City in writing, on a form provided by the City, of the identity and contact information of such agent, and the specific duties that the agent will be performing for the Vacation Rental Owner. The Vacation Rental Owner may change the designation of agent at any time through the filing of a new form and the payment of an administrative fee in an amount as set by resolution by the City Council. The Vacation Rental Owner shall be held responsible for all actions of such designated agent with respect to the applicable Vacation Rental.

**Sec. 10-78. Enforcement.**

Violations of this ordinance shall be enforced as code violations in accordance with the provisions of Florida Statutes, Chapter 162, and Chapter 21 of this Code of Ordinances, and through fines in accordance with ordinances and resolutions adopted by the City Council.

**Sec. 10-79. Appeals.**

Any decision of the City Manager or his or her authorized designee relating to this ordinance shall be rendered in writing in appealable form, and reviewed by the City Special Magistrate if a notice by the Vacation Rental Owner or agent is filed with the City Clerk within ten (10) days after the action to be reviewed. The City Clerk or designee shall place the matter on the agenda of the next available meeting of the Special Magistrate, but no later than 35 days after the notice by the Vacation Rental Owner or agent is filed, at which the matter will be reviewed. The decision of the Special Magistrate shall be final and shall be rendered in writing in appealable form. Such final decision may be reviewed as permitted under Florida law.

**Sec. 10-80. Construction of chapter.**

This chapter shall be liberally construed to accomplish its purpose of regulating Vacation Rentals, protecting the residential character of the R-1A, R-1AA, R-1AAA, and R-2 zoning districts of the City of Indian Harbour Beach, the health, safety, and general welfare of its residents and visitors, and the quiet enjoyment by Indian Harbour Beach's residents of their residential property located in the R-1A, R-1AA, R-1AAA, and R-2 zoning districts.

**Sec. 10-82-10-100. Reserved.**

**Division B. VACATION RENTAL REGISTRATION**

**Sec. 10-101. Registration required.**

As of October 1st, 2018, a Vacation Rental registration shall be required to operate a Vacation Rental within the City of Indian Harbour Beach in the R-1A, R-1AA, R-1AAA or R-2 zoning districts, utilizing forms promulgated by the City, electronically or in hard copy. The City may extend the date that such registration is required by notice on the City's website should the City not publish forms and fees for registration by August 13, 2018. Prior to the issuance of a Vacation Rental registration, the Responsible Party has the affirmative duty to ensure that the dwelling unit and property in or on which the Vacation Rental is or will be located, is in full compliance with the appropriate portions of City Code, the Florida Building Code, the Florida Administrative Code, and the Florida Fire Prevention Codes. A separate Vacation Rental registration shall be required for each Vacation Rental. The operation of a Vacation Rental



without registration after the date registration is required shall be a violation of this ordinance, except in the instance of providing accommodations to fulfil a pre-existing contract.

**Sec. 10-102. Vacation Rental registration.**

- (a) A Vacation Rental Owner, Agent, or Responsible Party, as applicable, registering a Vacation Rental with the City shall submit to the City a completed registration form, utilizing a form promulgated by the City, together with all applicable registration and inspection fees in the amount set by resolution of the City Council.
- (b) A registration application shall include the following:
  - (1) Full address of the Vacation Rental property being registered, along with proof of ownership;
  - (2) Name, address, phone number, and e-mail, of the property owner;
  - (3) Name, address, e-mail, and emergency contact phone number of Responsible Party for the Vacation Rental, which shall be a twenty-four (24) hour, seven (7) days a week contact number;
  - (4) The Vacation Rental's current and active license number as a transient public lodging establishment with the Florida Department of Business and Professional Regulation (DBPR), if the registrant has such license;
  - (5) A copy of the Vacation Rental's current and active certificate of registration with the Florida Department of Revenue and Brevard County for sales and Tourist Development Tax collection, respectively, if the registrant has such certificates or accounts; unless a peer-to-peer platform entity through which the vacation rental is booked will be remitting all such taxes associated with the Vacation Rental on the Responsible Party's behalf;
  - (6) Business tax receipt from the City of Indian Harbour Beach, if applicable, in accordance with Chapter 9 of the Code of Ordinances;
  - (7) Statement attesting to the number of bedrooms and paved off-street parking spaces available on the property with affirmation that "No On-Street Parking" will be allowed;
  - (8) *Exterior site sketch.* An exterior sketch of the Vacation Rental facility shall be provided. The sketch shall show and identify all structures, pools, spas, hot tubs, fencing, and uses, including areas provided for off-street parking. For purposes of the sketch, off-street parking spaces shall be delineated so as to enable a fixed count of the number of spaces provided. At the option of the Vacation Rental Owner, such sketch may be hand drawn, and need not be professionally prepared.

- (9) Interior building sketch by floor. A building sketch by floor shall be provided, showing a floor layout identifying all bedrooms, other rooms, exits, hallways, stairways, as applicable. At the option of the Vacation Rental Owner, such sketch may be hand drawn, and need not be professionally prepared.
  - (10) Acknowledgement signed by the owner, or designated Responsible Party, understanding and agreeing to initial and ongoing compliance with the City's vacation rental regulations and standards contained herein and all other applicable local, state, and federal laws, regulations, and standards; and
  - (11) The landline telephone number on the main level and in the common area at the rental with the ability to call 911 as required by Division C of this Chapter.
- (c) If a registration form is incomplete, the registrant will be notified of the deficiency, and be allowed fifteen (15) days to provide any missing information.

#### **Sec. 10-103. Modification/Change of Ownership of Vacation Rental Registration.**

An amendment of a Vacation Rental Registration Application and Affidavit of Compliance shall be required, with payment of the appropriate fee set by resolution, in the event that any of the following changes to the Vacation Rental are proposed:

- (1) An increase in the number of bedrooms in the Vacation Rental.
- (2) An increase or decrease in the number of parking spaces or a change in the location of parking spaces for the Vacation Rental.
- (3) A change in the designated Responsible Party.

A change of ownership shall require a new application and all required documents including appropriate fees set by resolution.

#### **Sec. 10-104. Duration of Vacation Rental Registration.**

A Vacation Rental Registration shall be valid for one (1) year after the date of registration.

#### **Sec. 10-105. Renewal of Vacation Rental Registration.**

A Vacation Rental Owner must renew its registration annually prior to the expiration date of the previous Vacation Rental Registration and is subject to an annual inspection and applicable fees.

#### **Sec. 10-106. Inspection of Vacation Rentals.**

- (a) Inspection of a Vacation Rental to verify compliance with the Florida Building Code, and the Florida Fire and Life Safety Codes which governed at the time of completion of the subject construction, shall be required subsequent to the initial registration of the Vacation Rental, and annually after each renewal. If instances of noncompliance



are found, all such instances of noncompliance shall be handled as other violations of the Florida Building Code and Florida Fire and Life Safety Codes are otherwise handled in the City. These requirements will not be imposed so as to affect contracts that pre-exist the effective date of this Ordinance. This inspection fee shall be set by Resolution of the City Council.

- (b) Annual inspections to verify compliance with the Florida Building Code, and the Florida Fire and Life Safety Codes, and the posting of notice requirements required herein shall be made by the City or designated contractor through appointment with the Vacation Rental Owner, agent, or Responsible Party, as applicable. The annual inspection fee shall be set by Resolution of the City Council. If a City inspector or designated contractor has made an appointment with Vacation Rental Owner or agent, as applicable, for an inspection, and the City inspector or designated contractor is unable to complete the inspection as a result of an action or inaction of the Vacation Rental Owner or agent, or an occupant of the Vacation Rental, the Vacation Rental Owner shall be charged a "re-inspection" fee in an amount set by resolution of the City Council to cover the inspection expense incurred. The re-inspection fee shall be paid prior to scheduling the re-inspection. In addition, failure of a Vacation Rental Owner agent, or Responsible Party, as applicable, to make the Vacation Rental available for an inspection within twenty (20) days after notification by the City in writing that the City is ready to conduct the annual inspection, shall be a violation of this Chapter punishable by a fine as set by resolution by the City Council. Such violation shall continue until the inspection is accomplished. Each day that such violation continues shall be a separate violation.

#### **Sec. 10-107. Sale of Vacation Rental Property**

When the ownership of the Vacation Rental is sold or otherwise transferred, the new owner shall file a new registration with the City within thirty (30) days from the date of the sale or transfer. Failing such application for registration, any Certificate of Compliance as to that Vacation Rental Property shall be null and void on the thirty-first (31<sup>st</sup>) day after such sale or transfer.

#### **Sec. 10-108. Vested Rights/Waiver/Estoppel**

A Vacation Rental Registration shall not be construed to establish any vested rights or entitle the registered Vacation Rental to any rights under the theory of estoppel. A Vacation Rental Registration shall not be construed as a waiver of any other requirements contained within the City of Indian Harbour Beach City Code and is not an approval of any other code requirement outside this chapter. The registration of a Vacation Rental is not an approval of a use or activity that would otherwise be illegal under Florida law, the Florida Building Code, the Florida Fire Code or Life Safety Code, or in violation of the Indian Harbour Beach City Code.

**Sec. 10-109 - False Information.**

It shall be unlawful for any person to give any false or misleading information in connection with any application for registration, modification, or renewal of a vacation rental as required by this article. Vacation rental applications shall be sworn to under penalty of perjury. Any false statements made in an application shall be a basis for the revocation of any license issued pursuant to such application.

**Sec. 10-110 – Effective Date for Existing Vacation Rentals**

The provisions of Sections 10-101 through Section 10-109 will not become effective for existing Vacation Rental properties until October 1, 2018. If the registration forms to implement the required registration provisions of this Chapter are not available by August 13, 2018, the city may extend the requirement to register Vacation Rental properties by notice on the City's website.

**Sec. 10-111 – 10-125. Reserved.**

**Sec. 10-126. Duties of Vacation Rental Owner or Responsible Party.**

- (a) Every Vacation Rental Owner, or Responsible Party, as applicable, shall be available by phone at the listed phone number 24-hours a day, seven days a week to respond to police, fire or other emergency personnel requests. Otherwise, response to contact by the City's regulatory personnel shall be required only Monday through Friday, except holidays, 9 am to 5 pm. Failure of the Vacation Rental Owner, or Responsible Party, as applicable, to fulfill this duty, shall be a violation of this ordinance which shall be punished by fine.
- (b) Responsible Party. All vacation rental units, if not managed by the Vacation Rental Owner, shall have a designated Responsible Party.
  - (1) The Responsible Party shall be available 24 hours per day, seven days a week, for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of these regulations. This Party must have authority to immediately address and take affirmative action, within one (1) hour of notice from the City, on violations concerning life-safety, noise, and parking violations. A record shall be kept by the City of the complaint and the Responsible Party's response, as applicable.
  - (2) An owner may change his or her designation of a Responsible Party temporarily, up to thirty cumulative days during any consecutive twelve month period, or permanently; however, there shall only be one designated Responsible Party for each vacation rental property at any given time.
  - (3) It shall be the sole responsibility of the property owner to appoint a reliable Responsible Party and to inform the manager of his or her correct mailing

address. Failure to do so shall not be a defense to a violation of this section. Service of notice on the Responsible Party shall be deemed service of notice on the property owner, tenant and violator.

- (c) A Vacation Rental Owner or Responsible Party is responsible for ensuring sexual offenders/predators as defined in § 775.21, § 943.0435, § 944.607, or § 985.4815 register at the Brevard County Sheriff's office and the Indian Harbour Beach Police Department following the process set forth in § 775.21, 48 hours prior to arrival at a vacation rental, regardless of the length of stay.

A Vacation Rental Owner and/or Responsible Party shall comply with Florida law, Chapter 775.215, as amended from time to time, pertaining to the distance separation of homes with a sexual offender/predator residing within the Vacation Rental and any business, school, child care facility, park, playground, or other places where children regularly congregate.

Failure to comply with this section shall result in the revocation of the Business Tax Receipt, if applicable, and Vacation Rental Registration for the Vacation Rental and other enforcement provisions outlined in Section 10-79 of this Chapter.

- (d) The Vacation Rental Owner or Responsible Party shall inquire at check-in if any guest of at the Vacation Rental is a sexual offender/predator as defined in §775.21, §943.0435, §944.607, or §985.4815. If any guest of a Vacation Rental public lodging is a sexual offender/predator as defined in §775.21, §943.0435, §944.607, or §985.4815, the operator shall immediately notify the Indian Harbour Beach Police Department.

- (e) The Owner or Responsible Party shall provide the City and post in a conspicuous place in the premises, the name, address and day/evening telephone numbers of the Responsible Party and be available 24 hours per day, seven days a week for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of these regulations. Any change in the responsible party shall require written notification to the city on forms provided by the city and in a manner promulgated by the city upon payment of the applicable fees.

- (f) Complaints to the Responsible Party concerning violations by occupants of vacation rental units to this section shall be responded to within a reasonable time but in no instance greater than three hours. A record shall be kept of the complaint and the manager's response for a period of at least three months after the incident, which shall be available for inspection by the City during business hours.

- (g) An owner may change his or her designation of a Responsible Party; however, there shall only be one Responsible Party for each vacation rental property at any given time. To change the designated agent or responsible party, the owner shall notify the City in writing of the name, contact information and other



information required in this subsection for the new vacation rental manager, along with a signed affidavit from the new agent or responsible party acknowledging and agreeing to serve in this capacity and perform the duties of this Chapter. Any notice of violation or legal process which has been delivered or served upon the previous vacation rental manager, prior to the City's receipt of notice of change of the vacation rental manager, shall be deemed effective service.

- (h) It shall be the sole responsibility of the property owner to appoint a reliable Responsible Party and to inform the Responsible Party of his or her correct mailing address. Failure to do so shall not be a defense to a violation of this section. No property owner shall designate as a Responsible Party any person who does not expressly comply with the provisions of this section. The property owner or the Responsible Party shall be deemed to be the "violation" of this section as the term is used in F.S. § 162.06. Service of notice on the Responsible Party shall be deemed service of notice on the property owner, tenant and violator. Copies of all notices shall also be provided to the property owner.

**Sec. 10-127 – 10-140. Reserved.**

**Division C. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS**

**Sec. 10-141. Generally**

The standards and requirements set forth in this Article shall apply to the rental, use, and occupancy of Vacation Rentals in the City of Indian Harbour Beach.

**Sec. 10-142. Minimum safety and operational requirements.**

Vacation Rentals in the City of Indian Harbour Beach shall meet the applicable standards under the Florida Statutes, the Florida Building Code, the Florida Administrative Code, the Florida Swimming Pool Safety Act, and the Florida Fire Code and Life Safety Code, and each Vacation Rental shall have at least one landline telephone on the main level and in the common area at the rental with the ability to call 911. The landline telephone number shall be registered at all times with Brevard County Emergency Management for the purpose of receiving emergency alerts for items including, but not limited to, mandatory evacuations for hurricanes and requests to limit utility usage. Additionally, the landline telephone number shall be registered at all times with the City of Melbourne Utilities Department, the water provider within the City of Indian Harbour Beach, for the purposes of receiving boil water alerts and rescinding alerts.

**Sec. 10-143. Maximum occupancy based on site capacity / limitations / grandfathering.**

- (a) The maximum occupancy of a Vacation Rental shall be stated in the Vacation Rental registration form, and shall be limited to two occupants (as defined herein) per bedroom (as defined herein) plus two occupants with a maximum capacity of 12 persons.
- (b) The maximum occupancy restriction as set forth above shall not apply when the property is Owner occupied by the Vacation Rental Owner.
- (c) Notwithstanding the above, a Vacation Rental that was used as a Vacation Rental as of the effective date of this ordinance, may apply for the status of grandfathered for a period of ten (10) years, as to occupancy limitations, and may cap its occupancy based upon the following criteria and procedures. Vacation Rentals that have an occupancy of twelve (12) or less as determined according to Sec. 10-143 (a) above will not require grandfathering to maintain that occupancy.
  - (1) A grandfathered Vacation Rental shall have its maximum occupancy based upon two persons per bedroom (each bedroom must meet the definition of bedroom herein) at the time of application for grandfather status. A change in the number of bedrooms at the Vacation Rental shall cause such Vacation Rental to lose its grandfathered status.
  - (2) The Vacation Rental Owner, or agent, as applicable, ("Grandfathering Applicant"), shall complete a Grandfathering Application as prescribed by the City, which shall be submitted under oath and upon penalty of perjury, and provide verifiable written proof of the number of bedrooms as herein defined in the Vacation Rental.
  - (3) The Grandfathering Application and supporting proof shall be submitted to the City for review by City staff, and such staff shall make a written determination as to the maximum occupancy of such grandfathered Vacation Rental.
  - (4) If the City staff fails to confirm the requested occupancy level, the City of Indian Harbour Beach shall notify the Grandfather Applicant of that fact, and the occupancy level that can be approved, in writing. Within twenty (20) days after such notice, an evidentiary hearing may be requested by the Grandfather Applicant before the Special Magistrate to provide the Grandfather Applicant an opportunity to provide evidence and/or testimony in support of the occupancy requested. A determination by the Special Magistrate after such evidentiary hearing shall be final. If no hearing is requested during that time period, the occupancy level shall be set at the level determined by the City staff upon initial review.
  - (5) An application for grandfathering shall be submitted, if at all, but no later than the time of registration of the Vacation Rental, but not later than January 1, 2019, along with fees established by the City Council by resolution. If the City extends the date that registration is required, the deadline for the application for grandfathering shall also be extended to the same extended date. If a Vacation Rental has been registered, but a final determination as to the occupancy level based upon grandfathering has not yet been made, such Vacation Rental may allow occupancy

- up to the occupancy requested in the grandfathering application until such time as a final determination as to occupancy has been made.
- (6) If it is reasonably determined by the City staff that any information supplied to the City of Indian Harbour Beach in support of an application for grandfathering was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine. If there is such a determination by City staff, the City of Indian Harbour Beach shall notify the Grandfather Applicant of that fact, and within twenty (20) days after such notice, an evidentiary hearing may be requested by the Grandfather Applicant before the Special Magistrate to provide the Grandfather Applicant an opportunity to provide evidence and/or testimony to show that the information supplied in support of the application for grandfathering was not intentionally false or fraudulent. The determination by the Special Magistrate after such evidentiary hearing shall be final. If no hearing is requested during that time period, the initial determination by the City staff shall be final.
  - (7) If a Vacation Rental registration does not exist as to a Vacation Rental for a period in excess of thirteen (13) months, any grandfathering determination shall be deemed abandoned, and shall no longer be applicable to that Vacation Rental.

**Sec. 10-144. Parking, solid waste disposal, legal compliance, evacuations, miscellaneous provisions.**

- (1) All vehicles associated with the Vacation Rental, including visitors not residing at the Vacation Rental, must be parked in compliance with the City of Indian Harbour Beach Code of Ordinances. All vehicles associated with the vacation rental must be parked within a driveway located on the subject property. There shall be no sidewalk, on street, right-of-way, or grass parking. Parking shall be paved and shall not be located off the Vacation Rental property, including common areas.  
Parking of boats, watercraft, recreational vehicles, campers, and trailers at Vacation Rentals shall be to the rear of the front building line of the property.
- (2) Solid waste disposal (household garbage, recycling, and yard trash) at Vacation Rentals shall be in compliance with the Solid Waste Franchise Agreement adopted by the City.
- (3) Vacation rental occupants are required to comply with all local, state and federal laws at all times, including those related to illegal activities, local nuisance ordinances, and emergency management.
- (4) Vacation rental occupants are required to participate in all mandatory evacuations due to hurricanes, tropical storms or other threats to resident safety, as required by state and local laws.
- (5) A vacation rental shall not be eligible for a special activity permit.



- (6) No temporary storage containers may be stored on the vacation rental premises. The term "temporary storage container" shall mean any container, structure, box, cylinder, or crate made of any material not permanently affixed to real property, that is enclosed or capable of being enclosed on all sides, top and bottom, that is stored, placed, located or put on any real property within the City for the purpose of storing personal property, construction material, trash, refuse, garbage, debris, or other material or matter. Provided, however, with prior authorization from the Building Department a temporary storage container may be authorized during valid construction permit activity for this location.
- (7) No accessory structure, vehicle, recreational vehicle, trailer, camper, or similar apparatus shall be utilized or rented as a Vacation Rental.

**Sec. 10-145. Required Local Information Provided in a Vacation Rental.**

- (a) In each Vacation Rental, there shall be provided, in a prominent location on the inside of the Vacation Rental, the following written information:
  - (1) The official street address and landline telephone phone number of the Vacation Rental.
  - (2) The name, address and phone number of the Vacation Rental Owner or Responsible Party as applicable.
  - (3) The maximum occupancy of the Vacation Rental.
  - (4) A copy of a document to be supplied by the City which includes excerpts from City of Indian Harbour Beach ordinance provisions of general application relevant to Vacation Rentals to include solid waste pick-up regulations, regulations related to sea turtles and sea turtle lighting, and City of Indian Harbour Beach Noise Ordinance, as specified by resolution of the City, as a lease addendum. The City will make available to Vacation Rental Owners and agents a copy of such document in digital format upon request, and the City will post such document on its website.
  - (5) The maximum number of vehicles that will be allowed to park at the Vacation Rental, along with a sketch of the location of the paved off-street parking and a notice that visitors to the Vacation Rental, not residing at the rental are also prohibited from on-street parking.
  - (6) The days and times of trash and recycling pickup.
  - (7) Phone number and address of Holmes Regional Medical Center Melbourne and Health First Viera Hospital and directions from the Vacation Rental to the hospital.

- (8) Emergency and nonemergency phone numbers for Indian Harbour Beach Police and Fire.
- (9) Emergency evacuation instructions.
- (10) Rip Currents are prevalent in the Atlantic Ocean here in Brevard County. Information from the National Weather Service, available via from <http://weather.gov/mlb> shall be provided to occupants on the dangers of Rip Currents that occur in the Atlantic Ocean shall be prominently displayed
- (11) Notice of the need for respect for the peace and quiet of neighborhood residents, especially during citywide quiet hours identified in the City Code of Ordinances Chapter 8. A statement that all Occupants shall be prohibited from making excessive or boisterous noise in or about any residential dwelling unit at all times. Noise, that is audible beyond the boundaries of the residential dwelling unit, is regulated by the City's noise regulations and violations can result in fines.
- (12) In addition, there shall be posted, next to the interior door of each bedroom, and the exterior doors exiting the Vacation Rental a legible copy of a building evacuation map – Minimum 8-1/2" by 11".

**Sec. 10-147. Minimum life/safety requirements.**

- (1) Swimming pool, spa, and hot tub safety. A swimming pool, spa, or hot tub shall comply with the current standards of Florida Statutes Chapter 515 Residential Swimming Pool Safety Act.
- (2) Smoke and carbon monoxide (CO) detection and notification system. There shall be a smoke and carbon monoxide detection system, installed and maintained in compliance with the requirements of Florida Building Code Residential, Sections R314 Smoke Alarms R315 Carbon Monoxide Alarms.
- (3) Fire extinguisher. On each floor there shall be available a portable, multi-purpose dry chemical 2A:10B:C fire extinguisher, which shall be installed and maintained in compliance with NFPA 10.
- (4) Battery powered emergency lighting. Battery powered emergency lighting, which illuminates automatically for at least one (1) hour when electricity is interrupted, is required at each building exit.

**Sec. 10-148 – 10-160. Reserved.**

**Division D. EXEMPTIONS**

**Sec. 10-161. Exemption for pre-existing rental agreements**

Notwithstanding any other provision of this ordinance, rental agreements with prospective Occupants for Vacations Rentals that were pre-existing as of the enactment of this portion of Chapter 10, (hereinafter "Pre-existing Agreements") are exempt from the provisions of this ordinance.

If a Vacation Rental is cited for a violation of this Chapter, (that would not be a violation if it were not for this Chapter), when the Vacation Rental is occupied under the terms of a Pre-existing Agreement, the Vacation Rental Owner may defend such violation based on the fact that the Vacation Rental was exempt from this Chapter due to it being occupied pursuant to a Pre-existing Agreement. Such defense shall be determined based upon the following information, and upon any additional information supplied by the Vacation Rental Owner or otherwise determined by the fact finder:

1. Copy of deposit or payment information evidencing that the agreement was a Pre-existing Agreement;
2. Copy of e-mail or other communication evidencing a binding Pre-existing agreement;
3. Information from the Occupant confirming that there was a binding agreement in a time-frame to make the agreement a Pre-existing Agreement under this Chapter; or
4. Written Vacation Rental Agreement dated prior to August 9, 2018

If it is reasonably determined by the City staff, and confirmed by the City's Special Magistrate, that any information supplied to the City of Indian Harbour Beach in support of an application for exemption or in support of a defense based upon Pre-existing Agreement was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine.

**Sec. 10-162. Exemption for Owner Occupied Vacation Rentals**

The provisions of this Chapter shall not apply to owner occupied Vacation Rentals or property which is homestead under the Florida Constitution and Florida law from forced sale under any process of law. Any person desiring to qualify for the exemption herein shall file an affidavit in substantially the following form:

**"Affidavit of Exemption"**

**State of \_\_\_\_\_**  
**County \_\_\_\_\_**



Before me the undersigned authority personally appeared \_\_\_\_\_  
(hereinafter the "Owner") who upon oath deposes and states:

1. I am over the age of 18 and competent to make this Affidavit.
2. I own the following real property in the City of Indian Harbour Beach, Brevard County, State of Florida:

(Legal description and Street Address)

3. Check one or both as applicable:

( ) I currently occupy the property described in paragraph 2 above and have resided on this property continuously and uninterruptedly from (date) to the date of this Affidavit.

Or

( ) I have applied for and received the homestead tax exemption as to the above-described property, that \_\_\_\_\_ is the tax identification parcel number of this property, and that the undersigned has resided on this property continuously and uninterruptedly from (date) to the date of this Affidavit.

4. The purpose of this Affidavit is to qualify for exemption from the City of Indian Harbour Beach Vacation Rental Ordinance.

Sworn and subscribed before me by \_\_\_\_\_ this day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
Notary"

**SECTION 2. Severability/Interpretation Clause.** In the event that any term, provision, clause or section of this ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, or illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this ordinance, and this ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.


**SECTION 3. Codification.** The provisions of this Ordinance shall be codified as, and become and be made a part of the Code of Ordinances of the City of Indian Harbour Beach. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

**SECTION 4.** That all ordinances or resolutions or parts thereof that may be determined to be in conflict herewith are hereby repealed.


**SECTION 5. Effective Date.** Except as may be otherwise provided for in Division B to Article V of Chapter 10, this Ordinance shall be effective upon adoption by the City Council. This Ordinance shall be effective upon adoption by the City Council; however, the provisions of Sections 10-101 through Section 10-109 will not become effective for existing Vacation Rental properties until October 1, 2018. If the registration forms to implement the required registration provisions of this Chapter are not available by August 13, 2018, the city may extend the requirement to register Vacation Rental properties by notice on the City's website.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF INDIAN HARBOUR BEACH, BREVARD COUNTY, FLORIDA, ON THIS 8<sup>th</sup> DAY OF August 2018.

CITY OF INDIAN HARBOUR BEACH  
BREVARD COUNTY, FLORIDA

  
\_\_\_\_\_  
David A. Panicola, Mayor  
Scott Nickle, Deputy Mayor

ATTEST:

  
\_\_\_\_\_  
Sue Frank, City Clerk

First Reading: July 10, 2018  
Second Reading: August 8, 2018

**RESOLUTION NO. 697**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDIAN HARBOUR BEACH, BREVARD COUNTY, FLORIDA, ESTABLISHING FEES FOR REGISTERING, RENEWING A REGISTRATION, AMENDING THE NAMED RESPONSIBLE PARTY, INITIAL AND ANNUAL INSPECTION FEES, AND PENALTIES FOR VACATION RENTALS; PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City Council of the City of Indian Harbour Beach has determined the need to establish regulations and an inspection and registration process for Vacation Rental Properties within the city with the adoption of Ordinance No. 2018-05; and

**WHEREAS**, Ordinance No. 2018-05, Division B provides that the City Council may adopt fees for registering, renewing the registration annually, amending the named responsible party, the initial and annual inspection fees, and penalties for non-compliance.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF INDIAN HARBOUR BEACH, BREVARD COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION 1.** The City Council adopts the following fees associated with Vacation Rentals:

<b>Vacation Rental Fee Schedule (Non-Refundable Fees)</b>	
Vacation Rental Application and Registration Fee	\$500
Annual Renewal Vacation Rental Registration Fee	\$350
Initial and Annual Safety Inspection Fee	\$85
No Show or Re-Inspection for Initial and/or Annual Inspection Fee	\$25
Change of Ownership Vacation Rental Application and Registration Fee	\$500
Modification of Existing Vacation Rental Registration: (change in number of bedrooms or parking spaces, or change in location of parking spaces)	\$250
Permanent Transfer of Responsible Party Fee	\$100
Temporary Transfer of Responsible Party Fee, each occurrence (maximum 30 days in a 12 month period)	\$25
Late Fee for Annual Registration Renewal	\$100
Penalty for Operating Without Registration, in Addition to Applicable Penalties Imposed by the Special Magistrate	\$125



**SECTION 2. *The City Council formally advises all Vacation Rental property owners the Brevard County Property Appraiser will remove all Homestead Exemptions granted said property if the property is rented for more than 30 days per calendar year for two (2) consecutive years, even if the said property is owner occupied. (Per Florida Statutes 196.061)***

**THIS RESOLUTION** shall take effect immediately upon adoption.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Indian Harbour Beach, Florida, the 8<sup>th</sup> day of August, 2018.



---

David A. Panicola, Mayor  
Scott Nickle, Deputy Mayor

ATTEST:



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Sue Frank, MMC  
City Clerk



# City of Indian Harbour Beach VACATION RENTAL REGISTRATION

Rev: 1 | Revision Date: 08/09/2018  
Ordinance #: 2018-05

## Agent Authorization

Certificate of Compliance #: \_\_\_\_\_

PROPERTY OWNER INFORMATION			
Name:			
Mailing Address:			
Primary Phone:		Secondary Phone:	
Email:			

AGENT INFORMATION			
Name:			
Mailing Address:			
Primary Phone:		Secondary Phone:	
Email:			

The undersigned, an owner or officer for the Vacation Rental Owner of the property located in Indian Harbour Beach, Florida at \_\_\_\_\_ hereby authorizes the above named agent to perform the duties and functions of a Vacation Rental Owner on behalf of the above named Property Owner.

Property Owner/Agent Name (Please Print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_, the foregoing authority, personally appeared, who after being duly sworn, states he/she personally knows the facts stated herein.

Personally known:  OR

Produced Identification:  Type of Identification Produced: \_\_\_\_\_

(SEAL)

\_\_\_\_\_  
Signature of Notary Public



## City of Indian Harbour Beach

# VACATION RENTAL REGISTRATION CHECKLIST

***The following documents are to be emailed to [vacationrental@indianharbour.org](mailto:vacationrental@indianharbour.org)***

***or delivered to City Hall all at once.***

***Missing items will result in a rejected application.***

1. Vacation Rental Registration Application and Affidavit of Compliance. Completed and notarized (Owner/Agent and Responsible Party).
2. Vacation Rental Registration Agent Authorization if the application is being submitted on behalf of the owner by their authorized representative. Completed and notarized.
3. Grandfathering Application, if applicable.
4. Proof of property ownership (BCPA or Sunbiz).
5. Local Information Notification as required in Section 10-145 of Resolution 697, which may include the City *Lease Addendum* that provides a portion of the required information.
6. An exterior sketch of the Vacation Rental facility.
7. A building sketch by floor.
8. A sketch to indicate the # of parking spaces. "No on-street parking" should be printed on the sketch.
9. Proof of licensure with the Florida Department of Business and Professional Regulation for a transient public lodging establishment.
10. Proof of registration with the Florida Department of Revenue for sales tax collection.
11. Proof of registration, including number, with Brevard County Tourist Development Tax.
12. Payment for applicable fees.





# City of Indian Harbour Beach VACATION RENTAL REGISTRATION

Rev: 1 | Revision Date: 08/09/2018  
Ordinance #: 2018-05

## Grandfathering Application

An application for grandfathering of occupancy number shall be submitted, if at all, by no later than the time of registration of the Vacation Rental, but not later than January 1, 2019.

A Vacation Rental that was used as a Vacation Rental as of the effective date of Ordinance 2018-05, may apply for the status of grandfathered for a period of ten (10) years, as to occupancy limitations, and may cap its occupancy. Vacation Rentals that have an occupancy of twelve (12) or less as determined according to Sec. 10-143 (a) will not require grandfathering to maintain that occupancy.

A grandfathered Vacation Rental shall have its maximum occupancy based upon two persons per bedroom (each bedroom must meet the definition of bedroom in Section 10-77 of Chapter 10 of the City's Code of Ordinances) at the time of application for grandfather status. A change in the number of bedrooms at the Vacation Rental shall cause such Vacation Rental to lose its grandfathered status.

If a Vacation Rental has been registered, but a final determination as to the occupancy level based upon grandfathering has not yet been made, such Vacation Rental may allow occupancy up to the occupancy requested in the grandfathering application until such time as a final determination as to occupancy has been made.

PROPERTY INFORMATION					
Vacation Rental Address:					
Landline Phone #:					
Zoning District:		Swimming Pool:		Hot Tub:	
# of Paved Off-Street Parking Spaces:		Square Footage of Living Area Under Air, Excluding Garage:			
# of Bedrooms:		Maximum Occupancy Requested:			

PROPERTY OWNER/AGENT CONTACT INFORMATION			
Name:			
Mailing Address:			
Primary Phone:		Secondary Phone:	
Email:			Responsible Party:



# City of Indian Harbour Beach VACATION RENTAL REGISTRATION

Rev: 1 | Revision Date: 08/09/2018  
Ordinance #: 2018-05

RESPONSIBLE PARTY CONTACT INFORMATION (If Other than Owner/Agent)			
Name:			
Mailing Address:			
Primary Phone:		Secondary Phone:	
Email:			

Please provide written, supporting proof of the number of bedrooms and any additional information necessary to substantiate eligibility for the status of grandfathering with this application to the City for review by City staff. The City shall respond in writing the determination as to the maximum occupancy of such grandfathered Vacation Rental.

I hereby certify that the information contained herein and included with this application is accurate.

Property Owner/Agent (Name): \_\_\_\_\_

Property Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

Before me, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_,

the foregoing authority, personally appeared, who after being duly sworn, says he/she personally knows the facts stated herein.

Personally known:  OR

Produced Identification:  Type of Identification Produced: \_\_\_\_\_

(SEAL)

\_\_\_\_\_  
Signature of Notary Public



## City of Indian Harbour Beach

# VACATION RENTAL LEASE AGREEMENT ADDENDUM

**NOISE:** Be advised that it is unlawful for any person to make, continue, cause to be made or continued, or permit to be made or continued (when the source of the amplified noise is within the reasonable control of that person) any unreasonably loud, excessive, unnecessary or unusual noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace, or safety of others, within the limits of the city. Any noise that is in violation of Chapter 8, Article II of the City's Code of Ordinances is declared to be a nuisance. Such noises include but are not limited to:

- **Amplified sound.** The making of amplified sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants. The making of any such sounds between the hours of 10 p.m. and 7 a.m. the following day in such manner as to be plainly audible off the premises from the source of the noise, or if the noise is emanating from inside a building, structure or vehicle from any exterior edge of that building, structure or vehicle shall be prima facie evidence of a violation of this section.
- **Animals.** The owning, keeping, possessing or maintaining of any domesticated animal which vocalizes (howls, yelps, barks, squawks, or generates any other noise) where the vocalizing is plainly audible at or within the property line of the sound-affected site or unit, and where:
  - Such vocalizing continues an average of ten (10) times or more for more than five (5) minutes without interruption or is repeated an average of five (5) times or more per minute for twenty (20) or more consecutive minutes.

This shall not apply if the domesticated animal is unreasonably provoked.

**SEA TURTLE NESTING SEASON:** Occurs from May 1<sup>st</sup> – October 31

**SEA TURTLE LIGHTING REGULATION:** All artificial exterior lighting **east of State Road A1A**, including specifically, but not limited to, artificial lighting used to illuminate buildings or associated grounds, parking lots, walkways, recreational areas; uplighting, floodlights, spotlights, decorative lighting, and all exterior street lights, shall be shielded and downlit in a manner so that the source of the light is not visible from any point on the beach area that extends landward from the mean low water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation between the hours of 9 p.m. and 6 a.m. the following day.

**PARKING:** All vehicles must be parked in compliance with the City of Indian Harbour Beach Code of Ordinances. All vehicles associated with the vacation rental must be parked within a driveway located on the subject property. There shall be no sidewalk, on street, right-of-way, or grass parking. Parking sketch/photograph will be provided by owner separately.

**TRASH PICKUP:** Trash – Tuesdays and Fridays; Recycling – Wednesdays. Service is provided in the City between the hours of 7 a.m. and 6 p.m. Authorized containers should not be left at the curbside for more than a 24-hour period.

**CITY'S NON-EMERGENCY POLICE & FIRE PHONE NUMBER:** 321-773-3030

**NEAREST HOSPITALS:** Health First Holmes Regional Medical Center, 1350 Hickory St, Melbourne, FL 32901  
Phone: 321-434-7000

Health First Viera Hospital, 8745 North Wickham Rd, Viera, FL 32940  
Phone: 321-434-9000





# City of Indian Harbour Beach VACATION RENTAL REGISTRATION

Rev: 2 | Revision Date: 09/11/2018  
Ordinance #: 2018-05

## Application

### This packet includes the following documents:

1. Vacation Rental Registration Application
2. Vacation Rental Affidavit of Compliance
3. Owner Authorization for Responsible Party, if applicable

Certificate of Compliance #: \_\_\_\_\_

### CHECK ALL THAT APPLY

- New Application
- Renewal
- Modification to Property
- Assign/Change Responsible Party
- Permanent
- Temporary, Dates: \_\_\_\_\_

Is Property Homesteaded:  Yes  No

Website Advertising: URL \_\_\_\_\_

ID # \_\_\_\_\_

PROPERTY INFORMATION				
Vacation Rental Address:				
Landline Phone #:				
Zoning District:		Swimming Pool:		Hot Tub:
# of Paved Off-Street Parking Spaces:		Square Footage of Living Area Under Air, Excluding Garage:		
# of Bedrooms:		Maximum Occupancy Requested:		

PROPERTY OWNER/AGENT CONTACT INFORMATION			
Name:			
Mailing Address:			
Primary Phone:		Secondary Phone:	
Email:			
Responsible Party:	<input type="checkbox"/> Yes		<input type="checkbox"/> No

The Responsible party must be available 24/7 and be able to immediately address and take affirmative action within 1 hour of being contacted. A responsible party must be assigned below if the property owner is unable to meet this requirement.



# City of Indian Harbour Beach

## VACATION RENTAL REGISTRATION

Rev: 2 | Revision Date: 09/11/2018  
Ordinance #: 2018-05

RESPONSIBLE PARTY CONTACT INFORMATION (If Other than Owner/Agent)			
Name:			
Mailing Address:			
Primary Phone:		Secondary Phone:	
Email:			

Signature of the applicant (owner/agent or responsible party) grants authorization to the City of Indian Harbour Beach staff to inspect the premises of the vacation rental unit prior to the issuance of the Certificate of Compliance and at any other time after issuance of certificate concerning compliance with City of Indian Harbour Beach Chapter 10, Article V. Signature also certifies that the owner/responsible party has read and examined this application and knows that same is true and correct.

Applicant Name (Please Print): \_\_\_\_\_

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_



# City of Indian Harbour Beach

## VACATION RENTAL REGISTRATION

Rev: 2 | Revision Date: 09/11/2018  
 Ordinance #: 2018-05

Please ensure that all items listed below are submitted with the application. Failure to provide these items, including the registration/application fee, will result in a delay of the application review process. During review, if information is missing, the applicant will be notified of the deficiency, and be allowed fifteen (15) days to provide any missing information. Copies of all State and County licenses/certificates are required.

NOTE: RENEWALS only require the Vacation Rental Application/Affidavit of Compliance, required fees, and current State and County licenses.

REQUIRED DOCUMENTS	YES	NO
Vacation Rental Registration Application and Affidavit of Compliance.	<input type="checkbox"/>	<input type="checkbox"/>
Agent Authorization, if applicable.	<input type="checkbox"/>	<input type="checkbox"/>
Grandfathering application, if applicable.	<input type="checkbox"/>	<input type="checkbox"/>
Proof of Property Ownership (BCPA or Sunbiz)	<input type="checkbox"/>	<input type="checkbox"/>
Local Information notification as required in Section 10-145 of Resolution 697, which may include the City <i>Lease Addendum</i> that provides a portion of the required information.	<input type="checkbox"/>	<input type="checkbox"/>
An exterior sketch of the Vacation Rental facility shall be provided. The sketch shall show and identify all structures, pools, spas, hot tubs, fencing, and uses, including areas provided for off-street parking. At the option of the Vacation Rental Owner, such sketch may be hand drawn, and need not be professionally prepared.	<input type="checkbox"/>	<input type="checkbox"/>
A building sketch by floor shall be provided, showing a floor layout identifying all bedrooms, other rooms, exits, hallways, stairways, as applicable. At the option of the Vacation Rental Owner, such sketch may be hand drawn, and need not be professionally prepared.	<input type="checkbox"/>	<input type="checkbox"/>
A sketch of the location of the off-street parking spaces, with the following statement on it: "No on-street parking". For purposes of the sketch, off-street parking spaces shall be delineated so as to enable a fixed count of the number of spaces provided. At the option of the Vacation Rental Owner, such sketch may be hand drawn, and need not be professionally prepared.	<input type="checkbox"/>	<input type="checkbox"/>
Licensure with the Florida Department of Business and Professional Regulation for a transient public lodging establishment.	<input type="checkbox"/>	<input type="checkbox"/>
License with the Florida Department of Revenue for sales and development tax collection. If no such certificate or account, provide name of entity through which taxes will be remitted.	<input type="checkbox"/>	<input type="checkbox"/>
Brevard County for Tourist Development Tax Number.	<input type="checkbox"/>	<input type="checkbox"/>



# City of Indian Harbour Beach VACATION RENTAL REGISTRATION

Rev: 2 | Revision Date: 09/11/2018  
Ordinance #: 2018-05

## Affidavit of Compliance

Before me, \_\_\_\_\_ and \_\_\_\_\_ personally appeared,  
Owner Responsible Party  
after being duly sworn state he/she personally knows the facts stated herein.

1. As of the date this affidavit is signed, I am the known owner, a person who is a principal of an entity, and/or the responsible party of the residence located at \_\_\_\_\_, Indian Harbour Beach, Florida.
2. On \_\_\_\_\_, I submitted or authorized an application for the registration of a residence as a vacation rental and request for a Certificate of Compliance to the City of Indian Harbour Beach.
3. I hereby certify that the Vacation Rental is in compliance with the provisions of Chapter 10, Article V, of the City of Indian Harbour Beach Code of Ordinances and other applicable local, state, and federal laws, regulation, and standards to include, but not be limited to Chapter 509, Florida Statutes, and Rules, Chapter 61C and 69A, Florida Administrative Code, and will continue to operate within those guidelines including but not limited to the following:

### Vacation Rental Compliance Requirements and Standards

1. **Licensing:** Obtain and maintain Brevard County Business Tax Receipt (if applicable), Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes and transient rental taxes, Brevard County for Tourist Development Tax; and Department of Business and Professional Regulation license as a transient public lodging establishment.
2. **Local Telephone Service:** At least one landline telephone with the ability to call 911 shall be available in the main level common area in the vacation rental. The number must be registered with Brevard County Emergency Operations Center and City of Melbourne, and be able to receive emergency notifications.
3. **Fees:** Fees are non-refundable.
4. **Interior Posting:** In each Vacation Rental, there shall be provided, in a prominent location on the inside of the Vacation Rental, the following written information:
  - The official street address and landline phone number of the Vacation Rental.
  - The name, address and phone number of the Vacation Rental Owner or Responsible Party as applicable.
  - The maximum occupancy of the Vacation Rental.





# City of Indian Harbour Beach

## VACATION RENTAL REGISTRATION

Rev: 2 | Revision Date: 09/11/2018  
Ordinance #: 2018-05

- A copy of a document to be supplied by the City which includes excerpts from City of Indian Harbour Beach ordinance provisions of general application relevant to Vacation Rentals to include solid waste pick-up regulations, regulations related to sea turtles and sea turtle lighting, and City of Indian Harbour Beach Noise Ordinance, as specified by resolution of the City, as a lease addendum. The City will make available to Vacation Rental Owners and agents a copy of such document in digital format upon request, and the City will post such document on its website.
  - The maximum number of vehicles that will be allowed to park at the Vacation Rental, along with a sketch of the location of the paved off-street parking.
  - The days and times of trash and recycling pickup.
  - Phone number and address of Holmes Regional Medical Center Melbourne and Health First Viera Hospital and directions from the Vacation Rental to the hospital.
  - Emergency and nonemergency phone numbers for Indian Harbour Beach Police and Fire.
  - Emergency evacuation instructions.
  - Notice of the need for respect for the peace and quiet of neighborhood residents, especially during citywide quiet hours identified in the City Code of Ordinances Chapter 8. A statement that all Occupants shall be prohibited from making excessive or boisterous noise in or about any residential dwelling unit at all times. Noise, that is audible beyond the boundaries of the residential dwelling unit, is regulated by the City's noise regulations and violations can result in fines.
  - There shall be posted, next to the interior door of each bedroom and the exterior doors exiting the vacation rental a legible copy of the building evacuation map – Minimum 8-1/2" by 11".
5. **Parking:** All vehicles associated with the Vacation Rental must be parked in compliance with the City of Indian Harbour Beach Code of Ordinances. All vehicles associated with the vacation rental must be parked within a paved parking space or driveway located on the subject property. There shall be no sidewalk, on street, right-of-way, common area, or grass parking.
- Parking of boats, watercraft, recreational vehicles, campers, and trailers at Vacation Rentals shall be to the rear of the front building line of the property.
6. **Notice to Guests:** Inform all vacation rental occupants, in writing, prior to arrival and post at a minimum near the main entrance of the establishment the following:
- Guests are required to comply with all local, state and federal laws at all times, including those related to illegal activities, local nuisance ordinances, and emergency management.
  - Guests are required to participate in all mandatory evacuations due to hurricanes, tropical storms or other threats to resident safety, as required by state and local laws.
7. **Advertising:** Any advertising of the vacation rental unit shall conform to the information included in the Vacation Rental Certificate of Compliance and the property's approval, particularly as this



# City of Indian Harbour Beach

## VACATION RENTAL REGISTRATION

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pertains to maximum occupancy. A statement stating, "It is unlawful to allow for a sexual offender or sexual predator to occupy this residence."

8. **Property Owner/Agent/Responsible Party:**

- Availability. Be available with authority to address and coordinate solutions to problems with the rental of the property twenty-four (24) hours a day, seven (7) days a week for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of these regulations. This party shall respond to calls within one (1) hour of being notified by law enforcement officer, emergency personnel, or the City of issues related to the Vacation Rental. Responsible party shall respond when requested. Keep available a register of all guests, which shall be open to inspection by authorized personnel of the City of Indian Harbour Beach at all times. Conduct an on-site inspection of the Vacation Rental at the end of each rental period to ensure continued compliance with the requirements of this chapter. Notices given to the responsible party shall be sufficient to satisfy any requirement of notice to the owner, tenant, and violator.
- Responsible Party Changes. Any change in the vacation rental responsible party shall require written notification (updated application) to the City. There shall only be one Responsible Party for each vacation rental property at any given time.

9. **Sexual Offenders:** A Vacation Rental Owner or Responsible Party is responsible for ensuring sexual offenders/predators as defined in §775.21, §943.0435, §944.607, or §985.4815 register at the Brevard County Sheriff's office and the Indian Harbour Beach Police Department following the process set forth in §775.21, 48 hours prior to arrival at a vacation rental, regardless of the length of stay.

A Vacation Rental Owner and/or Responsible Party shall comply with Florida law, Chapter 775.215, as amended from time to time, pertaining to the distance separation of homes with a sexual offender/predator residing within the Vacation Rental and any business, school, child care facility, park, playground, or other places where children regularly congregate.

At the time of check-in, the Vacation Rental Owner or Responsible Party shall inquire if any guest staying at the Vacation Rental property is a sexual offender/predator as defined in §775.21, §943.0435, §944.607, or §985.4815. If any guest of a Vacation Rental public lodging is a sexual offender/predator as defined in §775.21, §943.0435, §944.607, or §985.4815, the operator shall immediately notify the Indian Harbour Beach Police Department.

Failure to comply with this section shall result in the revocation of the Vacation Rental Registration for the Vacation Rental and other enforcement provisions outlined in Section 10-79 of the Code of Ordinances.

10. **Changes or Alteration to the Property or Operation:** The owner shall notify the City if there is an increase in the number of bedrooms, change in designated parking, or change in the responsible party. A new certificate of compliance may be issued if the conditions of the Section 10-103 have been met and all required permits have been issued for the changes or alterations.



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I hereby also acknowledge that the approval of this Certificate of Compliance shall in no way permit any activity contrary to the City of Indian Harbour Beach Code, or any activity that would constitute a nuisance under state or local law. I understand and acknowledge that the approval for use of this residence as a vacation rental is based on my representations to city staff, and does not in any way constitute an evaluation or determination of legal or legal non-conforming status of the improvements on this site. I further acknowledge that it is my responsibility, as property owner and/or responsible party, to ensure that the conduct of this vacation rental is not contrary to any ordinance, code or restriction which may govern the property on which the vacation rental will be conducted, which property address is referenced above. I acknowledge that any misrepresentation made by me or by my agent in applying for this certificate may render the certificate invalid.

Property Owner/Agent Name (Please Print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Before me, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, the foregoing authority, personally appeared, who after being duly sworn, says he/she personally knows the facts stated herein.

Personally known:  OR

Produced Identification:  Type of Identification Produced: \_\_\_\_\_

(SEAL)

\_\_\_\_\_  
Signature of Notary Public

Responsible Party Name (Please Print): \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF \_\_\_\_\_, COUNTY OF \_\_\_\_\_

Before me, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, \_\_\_\_\_, the foregoing authority, personally appeared, who after being duly sworn, says he/she personally knows the facts stated herein.

Personally known:  OR

Produced Identification:  Type of Identification Produced: \_\_\_\_\_

(SEAL)

\_\_\_\_\_  
Signature of Notary Public