

ORDINANCE NO. 2022-0996

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, AMENDING CHAPTER 42, ENTITLED “TRANSIENT RENTALS,” ARTICLE IV, ENTITLED “ZONING,” DIVISION 8, ENTITLED “TRANSIENT RENTALS” BY AMENDING REGULATIONS FOR TRANSIENT RENTALS AND ENACTING ADDITIONAL REGULATIONS FOR VACATION RENTALS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, at its June 28, 2022, meeting, the City Commission confirmed direction to the City Administration to propose amendments to the City’s Code of Ordinances regarding Transient Rental Standards within the City; and,

**WHEREAS**, the City Commission hereby finds it is in the best interest of the residents and citizens of the City to amend the City Code of Ordinances relating to the Transient Rental Standards within the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA:**

**Section 1:** That the foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

**Section 2:** Chapter 42, entitled “Transient Rentals,” Article IV, entitled “Zoning,” Section 42-448, Division 8 entitled “Transient Rental Standards,” is amended as set forth below:

**DIVISION 8. - TRANSIENT RENTALS**

**Sec. 42-440. - Purpose.**

The city commission finds that transitory uses of residential property tend to adversely affect the residential character of the community and are injurious to the health of the community. Therefore, it is necessary and in the interest of the public health, safety, and welfare to monitor and provide reasonable means for citizens of the city to mitigate impacts created by such transitory uses of residential property within the city. It is unlawful for any owner of any property within the geographic bounds of the city, to rent or operate a transient rental contrary to the procedures and regulations established in this article or applicable state statute, except as provided in subsection 42-442(b).

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### Sec. 42-441. - Definitions.

For the purpose of this article, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory. Words not defined shall be given their meaning as provided in section 42-242 of the Code of Ordinances of the city.

*Garbage* as defined in the city Code of Ordinances.

*Residential property* shall mean "residence, one-family;" "residence, two-family;" and "residence, three-family" and "residence, four-family" as defined in section 42-242 of the city's Code.

*Responsible party* shall mean the owner or the person designated by the owner of the transient rental to be called upon to answer for the maintenance of the transient rental and the conduct and acts of transient occupant of residential properties.

*Transient occupants* shall mean any person, or guest or invitee of such person, who occupies or is in actual or apparent control or possession of residential property required to obtain a certificate of compliance as a transient rental. It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of the transient rental is a transient occupant.

*Transient rental* shall mean 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 rented to transient occupants for periods of six months or less, or which is advertised or held out to the public as a place rented to transient occupants, including, but not limited to, vacation rentals.

*Vacation rentals* shall have the same meaning as F.S. § 509.242(c).

### Sec. 42-442. - Certificate of compliance required.

- (a) It is unlawful for any person to allow another person to occupy any transient rental within the city, or offer any residential property for rent and/or lease as a transient rental within the city, unless the person has obtained the certificate of compliance for each the transient rental property within the city in accordance with the provisions of this article, except as provided in 42-442(b).
- (b) A person may allow another person to occupy any transient rental without the issuance of a certificate of compliance from the city if all of the following are met:

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- (1) The residential property to be occupied by a transient occupant, or any other property owned by the titled owner of the residential property to be occupied by a transient occupant, is not in violation of any section of the Code of Ordinances of the city; and,
- (2) There are no unsatisfied liens recorded against the residential property to be occupied by a transient occupant, or any other property owned by the titled owner of the residential property to be occupied by a transient occupant, as a result of any violation of any section of the code of ordinances of the city; and,
- (3) A complete application for a certificate of compliance for the residential property as a transient rental has been filed pursuant to section 42-443 and all applicable fees have been paid; and,
- (4) That said occupancy was scheduled prior to November 1, 2015 as evidenced by a written and validly executed rental agreement or contract provided to the city administrator no later than February 1, 2016; however, any renewal terms of any occupancies scheduled after November 1, 2015 shall require a certificate of compliance; and
- (5) For a vacation rental, the transient rental has an effective and valid license as a vacation rental, the classification of public lodging establishment issued by the Florida Department of Business and Professional Regulations prior to November 1, 2015.

### **Sec. 42-443. - Application for certificate of compliance.**

- (a) Application for a certificate of compliance of a transient rental shall be made by the owner of the transient rental to the city administrator or his or her designee, and applications for a certificate of compliance shall be certified as true and complete, and sworn to in the presence of a notary, and shall set forth at a minimum:
  - (1) A property survey certified within 12 months of the application submission date and ~~T~~the legal description of the transient rental offered for rental (i.e., address, lot, block and subdivision name); and,
  - (2) Name, address, and phone number of owner of property that is the subject of the application; and,
  - (3) Name, address, and emergency contact phone number of responsible party for the transient rental, which shall be a 24-hour, seven days' a week contact number; and,

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(4) That the phone number for the responsible party will be answered 24 hours a day, seven days a week by the responsible party; and,

(5) Acknowledgements by owner of the residential property of the following:

- a. That all vehicles associated with the transient rental, including guests, must be parked on hard surface off-street parking provided on the property, and no more than one vehicle per bedroom in the transient rental shall be permitted; and,
- b. That the transient occupant of any transient rental shall comply with the limitations of section 42-448(4)(a); and,
- c. That the owner of residential property shall comply with all applicable city, county, state and federal laws, rules, regulations, ordinances and statutes; and,
- d. The residential property, or any other property owned by the titled owner of the residential property, is not in violation of any section of the Code of Ordinances of the city; and,
- e. That there are no unsatisfied liens recorded against the residential property, or any other property owned by the titled owner of the residential property, as a result of any violation of any section of the Code of Ordinances of the city; and
- f. That no solid waste or recycling container for the residential property shall be located at the curb for pickup before 6:00 p.m. of the day prior to pick up, and the solid waste and recycling containers shall be removed before 9:00 p.m. of the day of pickup; and,
- g. That whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance of a residential property, or, having been authorized, licensed, or invited, is warned by the owner or lessee, to depart the property and refuses to do so, commits the offense of trespass in a structure or conveyance; and,
- h. That other properties are not jointly shared commodities and should not be considered available for use by transient occupants of the transient rental subject of the application; and,
- i. That prior to permitting occupancy by a transient occupant, the owner shall confirm that such occupancy is not prohibited by the city's sexual offender and predator residency prohibitions set forth in sections 54-9 through 54-12 of the city's Code of Ordinances,  
and,

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(6) Proof of owner's current ownership of the residential property; and;

(7) For vacation rentals, the following is required:

- a. ~~and w~~Where required by state law, proof of registration with the Florida Department of Revenue for sales tax collection and Broward County for Tourist Development Tax; however, if the vacation rental is exempt from sales tax collection then the owner shall provide an affidavit confirming the exemption and a copy of the exemption certificate issued by the State of Florida Department of Revenue; and
- b. ~~For vacation rentals, and w~~Where required by state law, proof of licensure with the Florida Department of Business and Professional Regulation for a transient public lodging establishment; and
- c. Scaled floor plan for the vacation rental; and,
- d. A copy of the trespass agreement in the form provided by the Lighthouse Point Police Department, signed by the property owner, authorizing officers of the Lighthouse Point Police Department to issue trespass warnings on behalf of the property owner.

(8) Submission of an incomplete application form shall result in rejection of the application.

(9) Should any information provided on an application change, the applicant shall advise the City in writing within thirty (30) days. Should the City determine that the changes are material, it may require a new application to be filed. Failure to timely notice the City of any changes may result in a revocation of a certificate of compliance or other enforcement action by the City.

### Sec. 42-444. - Fees for certificate of compliance.

The city shall charge reasonable fees for a certificate of compliance in order to compensate for administrative expenses. The fees for a certificate of compliance under this article shall be provided for, from time to time, by resolution adopted by the city commission, and shall be non-refundable.

### Sec. 42-445. - Responsible party required.

Whenever any residential property is required to obtain a certificate of compliance under this article, the owner of the transient rental shall appoint a natural person who resides within 25 miles of the transient rental, the distance measured using airline measurement from the closest property lines of the transient rental and the responsible party's residence, to serve as the

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responsible party for service of notices as are specified herein, and notices given to the responsible party shall be sufficient to satisfy any requirement of notice to the owner of the transient rental. An initial responsible party shall be designated and name submitted with the application for the certificate of compliance, and the city administrator or his designee shall thereafter be notified of any change of responsible party within five business days of such change. Further, it is the affirmative duty of the responsible party to:

- (1) Inform all transient occupants, in writing, prior to occupancy of the transient rental of applicable city ordinances concerning noise, occupancy limits, residency prohibitions for sexual offenders and predators, vehicle parking, garbage, and common area usage; and,
- (2) Maintain all transient rentals under their control in compliance with the occupancy limits, as specified in the Florida Building Code and section 42-448 of the Code of Ordinances of the city, as determined by the building official or his designee; and,
- (3) See that the provisions of this article are complied with and promptly address any violations of this article or any violations of law which may come to the attention of the responsible party; and,
- (4) Be available with authority to address and coordinate solutions to problems with the transient rental 24 hours a day, seven days a week; and,
- (5) Be able to, and shall, respond to, emergency calls within one (1) hour of notification; and,
- (6) Keep available a register of all transient occupants, as well as information, including tag numbers, of vehicles authorized to remain at the property overnight, which shall be open to inspection by authorized personnel of the city of Lighthouse Point at all times; and,
- (7) Maintain the entire transient rental free of garbage and litter; provided however, that this subsection shall not prohibit the storage of garbage, recyclables, and litter in wheeled receptacles with hinged lids and in good repair.

### **Sec. 42-446. - False information.**

It shall be unlawful for any person to give any false or misleading information in connection with the application required by this article.

### **Sec. 42-447. - Minimum requirements for issuance of a certificate of compliance.**

The city administrator or his designee may issue a certificate of compliance to the applicant upon proof of the following:

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- (a) The owner of the transient rental completes the city certificate of compliance application form; and,
- (b) The application fee has been paid to the city; and,
- (c) A business tax receipt from the city pursuant to chapter 78 of the Code of Ordinances; and,
- (d) A business tax receipt from Broward County, if applicable; and,
- (e) A Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes and transient rental taxes; and,
- (f) For vacation rentals, a Florida Department of Business and Professional Regulation license as a transient public lodging establishment; and,
- (g) For vacation rentals, provide the City all venues and websites on which the vacation rental is listed, and update it as required by Section 42-443(9)
- (h) An affidavit, demonstrating maintaining initial and on-going compliance with transient rental standards contained herein, plus any other applicable local, state and federal laws, regulations and standards to include, but not be limited to F.S. ch. 509, and Rules, Chapter 61C and 69A, Florida Administrative Code, as may be applicable; and,
- (i) A copy of the form lease agreement to be used when contracting with transient occupants; and
- (j) Complete inspection required by section 42-449.

### Sec. 42-448. - Transient rental standards.

The following standards shall govern the use of any transient rental as a permitted use:

- (1) Minimum life/safety requirements:
  - a. Swimming pool, spa and hot tub safety. A swimming pool, spa or hot tub shall comply with the current standards of the Residential Swimming Pool Safety Act, F.S. ch. 515.
  - b. Bedrooms. All bedrooms shall meet the single- and two-family dwelling minimum requirements of the Florida Building Code.

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- c. Smoke and carbon monoxide (CO) detection and notification system. If an interconnected and hard-wired smoke and carbon monoxide (CO) detection and notification system is not in place within the transient rental, then an interconnected, hard-wired smoke alarm and carbon monoxide (CO) alarm system shall be required to be installed 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.
- d. 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/level of the 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.

(2) Maximum occupancy. The following specific site considerations in subsections a., b., and c. shall limit any transient rental occupancy to whichever is less, as applicable, below:

- a. ~~One person per 150 gross square feet of permitted, air-conditioned living space.~~
- b. Two persons per bedroom, as the term bedroom is defined in the Florida Building Code.
- c. In the ~~RS-3 and RS-5 all residential~~ zoning districts, the maximum occupancy shall be limited to eight transient occupants per transient rental. ~~In all other zoning districts and developments predominantly developed with greater than two-family dwelling units, the maximum occupancy shall be limited to 16 transient occupants per transient rental.~~
- d. For vacation rentals, the maximum number of persons permitted to be present at a parcel of land on which a vacation rental(s) is located shall not exceed one and one-half (1 ½) times the maximum occupancy for all vacation rentals legally permitted on the parcel of land as calculated in this subsection (2); but in no event shall the number at any single party or similar event at the parcel of land exceed twelve. In addition, no more than three (3) unregistered occupants may be present at the parcel of land on which a vacation rental(s) is located between the hours of 10:00 p.m. and 6:00 a.m. Sunday through Thursday, and 11:00 pm through 6:00 a.m. Friday and Saturday.

(3) Solid waste handling and containment. Based on the maximum transient occupancy permitted, city solid waste and recycling containers shall be as required in chapter 74-61 of the city's Code of Ordinances. Appropriate screening and storage requirements for solid waste containers shall apply per any development approval and be incorporated into the certificate of compliance. For purposes of this section,

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a solid waste container shall not be placed at curbside before 6:00 p.m. of the day prior to solid waste pickup, and the solid waste container shall be removed from curbside before 9:00 p.m. of the day of pickup.

(4) Minimum transient occupant information. The transient occupant shall be provided with a copy of the information required in this section, and the following shall be posted conspicuously within the transient rental:

- a. A statement advising the transient occupant that any sound shall not be plainly audible for a period of one minute or longer at a distance of 25 feet or more when measured from the source property line between the hours of 10:00 p.m. and 8:00 a.m. daily and at a distance of 50 feet or more when measured from the source property line between the hours of 8:00 a.m. and 10:00 p.m. daily; and,
- b. A sketch of the location of the off-street parking spaces for the transient rental; and,
- c. The days and times of trash and recycling pickup as well as the permitted times for placement of receptacles for collection; and,
- d. The location of the nearest hospital; and,
- e. Notice that sexual offenders and predators are subject to residency prohibitions in the city's Code and occupancy of the transient rental in violation of such ordinance is a violation of law; and
- f. The occupancy limits for the transient rental, including the total number of persons that can gather at the transient rental property at any given time; and,
- g. The city's non-emergency police phone number; and,
- h. The property address; and,
- i. There shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map—Minimum eight and one-half inches by 11 inches.

(5) Minimum wording for agreement relating to transient rental. Any agreement utilized by an occupant of the transient rental shall contain the minimum transient occupant information as provided for in this section.

(6) Designation of a transient rental responsible party capable of meeting the duties provided in section 42-445.

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- (7) Advertising. Any advertising of a transient rental shall conform to information included in the transient rental certificate of compliance, particularly as this pertains to maximum occupancy.
- (8) Sexual offenders and sexual predators. It is unlawful to allow any person to occupy any transient rental within the city, with the knowledge that it will be occupied by a person prohibited from establishing a permanent residence or temporary residence at said transient rental, if such place, structure, or part thereof, trailer or other conveyance, is located within 2,500 feet of any school, designated public school bus stop, child day care facility, park or playground or other place where children regularly congregate as described in sections 54-9 through 54-12 of the Code of Ordinances.
- (9) Posting of certificate of compliance. The certificate of compliance shall be posted on the back of or next to the main entrance door and shall include at a minimum the name, address and phone number of the responsible party and the maximum occupancy of the transient rental.
- (10) For vacation rentals, the entire residential unit shall be rented as a whole. In no event shall individual sleeping rooms be offered for rent or rented individually.
- (11) Transient rentals shall only be used for residential purposes. Use of the property for any commercial purpose is prohibited, including without limitation use as a venue for parties or receptions.
- (10)(12) Other standards. Any other standards contained with the Code of Ordinances and the Unified Land Development Regulations of the city to include, but not be limited to: noise, setbacks, stormwater and similar provisions.

### **Sec. 42-449. - Initial and routine compliance inspections of transient rentals.**

- (a) An initial inspection of the residential property proposed to be used as a transient rental for compliance with this article is required prior to issuance of an initial transient rental certificate of compliance. If violations are found, all violations must be corrected and the transient rental must be re-inspected prior to issuance of the initial transient rental certificate of compliance as provided herein. The initial inspection must be completed and approved no later than sixty (60) days after a complete application is received by the City. If the inspection is not completed and approved within that time, the application will be rejected.
- (b) Once issued, a transient rental must be properly maintained in accordance with this article, and will be re-inspected annually. For an inspection, all violations must be corrected and re-inspected within 30 calendar days. Failure to correct such inspection deficiencies in the timeframes provided herein shall result in the suspension of the

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transient rental certificate of compliance until such time as the violations are corrected and re-inspected.

- (c) The responsible party shall make the appointment for the inspections. If the inspector has an appointment with the responsible party to complete an inspection, and the responsible party fails to admit the inspector at the scheduled time, the owner shall be charged a "no show" fee in an amount to be determined by resolution of the city commission to cover the inspection expense incurred by the city.
- (d) As part of the initial and subsequent inspections, the city shall be provided annual certifications by a qualified inspector that smoke and carbon monoxide (CO) detection and notification system and the fire extinguishers are in good working order.
- (e) If the inspector(s) is denied admittance by the responsible party or if the inspector fails in at least three attempts to complete an initial or subsequent inspection of the transient rental, the inspector(s) shall provide notice of failure of inspection to the owner to the address shown on the existing transient rental certificate of compliance or the application for transient rental.
  - (1) For an initial inspection, the notice of failure of inspection results in the certificate of compliance not being issued; the transient rental is not permitted to operate without a valid certificate of compliance.
  - (2) For a subsequent inspection, the notice of failure of inspection is considered a violation and is subject to enforcement remedies as provided herein.

### **Sec. 42-450. - Certificate of compliance is not transferable.**

No certificate of compliance issued under this article shall be transferred or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued.

### **Sec. 42-451. - Expiration of certificate of compliance.**

All certificates of compliance issued under the provisions of this Article shall be valid for no more than one year, and all certificates of compliance shall expire on September 30 of each year, regardless of when issued. The annual fee shall be the same regardless of when the application is submitted. Renewal and applicable late renewal fees shall be established by resolution of the city commission.

### **Sec. 42-452. - Suspension and revocation.**

- (a) Any certificate of compliance issued pursuant to this article may be denied, revoked, or suspended by the city administrator upon the adjudication of a violation of this article,

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any city ordinance, or state law by the owner or responsible party. Such denial, revocation or suspension is in addition to any penalty provided herein.

(b) Offenses/violations.

- (1) Non-compliance with any provisions of this article shall constitute a violation of this article.
- (2) Separate violations. Each day a violation exists shall constitute a separate and distinct violation, except that occupancy violations shall be governed by subsection 42-452(d).

(c) Remedies/enforcement.

- (1) Violations of this article shall be subject to penalties as part of a progressive enforcement program with the primary focus on compliance and compatibility with adjoining properties, versus penalties and legal actions. To accomplish a safe and effective transient rental program it is the city's objective that the transient rental owners and responsible parties are responsive and responsible in the management of the transient rental for compliance with this article. Code enforcement activities will be in accordance with F.S. ch. 162, and chapter 2, article VII, division 2, of the Code of Ordinances of the city.
- (2) Warnings. Warnings shall be issued for first-time violations and have a correction/compliance period associated with it. Such warnings may include notice to other agencies for follow-up by such agencies, if applicable, such as the Florida Department of Business and Professional Regulation, the Florida Department of Revenue, the Broward County Tax Collector and the Broward County Property Appraiser. Non-compliance with a correction compliance period shall result in the issuance of a citation.
- (3) Fines per violation may be set by resolution of the city commission of the city for the first, second, third and further repeat violations. The city may utilize F.S. ch. 162, to prosecute a code violation and in such case a code enforcement board or special magistrate shall hold hearings, assess fines and order other relief. Alternatively, the city may utilize F.S. ch. 162, part 2, and pursue violations by way of a civil citation system as provided in its Code of Ordinances. The city may also rely on an appropriate enforcing agency at the state or local level.
- (4) The City Commission of the City of Lighthouse Point hereby declares maximum occupancy violations, and violations for unpermitted nonresidential and commercial uses of the property to be irreparable and irreversible in nature and therefore the City's Code Enforcement Board and Code Enforcement Magistrate shall have the authority to issue fines of up to \$5,000.00 per such violation.

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(4)(5) Additional remedies. Nothing contained herein shall prevent the city from seeking all other available remedies which may include, but not be limited to, suspension or revocation of a transient rental certificate of compliance, injunctive relief, liens and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.

(d) Suspension or revocation of transient rental certificate of compliance. In addition to any fines and any other remedies described herein or provided for by law, the code enforcement board or special magistrate may suspend or revoke a transient rental certificate of compliance for multiple violations of the maximum occupancy limits in this article in any continuous 36-month period, in accordance with the following:

(1) Suspension time frames.

- a. Upon a third violation of the maximum occupancy limits contained in this article the transient rental certificate of compliance shall be suspended for a period of 12 calendar months~~30 calendar days~~.
- b. Upon a fourth violation of the maximum occupancy limits contained in this article the transient rental certificate of compliance shall be suspended for a period of 18~~2~~ calendar months.
- c. For each additional violation of the maximum occupancy this article the transient rental certificate of compliance shall be suspended for an additional period of 24~~12~~ calendar months.

(2) Suspension restrictions. A transient rental may not provide transient occupancy during any period of suspension of a certificate of compliance

- a. The suspension shall begin immediately following notice, commencing on the earlier of:
  1. the expiration of the current transient rental agreement period; or
  2. if multiple separate rental agreements are simultaneously applicable to a transient rental, the expiration of all agreements for the transient occupants utilizing the transient rental on the date of delivery of a notice of violation to the owner or responsible party; or
  3. thirty calendar days, or as otherwise determined by the city code enforcement board or special magistrate.

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- b. Operation during any period of suspension shall be deemed a violation pursuant to this article and shall be subject to daily fine, up to the maximum amount as otherwise provided in Florida Statues for repeat violations, for each day that the transient rental operates during a period of violation.
- (3) Revocation of certificate of compliance. A residential property shall not be used as a transient rental after revocation of a certificate of compliance. A transient rental certificate of compliance may be revoked by the city's code enforcement board or special magistrate following a hearing in which multiple violations of this article have occurred, and the special magistrate or code enforcement board finds violations ~~are intentional, and affect~~ the health, safety, and welfare of surrounding properties and residents. A transient rental certificate of compliance may also be revoked if the special magistrate or code enforcement board finds that the owner made material misrepresentations on the transient rental certificate of compliance application.
- (e) During any period of suspension or revocation of a certificate of compliance, no advertisements for the transient rental shall occur.
- (f) The transient rental owner shall not be entitled to any refund of the annual fee paid for the certificate of compliance for any portion of the unexpired term of a certificate of compliance due to suspension or revocation of the certificate of compliance.

### **Sec. 42-453. - Complaints.**

Whenever a violation of this article occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the city administrator or his designee. The city administrator or his designee shall promptly record such complaint, investigate, and take action thereon in accordance with this article and chapter 2 of the Code of Ordinances of the city.

### **Sec. 42-454. – Enforcement**

The city administrator or his designee shall enforce the provisions of this article as provided in chapter 2, article VII, division 2 of the Code of Ordinances of the city.

### **Sec. 42-455. - Reasonable accommodation.**

- (a) This section implements the policy of the city for processing of requests for reasonable accommodation to its ordinances, rules, policies, and procedures for persons with disabilities as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601, et seq.) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) ("ADA"). For purposes of this section, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHA and/or

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ADA. Any person who is disabled (or qualifying entities) may request a reasonable accommodation with respect to the City's land use or zoning laws, rules, policies, practices and/or procedures as provided by the FHA and the ADA pursuant to the procedures set out in this section.

- (b) A request by an applicant for reasonable accommodation under this section shall be made in writing by completion of a reasonable accommodation request form, which form is maintained by (and shall be submitted to) the city administrator. The reasonable accommodation request form shall contain such questions and requests for information as are necessary for processing the reasonable accommodation request. The reasonable accommodation request form shall be substantially in the form set forth herein.
- (c) Should the information provided by the disabled individual to the city include medical information or records, including records indicating the medical condition, diagnosis or medical history of the disabled individual, such individual may, at the time of submitting such medical information, request that the city, to the extent allowed by law, treat such medical information as confidential information of the disabled individual. The city shall thereafter endeavor to provide written notice to the disabled individual, and/or their representative, of any request received by the city for disclosure of the medical information or documentation which the disabled individual has previously requested, be treated as confidential by the city. The city will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the city shall have no obligation to initiate, prosecute or pursue any such action, or to incur any legal or other expenses (whether by retention of outside counselor allocation of internal resources) in connection therewith, and may comply with any judicial order without prior notice to the disabled individual.
- (d) The city administrator shall have the authority to consider and act on requests for reasonable accommodation, after notice and public hearing to receive comments, input and information from the public (provided, however, the city administrator or designee shall not be required to render their decision at said public hearing). When a reasonable accommodation request form has been completed and submitted to the city administrator, the city administrator shall issue a written determination within 45 days of the date of receipt of a completed reasonable accommodation request form and may, in accordance with federal law:
  - (1) Grant the accommodation request;
  - (2) Grant a portion of the request and deny a portion of the request, and/or impose conditions upon the grant of the request; or
  - (3) Deny the request, in accordance with applicable law.

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Any such denial shall be in writing and shall state the grounds therefor. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his/her representative) by certified mail, return receipt requested. If reasonably necessary to reach a determination on the request for reasonable accommodation, the city administrator, may, prior to the end of said 45-day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have 15 days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 45-day period to issue a written determination shall no longer be applicable, and the city administrator shall issue a written determination within 30 days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said 15-day period, the city administrator shall issue and written notice advising that the requesting party had failed to timely submit the additional information, and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the city with regard to said reasonable accommodation request shall be required.

- (e) In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that they are protected under the FHA and/or ADA by demonstrating that they are a disabled person. For purposes of this section, a "disabled person" is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. The word "individual" shall include, for purposes of this section, multiple people, or qualified entities.

The requesting party will have to demonstrate that the proposed accommodations being sought are reasonable and necessary to afford handicapped/disabled person equal opportunity to use and enjoy housing. The foregoing (as interpreted by the courts) shall be the basis for a decision, upon a reasonable accommodation request, made by the city administrator, planning and zoning board, or by the city commission in the event of an appeal.

- (f) The city administrator's determination on a reasonable accommodation request may be appealed pursuant to sections 42-281 through 42-284 of the city's Code of Ordinances.
- (g) There shall be no fee imposed by the city in connection with a request for reasonable accommodation under this section. An appeal of a determination of the city administration shall be subject to the same fee as other appeals filed pursuant sections 42-281 through 42-284 of the city's Code of Ordinances. The city shall have no obligation to pay a requesting party's (or an appealing party's, as applicable) attorneys' fees or costs in connection with the request, or an appeal.

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(h) While a request for a reasonable accommodation, or appeal of a determination of same, is pending before the city, the city will not enforce the subject zoning ordinance, rules, policies, and procedures against the applicant.

(i) The following general provisions shall be applicable:

- (1) The city shall display a notice in the city's public notice bulletin board (and shall maintain copies available for review in the city clerk's office), advising the public disabled individuals (and qualifying entities) may request reasonable accommodation as provided herein.
- (2) A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated by the disabled individual.
- (3) The city shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the reasonable accommodation request form, filing an appeal, and appearing at a hearing etc. to ensure the process is accessible.

(j) Reasonable accommodation request form:

- (1) Name of applicant: \_\_\_\_\_
- (2) Telephone number: \_\_\_\_\_
- (3) Address: \_\_\_\_\_
- (4) Address of housing or other location at which accommodation is requested:  
\_\_\_\_\_
- (5) Describe qualifying disability or handicap: \_\_\_\_\_
- (6) Describe the accommodation and the specific regulation(s) and or procedure(s) from which accommodation is sought: \_\_\_\_\_
- (7) Reasons the reasonable accommodation may be necessary for the individual with disabilities to use and enjoy the housing or other service: \_\_\_\_\_
- (8) Name address and telephone number of representative if applicable: \_\_\_\_\_

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(9) Signature of disabled individual or representative, if applicable, or qualifying entity:

**Section 4.** All Ordinances and Resolutions or parts of Ordinances and Resolutions in conflict herewith, be and the same are hereby repealed, to the extent of such conflict.

**Section 5:** If any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

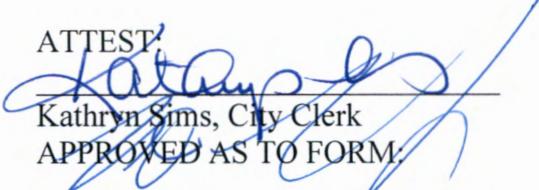
**Section 6:** It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code and Ordinances of the City of Lighthouse Point, Florida.

**Section 7:** This Ordinance shall become effective on January 1, 2023.

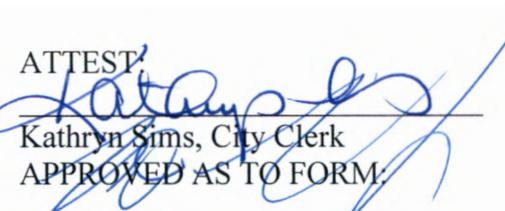
**PASSED AND ADOPTED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, THIS 25<sup>th</sup> DAY OF OCTOBER, 2022.**

**PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA THIS 8<sup>th</sup> DAY OF NOVEMBER, 2022.**

ATTEST,

  
Kathryn Sims, City Clerk

APPROVED AS TO FORM:

  
Office of the City Attorney

Commission President Jason D. Joffe  
Commission Vice President Sandy Johnson  
Commissioner Michael S. Long  
Commissioner Everett Marshall III  
Commissioner Patty Petrone

  
\_\_\_\_\_  
Jason D. Joffe, Commission President

Yes	No	Absent
✓	_____	_____
✓	_____	_____
✓	_____	_____
✓	_____	_____
✓	_____	_____