

# MEMORANDUM

ICI  
Substitute to  
Agenda Item No. 1G2

**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** December 10, 2019

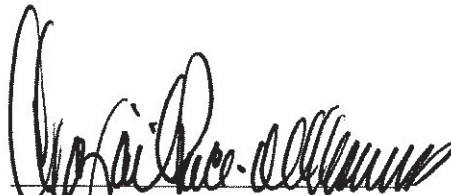
**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Ordinance relating to vacation rentals; amending section 33-28 of the Code; revising requirements relating to the responsibilities and duties of peer-to-peer or platform entities (“platforms”); specifying the manner in which platforms must provide notice of requirements to persons or entities offering vacation rentals; requiring platforms to provide certain information to platform users; specifying the manner in which platforms may comply with requirement relating to subletting; clarifying that requirement to allow County inspection of platform records and information is subject to administrative subpoena or other legal process; requiring compliance with administrative subpoenas and other legal process; requiring platforms to provide the County with periodic reports; requiring platforms to enter into certain agreements to address listings for vacation rentals with repeat violations and to encourage user compliance with County regulations; deleting requirement that platforms only facilitate transactions for vacation rentals with a valid Certificate of Use

This substitute differs from the original in that it retains the existing Code provision prohibiting peer-to-peer or platform entities from providing payment processing services, or otherwise facilitating payment, for vacation rentals that do not have a valid Certificate of Use. The substitute also modifies the existing safe-harbor to this requirement so that a peer-to-peer or platform entity shall not be held liable for providing payment processing services where it: informs responsible parties of the County’s Certificate of Use requirement and takes specific steps to facilitate compliance with that requirement; provides the County with periodic reports relating to vacation rental listings; and enters into an agreement with the County to provide a means for addressing repeat violators and facilitate compliance with the County’s Certificate of Use requirement. In the original item, these were listed as separate requirements rather than part of the safe-harbor to the payment processing provision.

Rule 5.06(i) of the Board’s Rules of Procedure provides that where double underlining and double strike-through would not clearly show the differences between an original item and the substitute, comments may instead be provided. Pursuant to this rule, the preceding comprehensive description of the differences between the original item and the substitute is provided in lieu of double underlining and double strike-through for this item.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.

  
Abigail Price-Williams  
County Attorney

APW/uw

# Memorandum



**Date:** January 22, 2020

**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez". The signature is written in a cursive style and is positioned over the printed name of the Mayor.

**Subject:** Fiscal Impact Statement for Ordinance Relating to Vacation Rentals

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The proposed ordinance will not have a fiscal impact to Miami-Dade County as implementation will not require additional staffing resources and any enforcement of the ordinance would be absorbed as part of ongoing monitoring.

A handwritten signature in black ink, appearing to read "Jack Osterholt". The signature is written in a cursive style and is positioned above a horizontal line.  
for Jack Osterholt  
Deputy Mayor


FIS01120 192368

# Memorandum



**Date:** January 22, 2020

**To:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez   
Mayor

**Subject:** Social Equity Statement for Ordinance Related to Vacation Rentals

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The proposed ordinance amends Section 33-28 of the Code of Miami-Dade County (Code) revising requirements relating to the responsibilities and duties of peer-to-peer platform entities. Specifically, the proposed ordinance comprehensively updates the duties of the peer-to-peer platforms (i.e. AirBnB, Homeaway) in connection with the establishment and operation of a vacation rental. The update includes the nature and frequency of certain reporting from the platforms and a required agreement between the platforms and the Department of Regulatory and Economic Resources (RER) in connection with properties with fully adjudicated violations.

Implementation of the proposed ordinance will have a positive social equity impact as it would result in improved compliance with Miami-Dade County's vacation rental regulations, adopted by the Board of County Commissioners in 2017 through Ordinance No. 17-78, and further protect the residential character of residential neighborhoods within the unincorporated area.

A handwritten signature in black ink, appearing to read "J. Osterholt", written over a horizontal line.

Jack Osterholt  
Deputy Mayor

192368



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairwoman Audrey M. Edmonson  
and Members, Board of County Commissioners

**DATE:** January 22, 2020

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No.

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- \*Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor

Agenda Item No. 4(D)

Veto \_\_\_\_\_

Override \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO VACATION RENTALS; AMENDING SECTION 33-28 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING REQUIREMENTS RELATING TO THE RESPONSIBILITIES AND DUTIES OF PEER-TO-PEER OR PLATFORM ENTITIES (“PLATFORMS”); SPECIFYING THE MANNER IN WHICH PLATFORMS MUST PROVIDE NOTICE OF REQUIREMENTS TO PERSONS OR ENTITIES OFFERING VACATION RENTALS; REQUIRING PLATFORMS TO PROVIDE CERTAIN INFORMATION TO PLATFORM USERS; SPECIFYING THE MANNER IN WHICH PLATFORMS MAY COMPLY WITH REQUIREMENT RELATING TO SUBLETTING; CLARIFYING THAT REQUIREMENT TO ALLOW COUNTY INSPECTION OF PLATFORM RECORDS AND INFORMATION IS SUBJECT TO ADMINISTRATIVE SUBPOENA OR OTHER LEGAL PROCESS; REQUIRING COMPLIANCE WITH ADMINISTRATIVE SUBPOENAS AND OTHER LEGAL PROCESS; REQUIRING PLATFORMS TO PROVIDE THE COUNTY WITH PERIODIC REPORTS; REQUIRING PLATFORMS TO ENTER INTO CERTAIN AGREEMENTS TO ADDRESS LISTINGS FOR VACATION RENTALS WITH REPEAT VIOLATIONS AND TO ENCOURAGE USER COMPLIANCE WITH COUNTY REGULATIONS; DELETING REQUIREMENT THAT PLATFORMS ONLY FACILITATE TRANSACTIONS FOR VACATION RENTALS WITH A VALID CERTIFICATE OF USE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, on October 17, 2017, this Board enacted in Ordinance No. 17-78 pertaining to short-term vacation rentals; and

**WHEREAS**, Ordinance No. 17-78 provided law-abiding residents the opportunity to offer and use vacation rentals in an orderly manner, consistent with state and local law, while also preserving the quiet nature and atmosphere of residential areas; and

**WHEREAS**, Ordinance No. 17-18 contained regulations that apply to those who wish to offer and use vacation rentals, as well as to the platform entities that facilitate vacation rentals through online and other means; and

**WHEREAS**, while some federal courts have upheld local ordinances that regulate platform entities in a manner similar to Miami-Dade County, other jurisdictions that have employed a different regulatory framework have seen greater compliance; and

**WHEREAS**, this Board now wishes to amend the regulations pertaining to certificates of use and the duties of platform entities to encourage and foster compliance with County regulations and to facilitate County enforcement efforts; and

**WHEREAS**, this Board also wishes to amend the regulations to reflect certain developments in federal case law and to conform certain provisions to the requirements of federal law,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Section 33-28 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 33-28. Vacation Rentals.**

\* \* \*

(C) *Certificate of Use Required.* No property owner~~[[,]]~~ ~~>>or<<~~ responsible party~~[[, or peer-to-peer or platform entity]]~~ shall offer as a vacation rental, or allow any person to rent or occupy as a vacation rental, any property in whole or in

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<sup>1</sup> Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or ~~>>double arrowed<<~~ constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

part within the unincorporated area of Miami-Dade County, unless a Certificate of Use has first been obtained in accordance with the provisions of this section. A property may be offered as a vacation rental immediately upon submission of an application for Certificate of Use, unless and until such time as the application is thereafter rejected or revoked for failure to pass inspection. >>A peer-to-peer or platform entity shall be subject to the duties and requirements set forth in paragraph (1) of subsection (D) below.<<

\* \* \*

(D) *Vacation Rental Standards.* The following vacation rental standards shall govern vacation rentals in unincorporated Miami-Dade County:

(1) *Duties of peer-to-peer or platform entity.* For each vacation rental listed or offered, a peer-to-peer or platform entity shall:

(a) provide notice of the requirements of this section to any person or entity listing or offering a vacation rental on its service or platform >>by including a summary of such requirements, in a format acceptable to the Department, on its service or platform<<;

(b) only provide payment processing services, or otherwise facilitate payment for a vacation rental that has a valid Certificate of Use in accordance with this section. A peer-to-peer or platform entity shall not be held liable pursuant to this subsection where it:

(i) >>as part of its vacation rental listing registration process, informs the responsible party that a Certificate of Use must be obtained before offering a vacation rental in the County; includes a link to the County webpage where a Certificate of Use may be applied for and

obtained; requires the responsible party to confirm that such party has been advised of the County's regulations, including the Certificate of Use requirement; and provides a dedicated field to enable the responsible party to input the Certificate of Use number before such party completes registration and lists a vacation rental on the service or platform<< ~~[[requires the responsible party to have applied for or obtained a Certificate of Use number as a precondition to listing or offering a vacation rental on its platform]];~~

- (ii) provides the Department, on a monthly basis, a report disclosing for each vacation rental listing the information entered by the responsible party in the Certificate of Use dedicated field, or whether the responsible party left that field blank; the total number of vacation rental listings on the service or platform during the prior month; and the total number of nights that vacation rentals listed on the service or platform were rented during the prior month ~~[[provides the Department on at least a weekly basis the Certificate of Use number or application number, the listing identification number associated therewith, the address of the vacation rental~~



~~property, and the responsible party's name and contact information for all listings on the platform in unincorporated Miami Dade County]]]; and~~

(iii) enters into an agreement with the Department that provides a means for:

(1) addressing listings for properties with three or more fully adjudicated violations committed within a consecutive 12-month period to ensure that any such listings do not operate as vacation rentals unless and until the requirements of paragraph (6) of subsection (C) and paragraph (2) of subsection (E) have been complied with; and

(2) facilitating responsible party compliance with the Certificate of Use requirement pursuant to paragraph (1)(b)(i) of subsection (D) above<< [[removes any listing from the platform within 10 days of notification from the Department that a Certificate of Use number or application number associated with the listing is

~~invalid or expired, or that the enforcement history of a vacation rental associated with the listing shows three or more violations within the preceding 12 months, pursuant to subsection (C)(6) herein]].~~

- (c) include language in rental documents~~>>~~, such as part of generally applicable terms of service that are affirmatively agreed to by the responsible party,~~<<~~ to discourage the secondary subletting of vacation rentals;
- (d) ~~>>~~comply with administrative subpoenas or other appropriate legal process from the County seeking information relating to persons or entities listing or offering vacation rentals on its service or platform;
- (e)~~<<~~ maintain records demonstrating that the requirements of this subsection have been satisfied, and such records shall be subject to inspection by the Department upon request ~~>>~~pursuant to the issuance of an administrative subpoena or other appropriate legal process~~<<~~, provided, however, that certain confidential information, such as social security numbers, credit card information, and names of minors, shall not be subject to inspection upon request of the County; and
- ~~>>~~(f)~~<<~~ ~~[[e]]~~ make available to the County for inspection upon request ~~>>~~pursuant to the issuance of an administrative subpoena or other appropriate legal process~~<<~~ all records relating to any suspected violations of state or local law associated with any vacation rental property in unincorporated Miami-Dade County, provided, however, that certain

confidential information, such as social security numbers, credit card information, and names of minors, shall not be subject to inspection upon request of the County[[:]]>>:

\* \* \*

**Section 2.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 3.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 4.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

Prepared by:

James Eddie Kirtley

Prime Sponsor: Commissioner Sally A. Heyman

