

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: September 18, 2018

<input type="checkbox"/>	Consent	<input checked="" type="checkbox"/>	Regular
<input type="checkbox"/>	Workshop	<input type="checkbox"/>	Public Hearing

Department:

Submitted By: County Attorney

Submitted For: Tourist Development Council

I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends a motion to approve on preliminary reading and advertising for public hearing on October 16, 2018 at 9:30am: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending the Tourist Development Ordinance of Palm Beach County, Chapter 17, Article III, Sec. 17-117 of the Palm Beach County Code; (Ord. 95-30), as amended adding Section 17-117 entitled short term rentals; providing for purpose; providing for definitions; providing for hosting platform requirements; providing for host requirements; providing for expiration and renewal; providing for suspensions and revocations; providing for prohibitions; providing for administration and regulation; providing for applicability; providing for repeal of laws in conflict; providing for severability; providing for inclusion in the Code of Laws and Ordinances; providing for penalty; providing for captions and providing for an effective date.

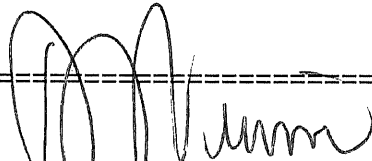
**Summary:** The purpose of this Ordinance is to require Hosting Platforms and Booking Services to verify that a Residential Unit is registered with the Tax Collector's Office and has a Business Tax Receipt and Tourist Development Tax account prior to advertising a Short Term Rental. This amendment is at the request of the Tax Collector and requires short term rentals to retain certain records and authorizes the Tax Collector to issue administrative subpoenas to obtain records, and provides for civil and administrative penalties against Hosting Platforms, Booking Services and Hosts for violations of this Ordinance. The League of Cities concurred with adoption of this Ordinance at its August 22, 2018 meeting. Countywide (DW)

**Background and Policy Issues:** Short term rental units are designated by Florida law as public lodging establishments the same as hotels, motels and bed and breakfast establishments. Short term rental units should therefore be required to pay the tourist development tax as is required of all other public lodging establishments.

The Tourist Development Council was briefed by the Tax Collector at its June, 2018 meeting and is in agreement with this concept.

Attachments: Proposed Ordinance Amendment

Recommended by

  
\_\_\_\_\_

County Attorney

8/27/18

Date

Approved By:

N/A

Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2018	2019	2020	2021	2022
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income(County)					
In-Kind Match(County)					
<b>NET FISCAL IMPACT</b>					
#ADDITIONAL FTE					
POSITIONS (CUMULATIVE)					

Is Item Included in Current Budget?                      Yes \_\_\_\_\_ No \_\_\_\_\_  
 Does this item include the use of federal funds?      Yes \_\_\_\_\_ No \_\_\_\_\_


**Budget Account No:**  
 Fund \_\_\_\_\_ Agency \_\_\_\_\_ Organization \_\_\_\_\_ Object \_\_\_\_\_

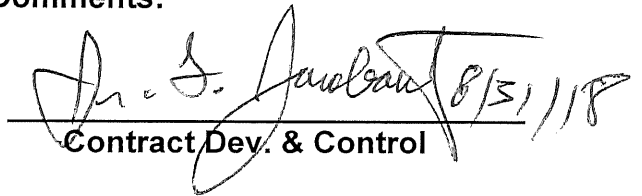
### B. Recommended Sources of Funds/Summary of Fiscal Impact:

### C. Departmental Fiscal Review:

## III. REVIEW COMMENTS:

### A. OFMB Fiscal and/or Contract Dev. and Control Comments:

  
 OFMB <sup>Erz</sup> 8/21/18  
 8/27/18 <sup>PD</sup> 8/28/18 <sup>dm</sup> 8/28/18

  
 Contract Dev. & Control 8/31/18

### B. Legal Sufficiency

  
 Assistant County Attorney 8/23/18

### C. Other Department Review

\_\_\_\_\_  
 Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

ORDINANCE NO. 2018 - \_\_\_\_\_

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE TOURIST DEVELOPMENT ORDINANCE OF PALM BEACH COUNTY CHAPTER 17, ARTICLE III, SEC. 17-117 OF THE PALM BEACH COUNTY CODE; (ORD. 95-30), AS AMENDED ADDING SECTION 17-117 ENTITLED SHORT TERM RENTALS; PROVIDING FOR PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR HOSTING PLATFORM REQUIREMENTS; PROVIDING FOR HOST REQUIREMENTS; PROVIDING FOR EXPIRATION AND RENEWAL; PROVIDING FOR SUSPENSIONS AND REVOCATIONS; PROVIDING FOR PROHIBITIONS; PROVIDING FOR ADMINISTRATION AND REGULATION; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING PENALTY; PROVIDING FOR CAPTIONS AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the “Local Option Tourist Development Act” set forth in Section 125.0104, Florida Statutes, (hereinafter “statute”), authorizes the Board of County Commissioners (hereinafter “Board”) to levy and impose a tourist development tax on the exercise within the County boundaries of the privilege of renting, leasing, or letting for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, mobile home park, recreational vehicle park or condominium for a term of six (6) months or less; and

**WHEREAS**, short-term rental units are designated by Florida law as public lodging establishments the same as hotels, motels and bed and breakfast establishments and should be required to pay the tourist development tax as is required of all other public lodging establishments; and

**WHEREAS**, the County finds that Short Term Rental business makes a valuable and needed contribution to tourism which is the primary industry of the County; and

**WHEREAS**, it is hereby declared to be unlawful for any Host of any property within the County, to rent or operate a vacation rental of residential property contrary to the procedures and regulations established in this Ordinance.

1           NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
2 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

3 **Section 1. RECITALS:** The foregoing recitals are incorporated into and made a part  
4 of this Ordinance.

5 **Section 2. Section 17-117. Tourist Development Plan shall be amended to read**  
6 **as follows:**

7           **Section 17-117. VACATION RENTALS:**

8           **A. PURPOSE:**

9           The purpose of this Ordinance shall be to require Hosting Platforms and Booking  
10 Services as defined herein to verify that a Residential Unit is registered with the Palm  
11 Beach County Tax Collector's Office (Tax Collector) and has a Business Tax Receipt  
12 (BTR) and Tourist Development Tax (TDT) account prior to advertising a Short Term  
13 Rental and retain certain records; authorize the Tax Collector to issue an administrative  
14 subpoena to obtain records; and provide for civil and administrative penalties against  
15 Hosting Platforms, Booking Services and Hosts for violations of this Ordinance.

16           **B. DEFINITIONS:**

17           Booking Service: A Booking Service is any reservation and/or payment system  
18 provided by a person or entity that facilitates a Short Term Rental transaction between  
19 a Host and a prospective tourist or transient user, and for which the person or entity  
20 collects or receives directly or indirectly through an agent or intermediary, a fee in  
21 connection with the reservation and/or payment services provided for the Short Term  
22 Rental transaction.

23           Home Sharing: The sharing of one's Residential Unit as a Short Term Rental while the  
24 Host still occupies the property.

25           Host: A person that owns a Residential Unit, or has the legal right to rent a residence  
26 to other individuals or entities as a Short Term Rental.

27           Hosting Platform: A person that facilitates Home Sharing and Short Term Rental  
28 business through advertising, match-making or any other means and from which the  
29 Hosting Platform derives revenues from providing or maintaining the marketplace.  
30 Hosting Platforms usually, though not necessarily, provide Booking Services through an

1 online platform that allows a Host to advertise the Short Term Rental through a website  
2 provided by the Hosting Platform and the Hosting Platform conducts a transaction by  
3 which Persons arrange Short Term Rental use and payment, whether the Person pays  
4 rent directly to the Host or to the Hosting Platform.

5 Person: An individual, corporation, partnership, trust or any other entity or group.

6 Residential Unit: The property on which the Host offers Home Sharing, and vacation  
7 rental.

8 Short Term Rental: Any Residential Unit or group of units in a condominium or  
9 cooperative or any individually or collectively owned single-family, two-family, three-  
10 family, or four-family house or dwelling unit that is rented as a Vacation Rental or as  
11 Home Sharing for a period of 180 days or less in a calendar year.

12 Vacation Rental: A Residential Unit that is offered as a Short Term Rental and where  
13 the Host does not reside on the property during the rental.

14 **C. HOSTING PLATFORM AND BOOKING SERVICES REQUIREMENTS:**

15  
16 1. Prior to accepting a Short Term Rental for advertising, all Hosting Platforms and  
17 Booking Services shall provide the following information in a notice to any person  
18 requesting to list a Short Term Rental located within Palm Beach County through  
19 the Booking Services and/or Hosting Platform's service:

- 20 a. a copy of this Ordinance;
- 21 b. the requirements for obtaining a TDT account number and BTR with the  
22 Tax Collector; and
- 23  
24 c. the total tax obligations to the County and state along with a statement as  
25 to who will collect and remit each tax directly to the Tax Collector.

26 2. Actively prevent, remove and cancel any illegal listings and bookings of a Short-  
27 Term Rental including where a listing has been advertised or rented without being  
28 lawfully registered with a TDT account and a current BTR.

29 3. Provide to the Tax Collector, by the fifth day of each month, a report in an  
30 electronic format of the following information for each property advertised on its  
31 Platform for the previous month:

- 32 a. TDT account number;
- 33 b. Parcel Identification Number;
- 34 c. Address of Short-Term Vacation Rental;
- 35 d. Name of Host; and
- 36 e. Total number of nights rented and amount paid for each stay.

- 1       4. Hosting Platforms and Booking Services shall comply with the requirements of  
2       this Ordinance by, among any other applicable requirements, collecting and  
3       remitting the required TDT and local taxes on all rental activity generated on the  
4       Hosting Platform.
- 5       5. A Booking Service may provide and collect a fee for Booking Services in  
6       connection with Short Term Rentals located in the County only when the Short  
7       Term Rental is lawfully registered for a TDT and a BTR account with the Tax  
8       Collector at the time the Short Term Rental is advertised or rented.
- 9       6. Prior to accepting a Short Term Rental for listing on a Hosting Platform or through  
10      a Booking Service, both shall require the Host to provide a valid TDT account  
11      number and BTR that is active and registered with the Tax Collector's Office. The  
12      BTR and TDT account number must be provided on each piece of advertisement.
- 13     7. Any violation of a Hosting Platform's or Booking Service's obligation under this  
14      section shall subject the Hosting Platform or Booking Service to the  
15      administrative and enforcement penalties of this Ordinance, including but not  
16      limited to payment of civil penalties of up to \$500 per day, per unit, for the period  
17      of the failure to comply.

18     **D. HOST REQUIREMENTS:**

- 19     20     1. Home Sharing Registration. To register for Home Sharing, a Host shall file an  
21      application and remit the required fee to the Tax Collector for a BTR and TDT  
22      account. Both of these are required to be considered approved and registered  
23      within the meaning of this Ordinance. The application shall also provide a list of  
24      all Hosting Platforms to be used and the portion of the unit to be used for Home  
25      Sharing.
- 26     2. Vacation Rental Registration. To register a Vacation Rental, a Host shall file an  
27      application and remit the required fee to the Tax Collector for a BTR and TDT  
28      account. Both of these are required to be considered approved and registered  
29      within the meaning of this Ordinance. The application shall also include a list of  
30      all Hosting Platforms to be used.

- 1 3. Eligibility Requirements. The following requirements must be met at the time of  
2 the registration for each property:
- 3 a. The Host must obtain a BTR for either Home Sharing or Vacation Rental.  
4 Both must be affirmatively canceled once rental activity ceases;  
5
  - 6 b. Home Sharing may only be authorized and take place in the residence  
7 approved for Short Term Rental use and occupied by the Host;  
8
  - 9 c. Vacation Rental may only take place in the Short Term Rental that is  
10 authorized and approved;  
11
  - 12 d. Hosts with more than one property being used for either Home Sharing or  
13 Vacation Rental must register each property individually; and  
14
  - 15 e. If a Host is subject to the rules of a lease agreement, homeowner's or  
16 condominium association, or any other legal contract, nothing in this Ordinance  
17 shall be inferred to grant any permission that invalidates provisions in those  
18 documents.  
19
- 20 4. Failure to Register a TDT Account. Should a Host fail to register a TDT account  
21 as required by this Ordinance, the Tax Collector may, in his/her discretion  
22 administratively open a TDT account for the address where the Tax Collector has  
23 reasonable suspicion that the property in question is being offered as a Short  
24 Term Rental. Once the TDT account has been administratively opened by the  
25 Tax Collector, the Tax Collector shall thereupon be endorsed with all enforcement  
26 mechanisms available to the Tax Collector pursuant to law.
- 27 5. Penalties. Any violation of a Host's obligation under this section shall subject  
28 the Host to the administrative and enforcement penalties of this Ordinance,  
29 including but not limited to payment of civil penalties of up to \$500 per day, per  
30 unit, for the period of the failure to comply.

31 **E. EXPIRATION AND RENEWAL:**

32 A Home Sharing or Vacation Rental BTR is valid for one year from the date of  
33 issuance. It may not be transferred and is valid only for the original registered residential  
34 unit address that is being offered for Short Term Rental. A registration may be renewed  
35 annually only if the Host meets the renewal requirements as follows:

- 36 1. Pays the BTR renewal fee;  
37
- 38 2. Has submitted a monthly TDT tax return as required for every month  
39 regardless of whether rental activity occurred;  
40
- 41 3. Documents and provides any changes that have occurred to the information  
42 on the current BTR registration; and  
43

1 4. If a renewal application has not been submitted by September 30<sup>th</sup> of each  
2 year, the Short Term Rental shall be removed from all Hosting Platforms and  
3 Booking Services.  
4

5 **F. REVOCATIONS:**

6 Notwithstanding any other provision of this Ordinance to the contrary, the Tax  
7 Collector may require the modification, discontinuance or revocation of Home Sharing  
8 or Vacation Rental approval if it is found that violations of this Ordinance have occurred,  
9 in addition to any other violations of County, state, or federal regulation, ordinance or  
10 statute. If a registration is revoked, the Host must wait at least one (1) year before re-  
11 applying and/or registering any property for Home Sharing or Vacation Rental.

12 **G. PROHIBITIONS:**

13  
14 a. No person or entity shall advertise, undertake, maintain, authorize, book or  
15 facilitate any Short Term Rental in a manner that does not comply with this Ordinance.

16 b. No person shall advertise any Short Term Rental activity without first obtaining  
17 a BTR and TDT account.

18 c. Non-residential uses of Short Term Rental property shall not be permitted,  
19 including but not limited to, sales or exchange of products, events that charge a fee to  
20 attend, or the promotion, display or servicing of any product on the property.

21 d. A Host shall maintain and preserve for a period of five (5) years, all records as  
22 may be necessary to determine the amount of such tax as he/she may have been liable  
23 for the collection of and payment to the County, including the number and length of each  
24 rental stay, and the price paid for each stay. The Tax Collector shall have the right to  
25 inspect these records at all reasonable times upon request.

26 e. A Host shall comply with all Palm Beach County and State of Florida tax  
27 collection obligations.

28 f. A Host shall electronically file a monthly TDT tax return with the Tax Collector.

29 **H. ADMINISTRATION AND REGULATION:**

30 The Tax Collector may promulgate such rules and regulations, which may  
31 include, but are not limited to, application requirements, interpretations, conditions,  
32 reporting requirements, enforcement procedures and disclosure requirements to  
33 implement the provisions of this Ordinance.



1 Any person who knowingly makes a false statement in connection with any  
2 application for a BTR or TDT account required by this Ordinance shall be subject to  
3 penalties as provided by law.

4 **Section 3. APPLICABILITY:**

5 It is hereby provided that this Ordinance shall constitute a uniform law applicable  
6 Countywide.

7 **Section 4. REPEAL OF LAWS IN CONFLICT:**

8 All local laws and ordinances in conflict with any provisions of this Ordinance are  
9 hereby repealed to the extent of such conflict.

10 **Section 5. SEVERABILITY:**

11 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is  
12 for any reason held by a Court of competent jurisdiction to be unconstitutional,  
13 inoperative, or void, such holding shall not affect the remainder of this Ordinance.

14 **Section 6. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

15 The provisions of this Ordinance shall become and be made a part of the Palm  
16 Beach County Code. The sections of this Ordinance may be renumbered or relettered  
17 to accomplish such, and the word "ordinance" may be changed to "section," "article," or  
18 other appropriate word.

19 **Section 7. PENALTY:**

20 Any violation of any portion of this Ordinance shall be punishable as provided by  
21 law.

22 **Section 8. CAPTIONS:**

23 The captions, section headings, and section designations used in this Ordinance  
24 are for convenience only and shall have no effect on the interpretation of the provisions  
25 of this Ordinance.

26 **Section 9. EFFECTIVE DATE:**

27 The provisions of this Ordinance shall become effective upon filing with the  
28 Department of State.

29

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1 APPROVED and ADOPTED by the Board of County Commissioners of Palm  
2 Beach County, Florida, on this the \_\_\_\_ day of \_\_\_\_\_, 2018.

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**SHARON R. BOCK  
CLERK & COMPTROLLER**

**PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS**

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Melissa McKinlay, Mayor

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**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY**

By:   
County Attorney

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**EFFECTIVE DATE: Filed with the Department of State on the \_\_\_\_ day of**  
\_\_\_\_\_, 2018.

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