



GROWTH MANAGEMENT DEPARTMENT REPORT

Discussion Item – Short Term Vacation Rentals

To: Board of County Commissioners (BOCC)

Through: Michael Wanchick, County Administrator

From: Paolo Soria, Senior Assistant County Attorney
Joseph C. Cearley, Special Projects Manager

Date: January 10, 2019

Subject: Discussion on Short Term Rentals

Hearing dates: February 5th, 2019

Discussion on Land Development Code items Board of County Commissioners Meeting of February 5th, 2019

A. Short Term Vacation Rentals

During recent Board of County Commissioners meetings, several members of the general public expressed concern regarding short term vacation rentals (vacation rentals). For this discussion, vacation rentals are the rental, often for less than a week, of a single family residential dwelling units not for permanent residence but for vacation lodgings. With the rise of popular rental websites like Vacation Rental by Owner (VRBO) and AirBnB making it easier to advertise and rent these properties, the number of properties used as short-term rental in Florida has exponentially increased in the last four years. Due to the strong pre-emption by the state, local governments without short-term rental regulation in place prior to June 1, 2011, have had their zoning authority stripped and are now seeing vacation rentals completely overtaking residential neighborhoods.

The predominant concern was the effect of vacation rentals on the traditional character of the neighborhood. Some of the major concerns brought forth by the general public were that owners/property managers were renting single family homes within residential zoned neighborhoods that resulted in issues with overcrowding and occupancy, loud noise, and a lack of parking. Other arguments were made that vacation rentals are not compatible with the existing character of the neighborhoods they were located in and had requested that St. Johns County (the "County") adopt standards to further regulate vacation rentals to eliminate the aforementioned incompatibilities.

The Board of County Commissioners directed staff to hold community meetings, research other jurisdictions, and gather additional information that may assist the County in addressing compatibility issues related to short term vacation rentals.

Vacation rentals are defined in Florida Statute As 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. Fla. Stat. 509.242(1)(c). A Transient Public Lodging Establishment 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 period 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. Fla. Stat. 509.013(4)(a)(1). For practical purposes, the County is examining the regulation of single-family dwelling units that are rented for less than 30 days more than 3 times per year, or which are advertised as vacation rentals.

Florida Statute 509.032(7)(b) which was revised in 2014, allows for limited regulation of short term vacation rentals and preempts local jurisdictions from prohibiting short term vacation rentals or regulating the duration or frequency of stays. The Statute, as well as other statutory definitions is attached (**See Attachment 1**).

The current version of the Land Development Code does not specifically address short term vacation rentals or have specific standards or prohibitions. Within the LDC, Hotels, Motels, Bed and Breakfast are defined as where sleeping accommodations are offered to the public and intended primarily for rental to transient units with a daily charge. Other definitions do not specifically capture the now profuse use of single-family dwelling units as transient public lodging establishments.¹

This office will be tracking the legislative session to determine if any bills have been filed regarding short-term vacation rentals. The 2018 legislative session contained one such bill that would have further deteriorated home rule to regulate short term vacation rentals. The Florida Association of Counties as well as the Florida League of Cities expects vacation rental legislation to be filed in the 2019 legislative session.

B. Community Meeting 10-09-2018 (See Attachment 2)

Staff held a community meeting on October 9th, 2018, where approximately eighty (80) participants provided feedback. In attendance were neighborhoods expressing concerns about vacation rentals, home owners associations, owners of vacation rentals, as well as companies engaged in vacation rentals. Staff gave

¹ Staff has explored the interpretation that a residential zoning designation itself constitutes an ordinance prohibiting short term vacation rentals as commercial establishments within a residential zoning district, however, legal authority to do so is in development. *See A. G. Inf. Op. to Flagler County (10/22/13)* “a local zoning ordinance for single-family homes existing on or before June 1, 2011 that did not restrict the rental of such property as a vacation rental, cannot now be interpreted to do so.”; *but see City of Miami v. Airbnb, Inc.* No. 3D17-1213 (Fla. 3d Dist. Ct. App. filed Dec. 5, 2018) (denying as overbroad, temporary injunction prohibiting vacation rentals in residential zoning predominantly of permanent housing).

a brief presentation on what the County could potentially regulate and could not regulate regarding short term vacation rentals. After a brief presentation, staff took questions from the general public.

Most participants had questions regarding the payment of Tourist Development Taxes and how that would be enforced by the County. Staff explained that the Tax Collector was a separate constitutional entity and that regardless of action or registration by St. Johns County, vacation rentals must pay the Tourist Development Tax. Staff explained that the purpose of the community workshop was to address other concerns, within the limits of the law, associated with short term vacation rentals, including registration for purposes other than the payment of Tourist Development Taxes. As of the publication of this Staff Report, the Tax Collector has engaged a vendor for the enforcement and collection of Tourist Development Taxes for short term vacation rentals.

At the meeting representatives of the vacation rental industry, as well as community members of neighborhoods affected by vacation rentals, offered to help draft any proposed ordinances. If authorized by the Board, Staff will solicit suggestions from all interested parties.

The most repeated commentary focused on how short term vacation rentals were changing the character of neighborhoods. Additional commenters cited safety concerns due to an overabundance of vehicles, lack of adequate off-street parking to accommodate more persons than is traditional in a single-family dwelling unit, and occupancy thresholds exceeding what were originally intended for single-family dwellings.

Most participants, even those owning vacation rentals or were a vacation rental business, were in favor of regulating short term vacation rentals. The sentiment was it was in the best interest of both vacation rental owners and for the vacation rental industry to incorporate reasonable rules to ensure the character of the neighborhood and prevent nuisances from occurring. Most property managers in attendance willing to participate in the process of assisting staff with drafting provisions to regulate Short Term Vacation Rentals. One of the requested features of any regulation is identification of a responsible entity to respond to concerns and complaints.

C. Survey Results (See Attachment 3)

Staff had created an informal non-scientific survey that inquired to the general public which concerns they considered to be the most important regarding Short Term Vacation Rentals. Approximately one-hundred (100) participants took the survey. Results of the survey concluded that a majority of all participants thought that occupancy was the biggest concern and that traffic, safety, and noise were very important factors to consider if the County were to regulate short term vacation rentals. Of the one-hundred (100) participants, approximately sixty-eight percent (68%) percent were home owners and less than ninety-two percent (92%) were owners/property managers of vacation rental homes.

D. Staff Suggestions

Results of both the community meeting and survey has led staff to believe it is in the interest of the general public to regulate short term vacation rentals to the extent provided under Florida Statute. Some provisions provided for by other jurisdictions that address some of the noise, parking, trash and life-safety issues created by the proliferation of short term vacation rentals in residential neighborhoods are as follows:

Registration: Registration of short term rentals is a common approach from other jurisdictions to keep property managers/owners of rental properties responsible for making sure tenants follow the regulations on noise, number of overnight guests, trash removal, and parking. When property owners/managers do not comply they face code enforcement penalties. Typically registration would require that a property owner or designee of a short term rental be able to provide a 24 hour contact of someone who resides in the community promptly available to exercise the rights of someone managing the property. Additionally, it would require homeowners to register with the Department of Revenue, the Department of Business and Professional Regulation and secure a business tax receipt, which are required of most other businesses. Similar rules have been enacted in other jurisdictions of Florida such as Dania Beach, Fort Lauderdale, Hallandale Beach, Hillsboro Beach, Hollywood, Lauderdale-by-the-Sea, and Wilton Manors.

If it is the will of the Board to require registration of short term rentals, there are several considerations that should be made. One consideration is where the registration of vacation rentals should apply: Coastal Areas or County-wide. A majority of vacation rentals are located along the Coastal Area (east of the Intercoastal Waterway) with a few outliers throughout other parts of the County. Additional considerations may include annual or biannual registration fees that would cover the cost of administration and application intake, and if owner-occupied rental units should be exempt from this registration procedure. Finally, consideration should be given regarding whether registration should be for more than one short term rental. Typically, property management companies represent several short term rentals at a time. If not specified within the ordinance, it would be likely that several short term rental properties would fall under a single registration.

Occupancy:

Several other jurisdictions have provided occupancy standards to reduce the probability of overcrowding a single-family home. Occupancy standards have the potential to reduce life and public safety issues if a fire or natural disaster were to occur and furthermore limit the number of vehicles parking on and off site. When persons go on vacation, often their behavior changes. Houses used as vacation rentals typically experience occupancy well outside of traditional neighborhood use and places strain on the infrastructure requirements normally associated with traditional neighborhood development in terms of parking, noise, trash generation, utility consumption, alcohol consumption, hours of activity, and location of activity.

Parking: Many short term rentals are located in single-family neighborhoods which typically require parking for two (2) vehicles. Short term rentals tend to create additional parking which leads to cars that are parked on the street, making it difficult for emergency vehicles to respond to emergencies and causes increased response times in these neighborhoods. Many other jurisdictions

have begun to adopt ordinances creating parking standards for short-term rental properties.

Trash: Due to the occupancy and change of behavior refuse and trash output for vacation rentals may change. Other typical standards among other jurisdictions include provisions within the registration that require trash to only be placed outside for pickup at specified times by tenants. It would be the duty of the property owner/manager to inform the guests. This would reduce the amount of time that receptacles may sit outside if the property owner/manager is located elsewhere and cannot return the trash receptacles to a properly screened area within a timely manner.

Penalties: Per F.S. 509.032(7)(b) the County cannot prohibit Vacation Rentals or regulate the frequency of stay. Typically, violations of short term rental registration or performance provisions result in a civil monetary penalty. Upon a finding of guilt and violation, and consistent with the Code Enforcement Process, a penalty may be recorded as a lien against any real and personal property of the violator. A jurisdiction can increase the penalties for repeat offenders if so desired.

E. Jurisdictional Research

Staff has collected research on efforts by other local governments in the same or similar situation as St. Johns County. That is, it is presumed that the local government did not have a rule or regulation directly addressing Short Term Vacation Rentals that pre-dates June 1, 2011. The exercise was to examine what aspects of the regulation of vacation rentals is most important to that local government and how the local government enacted rules in response to those concerns.

F. Legal Challenges

City of Miami vs AIRBNB, Inc. etc. et al – Interpretation of Residential Zoning

Recently decided by the Third District Court of Appeal and most likely going to the Florida Supreme Court. Decision: whether a broad temporary injunction can stay a local government interpretation that residential zoning designation limits the uses allowed by right to permanent residential use (and prohibits short term vacation rentals). Airbnb users have argued that the interpretation is pre-empted by state law. This lawsuit is fact-based around specific definitions in the Miami City Code and may not apply to interpretations of the St. Johns County Land Development Code and its language regarding Residential Uses.

AIRBNB, Inc. v. Palm Beach County – Compliance (Bed Tax Collection) Responsibility

Palm Beach County enacted a rule that requires Hosting Platforms and Booking Services (i.e., AirBnB) in addition to Hosts who list homes on the site to verify registration with the County, pay an annual fee, and submit a monthly tax return for the bed tax Palm Beach County levies on short-term rentals for each individual Residential Unit. The rule requires Hosting Sites such as AirBnB to be responsible for the tourist development tax collection for each individual unit. AirBnB responded that the requirement falls afoul of the Federal Communications Decency Act and that the onus is for the County to enforce compliance.

City of Miami Beach v. Nichols – fines for short term rentals

Suit about constitutionality of fines for illegal short term rentals. Miami Beach has a 2010 ordinance that pre-dates the pre-emption provision in state law. Violation is an immediate flat \$20,000.00 per instance rather than fines per day per diem fines.

BOARD ACTION

Provide staff with direction to create/not create an ordinance governing short term rentals in St. Johns County.

ATTACHMENTS

- Attachment 1 – Florida Statutes
- Attachment 2 – Community Meeting minutes
- Attachment 3 – Survey Results
- Attachment 4 – Jurisdictional Research

ATTACHMENT 1
Florida Statute 509.032

Select Year:

The 2018 Florida Statutes

[Title XXXIII](#)
REGULATION OF TRADE,
COMMERCE, INVESTMENTS, AND
SOLICITATIONS

[Chapter 509](#)
LODGING AND FOOD SERVICE
ESTABLISHMENTS; MEMBERSHIP
CAMPGROUNDS

[View Entire
Chapter](#)

509.032 Duties.—

(1) **GENERAL.**—The division shall carry out all of the provisions of this chapter and all other applicable laws and rules relating to the inspection or regulation of public lodging establishments and public food service establishments for the purpose of safeguarding the public health, safety, and welfare. The division shall be responsible for ascertaining that an operator licensed under this chapter does not engage in any misleading advertising or unethical practices.

(2) **INSPECTION OF PREMISES.—**

(a) The division has jurisdiction and is responsible for all inspections required by this chapter. The division is responsible for quality assurance. The division shall inspect each licensed public lodging establishment at least biannually, except for transient and nontransient apartments, which shall be inspected at least annually. Each establishment licensed by the division shall be inspected at such other times as the division determines is necessary to ensure the public's health, safety, and welfare. The division shall adopt by rule a risk-based inspection frequency for each licensed public food service establishment. The rule must require at least one, but not more than four, routine inspections that must be performed annually, and may include guidelines that consider the inspection and compliance history of a public food service establishment, the type of food and food preparation, and the type of service. The division shall reassess the inspection frequency of all licensed public food service establishments at least annually. Public lodging units classified as vacation rentals or timeshare projects are not subject to this requirement but shall be made available to the division upon request. If, during the inspection of a public lodging establishment classified for renting to transient or nontransient tenants, an inspector identifies vulnerable adults who appear to be victims of neglect, as defined in s. [415.102](#), or, in the case of a building that is not equipped with automatic sprinkler systems, tenants or clients who may be unable to self-preserve in an emergency, the division shall convene meetings with the following agencies as appropriate to the individual situation: the Department of Health, the Department of Elderly Affairs, the area agency on aging, the local fire marshal, the landlord and affected tenants and clients, and other relevant organizations, to develop a plan that improves the prospects for safety of affected residents and, if necessary, identifies alternative living arrangements such as facilities licensed under part II of chapter 400 or under chapter 429.

(b) For purposes of performing required inspections and the enforcement of this chapter, the division has the right of entry and access to public lodging establishments and public food service establishments at any reasonable time.

(c) Public food service establishment inspections shall be conducted to enforce provisions of this part and to educate, inform, and promote cooperation between the division and the establishment.

(d) The division shall adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness in those establishments licensed under this chapter. These rules shall provide the standards and requirements for obtaining, storing, preparing, processing, serving, or displaying food in public food service establishments, approving public food service establishment facility plans, conducting necessary public food service establishment inspections for compliance with sanitation regulations, cooperating and coordinating with the Department of Health in epidemiological investigations, and initiating enforcement actions, and for other such responsibilities deemed necessary by the division. The division may not establish by rule any regulation governing the design, construction, erection, alteration, modification, repair, or demolition of any public lodging or public food service establishment. It is the intent of the Legislature to preempt that function to the Florida Building Commission and the State Fire Marshal through adoption and maintenance of the Florida Building Code and the Florida Fire Prevention Code. The division shall provide technical assistance to the commission in updating the construction standards of the Florida Building Code which govern public lodging and public food service establishments. Further, the division shall enforce the provisions of the Florida Building Code which apply to public lodging and public food service establishments in conducting any inspections authorized by this part. The division, or its agent, shall notify the local firesafety authority or the State Fire Marshal of any readily observable violation of a rule adopted under chapter 633 which relates to public lodging establishments or public food establishments, and the identification of such violation does not require any firesafety inspection certification.

(e)1. Relating to facility plan approvals, the division may establish, by rule, fees for conducting plan reviews and may grant variances from construction standards in hardship cases, which variances may be less restrictive than the provisions specified in this section or the rules adopted under this section. A variance may not be granted pursuant to this section until the division is satisfied that:

- a. The variance shall not adversely affect the health of the public.
- b. No reasonable alternative to the required construction exists.
- c. The hardship was not caused intentionally by the action of the applicant.

2. The division's advisory council shall review applications for variances and recommend agency action. The division shall make arrangements to expedite emergency requests for variances, to ensure that such requests are acted upon within 30 days of receipt.

3. The division shall establish, by rule, a fee for the cost of the variance process. Such fee shall not exceed \$150 for routine variance requests and \$300 for emergency variance requests.

(f) In conducting inspections of establishments licensed under this chapter, the division shall determine if each coin-operated amusement machine that is operated on the premises of a licensed establishment is properly registered with the Department of Revenue. Each month the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed establishment that has on location a coin-operated amusement machine and that does not have an identifying certificate conspicuously displayed as required by s. 212.05(1)(h).

(g) In inspecting public food service establishments, the department shall notify each inspected establishment of the availability of the food-recovery brochure developed under s. 595.420.

(3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE EVENTS.—The division shall:

(a) Prescribe sanitary standards which shall be enforced in public food service establishments.

(b) Inspect public lodging establishments and public food service establishments whenever necessary to respond to an emergency or epidemiological condition.

(c) Administer a public notification process for temporary food service events and distribute educational materials that address safe food storage, preparation, and service procedures.

1. Sponsors of temporary food service events shall notify the division not less than 3 days before the scheduled event of the type of food service proposed, the time and location of the event, a complete list of food service vendors participating in the event, the number of individual food service facilities each vendor will operate at the event, and the identification number of each food service vendor's current license as a public food service establishment or temporary food service event licensee. Notification may be completed orally, by telephone, in person, or in writing. A public food service establishment or food service vendor may not use this notification process to circumvent the license requirements of this chapter.

2. The division shall keep a record of all notifications received for proposed temporary food service events and shall provide appropriate educational materials to the event sponsors and notify the event sponsors of the availability of the food-recovery brochure developed under s. 595.420.

3.a. Unless excluded under s. 509.013(5)(b), a public food service establishment or other food service vendor must obtain one of the following classes of license from the division: an individual license, for a fee of no more than \$105, for each temporary food service event in which it participates; or an annual license, for a fee of no more than \$1,000, that entitles the licensee to participate in an unlimited number of food service events during the license period. The division shall establish license fees, by rule, and may limit the number of food service facilities a licensee may operate at a particular temporary food service event under a single license.

b. Public food service establishments holding current licenses from the division may operate under the regulations of such a license at temporary food service events.

(4) STOP-SALE ORDERS.—The division may stop the sale, and supervise the proper destruction, of any food or food product when the director or the director's designee determines that such food or food product represents a threat to the public safety or welfare. If the operator of a public food service establishment licensed under this chapter has received official notification from a health authority that a food or food product from that establishment has potentially contributed to any instance or outbreak of food-borne illness, the food or food product must be maintained in safe storage in the establishment until the responsible health authority has examined, sampled, seized, or requested destruction of the food or food product.

(5) REPORTS REQUIRED.—The division shall submit annually to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees a report, which shall state, but need not be limited to, the total number of active public lodging and public food service licenses in the state, the total number of inspections of these establishments conducted by the division to ensure the enforcement of sanitary standards, the total number of inspections conducted in response to emergency or epidemiological conditions, the number of violations of each sanitary standard, the total number of inspections conducted to meet the statutorily required number of inspections, and any recommendations for improved inspection procedures. The division shall also keep accurate account of all expenses arising out of the performance of its duties and all fees collected under this chapter. The report shall be submitted by September 30 following the end of the fiscal year.

(6) RULEMAKING AUTHORITY.—The division shall adopt such rules as are necessary to carry out the provisions of this chapter.

(7) PREEMPTION AUTHORITY.—

(a) The regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is

preempted to the state. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. [553.80](#) and [633.206](#).

(b) 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.

(c) Paragraph (b) does not apply to any local law, ordinance, or regulation exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.

History.—ss. 1, 2, 9, ch. 6952, 1915; RGS 212, 213, 2130; s. 2, ch. 9264, 1923; CGL 245, 246, 3359; ss. 3, 4, ch. 16042, 1933; CGL 1936 Supp. 245, 246; s. 9, ch. 26945, 1951; s. 1, ch. 28129, 1953; ss. 1, 8, ch. 29821, 1955; s. 1, ch. 57-389; s. 1, ch. 63-420; ss. 12, 16, 35, ch. 69-106; s. 2, ch. 73-325; s. 135, ch. 73-333; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 39, 42, ch. 79-240; ss. 1, 3, 4, ch. 81-161; ss. 2, 3, ch. 81-318; ss. 3, 51, 52, ch. 90-339; s. 2, ch. 91-40; s. 4, ch. 91-429; s. 22, ch. 92-180; s. 2, ch. 93-53; s. 35, ch. 93-216; s. 19, ch. 94-314; s. 4, ch. 95-416; s. 137, ch. 95-418; s. 3, ch. 96-384; s. 1165, ch. 97-103; s. 1, ch. 98-275; s. 4, ch. 98-283; s. 246, ch. 99-8; s. 47, ch. 2000-141; s. 47, ch. 2000-154; s. 109, ch. 2000-349; s. 34, ch. 2001-186; s. 3, ch. 2001-372; s. 11, ch. 2002-48; s. 1, ch. 2002-299; s. 96, ch. 2006-197; s. 2, ch. 2008-55; s. 3, ch. 2008-134; s. 2, ch. 2011-119; s. 76, ch. 2012-96; s. 1, ch. 2013-147; s. 146, ch. 2013-183; s. 1, ch. 2014-71; s. 2, ch. 2014-133; s. 48, ch. 2014-150; s. 66, ch. 2015-2; s. 1, ch. 2015-143; s. 2, ch. 2016-86.

Note.—Former ss. 509.03, 509.04, 511.11.

ATTACHMENT 2
Community Meeting Minutes



Minutes
Meeting of the St. Johns County
October 9, 2018
Short-Term Rental Community Meeting

The scheduled community meeting was held on Tuesday, October 9, 2018 at 3:00 PM in the County Auditorium, located at 500 San Sebastian View, St. Augustine, FL 32084.

Staff Present: Paolo Soria, Senior Assistant County Attorney, Joseph Cearley, Special Projects Manager; Patrick McCormack, County Attorney; Kyle Doty, Growth Management Administrative Coordinator; Thomas Stallings, Communications Specialist

Paolo Soria, Senior Assistant County Attorney, called the meeting to order at 3:03 PM.

Mr. Soria stated that the current version of the Land Development Code (LDC) does not specifically address short-term vacation rentals or have specific development standards or prohibitions.

- LDC addresses Hotels, Motels, Bed and Breakfast, etc. defined as where sleeping accommodations are offered to the public and intended primarily for rental to transients with a daily charge.
- Other definitions do not specifically capture the use of single-family residences as Short-Term Vacation Rentals.
- Short-Term Vacation Rentals are interpreted as an allowed use within all residential zoning districts.

Mr. Soria stated that even if the LDC had a specific definition, the LDC does not prohibit or regulate the use within Residential zoning districts.

State Preemption:

- County is unable to prohibit or regulate the duration or frequency of short-term vacation rentals.
- Section 509.032(7)(b) revised in 2014, allows for limited regulation of vacation rentals:
- “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.”
- Regulation must be express in order to avoid pre-emption. AG Inf. Op to Flagler County (10/22/13).
- Local Code must expressly address use of dwelling. Dal Bianco v. City of Ft. Lauderdale.

Mr. Soria explained a list of pros and cons regarding the implementation of short-term vacation rental language into the LDC.

Pros:

- Possibility of mitigating for incompatibilities and nuisances
 - Other jurisdictions cite the increases in occupancy, trash generation, parking, noise, traffic generation, and fire/emergency evacuation risks.
- Registration of responsible party allows County to contact owner or property manager if there is a complaint.
- Facilitates payment of tourist development taxes if residences proposing short-term rentals are registered and tracked

Cons:

- Inspection and Enforcement
 - Would entail unknown expenses to County to inspect and enforce short-term vacation rentals.
- May require enactment of new standards such as trash disposal times, increased parking minimums, and occupancy limits.
- Administration
 - Registration, tracking, creation of a new license or certificate
- Challenge or Law Suit
 - Other jurisdictions sued or challenged.

Mr. Soria provided a list of other jurisdictions that have instituted short term vacation rentals after 2011. The list included Flagler County, the City of Fort Lauderdale, the City of Marco Island, and the City of Anna Maria. Mr. Soria reiterated that the purpose of the community meeting was for St. Johns County staff to better be able to address what the community wanted.

Joseph Cearley, Special Projects Manager, addressed the various aspects that staff would need to consider to implement the language into its Code:

How are we going to register them?

1. Annual?
2. Single or Bundle?
3. Exemptions for Owner Occupied?

TDC Taxes

1. All properties are required to pay Tourist Development Council Taxes.
2. SJC would Require Business Tax Receipt with Application

Applicability

1. Only Apply to Coastal Area?
2. Apply to Unincorporated County East of U.S. 1?
3. Apply to entire Unincorporated County?

Registration Fees

1. Cover Costs of Administration and intake
2. Annual Re-registration fees
3. Inspection/Re-inspection fees

Owner Information

1. Manager/Owner reside within specific distance or timeframe

Maximum Occupancy

1. 2 per sleeping room + 2 for common area
2. Absolute Maximum (16 or meet fire code)
3. 1 Occupant per 150 square feet of habitable area

Parking

1. Off-Site Parking required for all vehicles
2. Parking Ordinance

Trash

1. Trash only placed out the evening prior to pick up
2. Owner/Manager must inform guests

Noise

1. Comply with Noise Ordinance (No. 2015-19)
 - I. Plainly Audible within 100 feet
2. Owner/Manager must inform guests

Site Plan Approval with Registration

1. Should we require a site plan?
2. What should be depicted on the site plan?
 - a) Depict Parking Areas to meet max occupancy

Public Safety

1. Owner must provide informational packet to guests
2. What's the minimum information?
 - a) Owner/Management Contract
 - b) Evacuation Routes
 - c) Information on Parking, Noise, Trash
 - d) Public Safety Contacts (EMS, Sheriff's office, Fire)
3. Fire Safety System (Fire extinguishers)

Property Rights

1. Exempt Owner Occupied?
2. Accommodate Pre-Existing Contracts

Enforcement

1. Cannot Prohibit Vacation Rentals or regulate the duration or frequency of stay.
2. Code Enforcement
3. Violation results in a Civil Penalty
4. Repeat Offenders may increase penalties
5. Injunctive relief limited to complying with registration

Community Survey will remain on website until November 1st.

1. Collect community data outside workshop
2. Results of the survey and this workshop will be presented to the BOCC for further action and direction

Mr. Soria and Mr. Cearley opened the floor to public comment.

Sasha Martin, 133 Coastal Hallow Circle, St. Augustine, stated that some people are not aware that there is a survey available regarding this topic and requested that staff extend the timeframe and advertise locally.

John Lumpkin, Sovereign and Jacobs Property Management, 461 A1A Beach Blvd., St, Augustine inquired about how the sales tax would be collected and how it would be reported.

Mr. Soria stated that was a question for the St. Johns County Tax Collector's office, clarifying that this discussion was regarding a different type of registration.

Patrick McCormack, County Attorney, added that the information for the Tax Collector's office was available online and the ordinance regarding the collection could be found on the Clerk of Courts website. Mr. McCormack stated that short-term rentals are a newer type of business model, noting that local regulation would be most successful if accepted and adopted under a general consensus from the community, which was the intent of this meeting.

Dennis Chipman, 5400 Atlantic View, St. Augustine inquired about what aspects of the short-term vacation rentals could be regulated.

Dennis Hanks, Executive Director for Florida Vacation Rental Management Association, 7862 W. Irlo Bronson Hwy., Suite 305, Kissimmee, stated that Kissimmee's short term-vacation rental regulation was a very successful model, and offered to assist in drafting the language for St. Johns County.

Michael Borns, 1185 Salt Marsh Circle, Ponte Vedra Beach, stated his concerns about the changing character of his neighborhood and spoke in opposition of the County regulating or allowing short-term vacation rentals.

Mr. Soria clarified that the potential changes would not affect a Homeowner's Association's covenants and restrictions

Marissa Dye, 409 Fourteenth Street, St. Augustine, spoke in support of the County incorporating short-term vacation rental language into its Code. Ms. Dye stated she manages several vacation rentals in the Vilano Beach area, and offered to work with the community and County to adopt regulations.

Laura Pilecki, 411 Seventeenth Street, St. Augustine, asked if there was a global picture for vacation rentals in St. Johns County.

Mr. Soria stated that staff is unable to determine many short-term vacation rentals are pre-existing, and cannot regulate the proportion. Mr. Soria stated that one option is to determine which communities are most effected and regulate those.

Stephanie Wyland, Coastal Realty, 3942 A1A South, St. Augustine, stated that she wanted to make sure that property management companies are seen as the expert in the area, as her company is a professional service regulated by the state, already practicing the ideas proposed today by staff to ensure a positive relationship between the guests and the full time residents in a neighborhood.

Karen Klecka, 9 Beachcomber Way, St. Augustine, stated that her neighborhood is currently overrun by short-term vacation rentals, stated safety concerns, and wanted to know what her rights are as a property owner. Mr. Klecka also asked how to tell if the owners of the rental properties are paying the appropriate taxes.

Mr. Soria stated the property owners are required to pay taxes, and that the County is suggesting regulations to enforce the Land Development Code.

Mr. McCormack stated that the tax collector has a robust process enacted to identify these short-term vacation rental properties to ensure taxes are being paid. Mr. McCormack also stated concerned citizens can also notify the Tax Collector's office so that they can look into it.

Tracy Hannah, 404 Seventeenth St., St. Augustine, inquired about the example of litigation in Flagler County.

Willard Day, 5495 A1A South, A1A Realty Associates, inquired about the Tax Collector's new regulation.

Amy Wilson, 332 Ocean Forest Drive, St. Augustine, asked for staff to clarify or explain how this may impact other areas in our County that may already have regulations in place like the City of St. Augustine Beach?

Mr. Soria stated that the City of St. Augustine Beach was not St. Johns County's jurisdiction to regulate, but the Tourist Development Tax was county-wide.

Leslie Shapiro, 4942 Atlantic View, St. Augustine, spoke in favor of the regulations, and stated that in her neighborhood it was common to see homes being rented out with over 15 vehicles parked out front.

Debi Sauls, 65 Magnolia Ave., St. Augustine, inquired about how inspections would be handled by staff.

Ms. Shapiro asked about enforcing a maximum occupancy.

George Antonatos, 233 South Matanzas Blvd., St. Augustine, spoke in opposition of short-term vacation rentals.

Fred Harris, 829 Kings Estates Road, St. Augustine, stated that he currently rents his property on Airbnb, which provided financial assistance to his family which is on a limited income. Mr. Harris stated that owner occupied properties typically receive less complaints from neighbors. Mr. Harris added that he felt the beach communities needed protection and offered to help draft language.

Judy Glazebrook, 30 Rohde Ave, St. Augustine, asked if the management of a vacation rental could be made easily identifiable either online or at the property to aid in immediate action being taken when there was an issue on site.

Mr. Cearley stated that staff could look into using the same method as Islamorada, Village of Islands. Mr. Cearley stated that the municipality requires the contact information be displayed at each rental property.

Mr. Cearley closed the meeting and stated that staff would review the input received in order to determine the next steps in moving forward in determining regulation.

ADJOURN: 4:35 PM

Clerk

ATTACHMENT 3
Survey Results

Should St. Johns County officials register vacation rentals within the county?

Response	Count	Percent
Yes	427	60.2
No	282	39.8

Where should vacation rentals have to register their properties within the county?

Response	Count	Percent
Coastal	25	3.6
Mainland	5	0.7
Both	402	57.8
None	264	37.9

What types of dwelling types being utilized as vacation rentals should the County register? (select all that apply)

Response	Count	Percent
Single Family Dwellings	407	61
Multi-Family Dwellings/Townhomes	394	59.1
Owner Occupied	291	43.6
None	240	36

What is your biggest concern with vacation rentals?

Response	Count	Percent
Occupancy (number of people staying in a vacation rental)	277	45.5
Parking	159	26.1
Trash	52	8.5
Public health and safety	121	19.9

If St. Johns County were to register and license vacation rentals in the county-should the County require every Short Term Rental to have an individual license rather than have a property management company hold one license for all properties they manage?

Response	Count	Percent
Yes (one license for each rental)	325	51.3
No (one license for the property management company that covers all of their rentals)	308	48.7

How would you consider the importance of the following issue related to vacation rentals? Rights of Property Owner

Response	Count	Percent
1 - Very Important	342	52.9
2 - Fairly Important	58	9
3 - Important	151	23.4
4 - Not Very Important	36	5.6
5 - Not at all important	37	5.7
0 - No Opinion	22	3.4

How would you consider the importance of the following issue related to vacation rentals? Neighbor concerns about rowdy behavior

Response	Count	Percent
1 - Very Important	383	59.6
2 - Fairly Important	64	10
3 - Important	118	18.4
4 - Not Very Important	38	5.9
5 - Not at all important	25	3.9
0 - No Opinion	15	2.3

How would you consider the importance of the following issue related to vacation rentals? Neighbor concerns about safety- traffic- noise

Response	Count	Percent
1 - Very Important	362	56.2
2 - Fairly Important	74	11.5
3 - Important	109	16.9
4 - Not Very Important	44	6.8
5 - Not at all important	34	5.3
0 - No Opinion	21	3.3

How would you consider the importance of the following issue related to vacation rentals? Local tax and spending revenues generated by vacation rentals

Response	Count	Percent
1 - Very Important	253	39.7
2 - Fairly Important	83	13
3 - Important	154	24.1
4 - Not Very Important	90	14.1
5 - Not at all important	47	7.4
0 - No Opinion	11	1.7

How would you consider the importance of the following issue related to vacation rentals? Impact on local motel and hotel businesses

Response	Count	Percent
1 - Very Important	67	10.5
2 - Fairly Important	53	8.3
3 - Important	105	16.5
4 - Not Very Important	197	30.9
5 - Not at all important	190	29.8
0 - No Opinion	25	3.9

Do you own or rent your home?

Response	Count	Percent
Own	594	93.2
Rent	43	6.8

Do you own / operate a vacation rental?

Response	Count	Percent
Yes	176	27.8
No	457	72.2

When you vacation elsewhere- which of the following types of rental options do you prefer?

Response	Count	Percent
Hotel motel resort	327	51.3
Outdoor campsite	18	2.8
Vacation rental	262	41.1
RV	10	1.6
Other	21	3.3

When you rent a vacation home how long do you normally stay?

Response	Count	Percent
Less than 2 weeks	568	96.3
More than 2 weeks	22	3.7

What is your biggest concern with vacation rentals?

Response	Count	Percent
Occupancy	42	49.4
Parking	19	22.4
Trash	11	12.9
Public Health and Safety	13	15.3

How would you consider the importance of Safety related to vacation rentals?

Response	Count	Percent
Very Important	56	62.9
Fairly Important	9	10.1
Important	11	12.4
Not Very Important	6	6.7
Not at all Important	5	5.6
No Opinion	2	2.2

How would you consider the importance of Traffic related to vacation rentals?

Response	Count	Percent
Very Important	55	63.2
Fairly Important	10	11.5
Important	9	10.3
Not Very Important	9	10.3
Not at all Important	4	4.6
No Opinion	0	0

How would you consider the importance of Noise related to vacation rentals?

Response	Count	Percent
Very Important	60	68.2
Fairly Important	8	9.1
Important	10	11.4
Not Very Important	7	8
Not at all Important	3	3.4
No Opinion	0	0

Do you own or rent a home near a vacation rental?

Response	Count	Percent
Yes I own a home near a vacation rental	60	68.2
Yes I rent a home near a vacation rental	4	4.5
No	24	27.3

Do you own / operate a vacation rental?

Response	Count	Percent
Yes	7	8
No	81	92

When you vacation elsewhere- which of the following types of rental options do you prefer?

Response	Count	Percent
Vacation Rental	22	25
Hotel / Motel / Resort	55	62.5
Outdoor Campsite	6	6.8
Recreation Vehicle	3	3.4
Other	2	2.3

When you rent a vacation home- how long do you normally stay?

Response	Count	Percent
Less than two weeks	76	95
More than two weeks	4	5

ATTACHMENT 4
Jurisdictional Research

VACATION RENTALS - JURISDICTIONAL RESEARCH

POST STATE LEGISLATIVE PREEMPTION (after June 1, 2011)

Jurisdiction	Licenses Required	Annual Renewal	Fees	Life Safety Requirements	Max Occupancy	Occupancy Limits	Parking	Solid Waste	Responsible Party	Vesting
Flagler County, FL	Local Certificate; Business Tax; DBPR License; Florida Department of Revenue Certificate	Yes	Application - \$500 Annual Renewal \$250 Violation \$250	Smoke and CO detection; Fire extinguisher installed	1) 1 per 150 sf; 2) max allowed by septic tank permit; 3) 2 persons per sleeping room + 2 additional in common area	1) 10 in SFD, Two-Family; 2) 14 for vested SFD's; redux of 2 after 2 years (12)	1 space per 3 persons	1 container per 4 persons; Must be placed out day of pickup.	Owner or designee; must be available 24/7	Applicant must prove with lease statements occupancy remained at a higher level prior to adoption.
Anna Maria, FL	Local Registration; DBPR License; Department of Revenue Certificate: Current active Tax Collector Account:	Yes	Application - 8 occupants \$297.04	Smoke and CO detection; Fire extinguisher installed	1) 2 persons per sleeping room; plus 2 persons, plus 1 person in 70-100 sf room.	1) 8 occupants	Any Legal Parking spaces as shown on the description.	Included as a Lease addendum. Available on website.	Owner or designee; must be available 24/7	5 years as a VR; Can set occupancy at 2 per bedroom unless bedrooms were added within that 5 years.
Fort Lauderdale, FL	Certificate of Compliance; DBPR License; Department of Revenue Certificate	Yes	Application \$350 Renewal \$160 Inspection Fee \$75	Smoke and CO detection; Fire extinguisher installed	1) 1 person per 150 sf of AC space and 2 persons per sleeping room.	N/A	All vehicles parked within the subject property in copliance with Code of Ordinances.	No container located at curb before the day before pickup; removed before midnight the day of pickup.	Owner or designee; must be available 24/7; also live within an hour of location.	N/A
Marco Island, FL	Registration;	Biennial Inspections	Awaiting callback	Must adhere to the Florida Fire Prevention Code	1) 2 persons per bedroom, plus 2 persons.	1) Max. Occupancy set forth by the Florida Fire prevention Code or Building Code	1) All vehicles must adhere to Parking regulations for SFD. 2) RV/Boat parking must be within enclosed structure.	No container located at curb before the day before pickup; removed before midnight the day of pickup.	Owner or designee; must be available 24/7; also live within an hour of location.	N/A

PRE STATE LEGISLATIVE PREEMPTION (before June 1, 2011)

Islamorada, FL	Voucher; DBPR License; Department of Revenue Certificate	Yes		Must adhere to the Florida Fire Prevention Code	2 persons per bedroom	Fire Code	Must adhere to parking regulations.	Screened	Owner or designee; must be available 24/7; also live within an hour of location.	12/6/2001/331 cap; at least 600% of the median income
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ORDINANCE NO. 2016 - 01

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING ORDINANCE NOS. 2015-02 AND 2015-05, AMENDING AND RESTATING IN ITS ENTIRETY SECTION 3.06.14 OF APPENDIX C, LAND DEVELOPMENT CODE OF THE CODE OF ORDINANCES OF FLAGLER COUNTY, FLORIDA, RELATED TO SHORT-TERM VACATION RENTALS; SPECIFICALLY AMENDING SUBSECTION 3.06.14.C, SHORT-TERM VACATION RENTAL STANDARDS, BY ADDING ILLUMINATION OF THE PRIMARY EXIT; AMENDING SUBSECTION 3.06.14.D, SHORT-TERM VACATION RENTAL CERTIFICATE, BY DELETING REFERENCES TO REVOCATION AND SUSPENSION OF CERTIFICATES; AMENDING SUBSECTION 3.06.14.E, APPLICATION FOR A SHORT-TERM VACATION RENTAL CERTIFICATE, BY PROVIDING FOR THE INITIAL CERTIFICATE TO EXPIRE ON DECEMBER 31, 2016 AND FOR RENEWALS TO BE APPLIED FOR BEFORE EXPIRATION WITH INSPECTIONS TO OCCUR BEFORE DECEMBER 31 ANNUALLY; AMENDING SUBSECTION 3.06.14.F, INITIAL AND ROUTINE COMPLIANCE INSPECTIONS OF SHORT-TERM VACATION RENTALS, DELETING REFERENCES TO SUSPENSION OF CERTIFICATES AND DELETING OBSOLETE LANGUAGE; AMENDING SUBSECTION 3.06.14.H, SHORT-TERM VACATION RENTAL/LEASE AGREEMENT MINIMUM PROVISIONS, BY ADDING REQUIREMENTS RELATED TO RETAINING AGREEMENTS FOR MINIMUM PERIOD OF ONE YEAR, CLARIFYING AGREEMENTS NOT PROVIDED TO COUNTY EXCEPT FOR ENFORCEMENT ACTIONS AND OTHER LIMITED CIRCUMSTANCES; AMENDING SUBSECTION 3.06.14.K, REMEDIES/ENFORCEMENT, BY CLARIFYING WHEN STATUTORY FINES FOR VIOLATIONS ARE APPLICABLE AND DELETING REFERENCES TO REVOCATION AND SUSPENSION OF CERTIFICATES AS A NONCOMPLIANCE REMEDY; DELETING SUBSECTION 3.06.14.L, SUSPENSION, IN ITS ENTIRETY; ADDING SUBSECTION M, RESERVED, TO CORRECT ITS PREVIOUS OMISSION; AND AMENDING SUBSECTION 3.06.14.N, VESTING, BY CLARIFYING ELIGIBILITY FOR VESTING, EXTENDING THE APPLICATION SCHEDULE, MODIFYING THE PROVISIONS FOR GRANDFATHERED RENTAL/LEASE

Additions appear as underlined text, deletions as strikethrough
Asterisks indicates text not shown as otherwise unchanged

**AGREEMENTS TO COMPLY WITH THE COURT ORDER,
AND PROVIDING FOR VESTING TO RUN WITH THE
LAND TO ENABLE A TRANSFER TO A SUCCESSOR
OWNER; PROVIDING CLARIFYING AND CORRECTING
AMENDMENTS THROUGHOUT SECTION 3,06.14;
PROVIDING FOR CODIFICATION AND SCRIVENER'S
ERRORS; PROVIDING FOR SEVERABILITY; AND
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, on February 19, 2015, the Flagler County Board of County Commissioners adopted Ordinance No. 2015-02, creating Section 3.06.14, Short-term vacation rentals, of the Flagler County Land Development Code, adopted as Appendix C to the Flagler County Code of Ordinances; and

WHEREAS, on April 6, 2015, the Flagler County Board of County Commissioners adopted Ordinance No. 2015-05, amending Section 3.06.14, related to subsection N, Vesting, to extend the vesting schedule; and

WHEREAS, following adoption of Ordinance Nos. 2015-02 and 2015-05, the County has received numerous applications for Short-Term Vacation Rental Certificates, conducted inspections, and issued Certificates and provisional Certificates consistent with the County's regulations; and

WHEREAS, through the course of implementation of the Ordinance, County staff has sought to improve the administration and implementation of the various regulations, to mitigate and reduce the impacts of the transition and to assist in the compliance with its requirements; and

WHEREAS, the County, through this amendment, has sought to implement ways to lessen the limitations and impacts on current owners of short-term vacation rentals; and

WHEREAS, the County also has determined that its regulations relative to life safety should be more aligned with the State's rules requiring the illumination of the short-term vacation rental's primary exit; and

WHEREAS, County, through this amending Ordinance, is modifying the subsections related to certificate issuance and renewal, suspension and vesting, subsections D, E, K, L, and N, respectively, with amendments to subsections L and N specifically intended to conform with the Court's Order on Plaintiffs' Motion for Preliminary Injunction in Flagler County Circuit Court Case No. 2015 CA 167; and

WHEREAS, this amending Ordinance modifies the subsections of Ordinance No. 2015-02 as amended herein, and all other parts of Ordinance No. 2015-02 remain as originally adopted or as amended by Ordinance No. 2015-05 unless specifically amended herein; and

WHEREAS, public notice of the adoption of this Ordinance has been provided in accordance with Section 125.66, Florida Statutes and in accordance with the Flagler County Land Development Code.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. FINDINGS

- A. The above Recitals are incorporated herein as Findings of Fact.
- B. The Board of County Commissioners further finds as follows:
 - 1. The proposed amendment will provide for the orderly development of Flagler County and complies with applicable Comprehensive Plan goals, objectives and policies; and
 - 2. The proposed amendments will serve to protect the health and safety of residents or workers in the area and will be complementary to the use of adjacent properties or the general neighborhood.

SECTION 2. LAND DEVELOPMENT CODE AMENDMENT

A. Appendix C, Land Development Code, Article III Zoning Districts, Section 3.06.14, *Short-term vacation rentals*, is hereby amended as follows:

- 1. Amendment and restatement of Section 3.06.14, *Short-term vacation rentals*, to read as follows:

3.06.14. – Short-term vacation rentals.

- A. *Applicability.* This section shall apply to short-term vacation rental as a commercial business, as defined in section 3.08.02, of a single-family dwelling and a two-family dwelling. This section shall not apply to short-term vacation rentals within a multi-family residential building, or a group of multi-family residential buildings, which includes three (3) or more individual dwelling units within such building or group of buildings. This section shall also not apply to unincorporated areas west of U.S. Highway 1 and to any facilities that are occupied on a full-time basis by the owner as an on-premises permanent resident.
- B. *Short-term vacation rental minimum requirements.* Short-term vacation rentals shall be permitted in all residential zoning districts provided they are in compliance with this section. No person shall rent or lease all or any portion

of a dwelling unit as a short-term vacation rental as defined in section 3.08.02 without initially and then on a continuing basis:

1. Obtaining a short-term vacation rental certificate from Flagler County pursuant to this section;
2. Obtaining a business tax receipt from Flagler County pursuant to chapter 19 of the Code of Ordinances;
3. Obtaining a Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes, and transient rental taxes;
4. Obtaining a Florida Department of Business and Professional Regulation license as a transient public lodging establishment; and
5. As demonstrated through an affidavit, maintaining initial and ongoing compliance with the Short-term Vacation Rental Standards contained herein, plus any other applicable local, state, and federal laws, regulations, and standards to include, but not be limited to, Chapter 509, Florida Statutes, and Rule Chapters 61C and 69A, Florida Administrative Code or such successor statutes or Rules as may be applicable.

C. *Short-Term Vacation Rental Standards.* The following Standards shall govern the use of any short-term vacation 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, Chapter 515, Florida Statutes.
 - b. Sleeping rooms – All sleeping rooms shall meet the single- and two-family dwelling minimum requirements of the Florida Building Code.
 - 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 short-term vacation rental unit, 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.

e. Battery powered emergency lighting of primary exit – Battery powered emergency lighting which provides illumination automatically in the event of any interruption of normal lighting shall be provided for a period of not less than one (1) hour to illuminate the primary exit. For purposes of this requirement, short-term vacation rentals with Short-Term Vacation Rental Certificates issued prior to the enactment of the ordinance providing for the codification of this standard shall have until December 31, 2016 to receive an inspection (as part of the renewal of the initial Certificate) to demonstrate compliance with the emergency lighting standard.

2. Maximum occupancy. The following specific site considerations in subsections a., b., and c. shall limit any short-term vacation rental occupancy to whichever is less, but not to exceed the permitted maximums provided in subsections d. or e., as applicable, below:
 - a. One (1) person per one hundred fifty (150) gross square feet of permitted, conditioned living space; or
 - b. The maximum number of occupants allowed shall be restricted in accordance with any septic tank permit and the assumed occupancy/conditions the permit was issued under by the Flagler County Health Department; or
 - c. Two (2) persons per sleeping room, meeting the requirements for a sleeping room, plus two (2) additional persons that may sleep in a common area.
 - d. In the R-1, R-1b, R-1c, R-1d, R-2, MH-1, MH-2, and R/C zoning districts and any PUD development or specific portion thereof developed as a single- or two-family neighborhood, the maximum occupancy shall be limited to ten (10) occupants per short-term vacation rental unit.
 - e. In all other zoning districts and developments predominantly developed with greater than two-family dwelling units, the maximum occupancy shall be limited to sixteen (16) transient occupants per short-term vacation rental unit.
3. Parking standard. Based on the maximum short-term transient occupancy permitted, minimum off-street parking shall be provided as one (1) space

per three (3) transient occupants. Garage spaces shall count if the space is open and available and the transient occupants are given vehicular access to the garage. On-street parking shall not be permitted.

4. Solid waste handling and containment. Based on the maximum transient occupancy permitted, one (1) trash storage container shall be provided per four (4) transient occupants or fraction thereof. Appropriate screening and storage requirements for trash storage containers shall apply per any development approval or local neighborhood standard, whichever is more restrictive, and be incorporated into the Certificate. For purposes of this section, a trash storage container shall be a commercially available thirty-five (35) gallon or greater capacity container with a lid that securely fastens to the container so as to prevent spills and animal access, with the container to be placed at curbside on the day of solid waste pickup and to be removed from curbside no later than sunrise the following day.
5. Minimum short-term vacation rental/lease agreement wording. The short-term vacation rental/lease agreement shall contain the minimum information as provided for in subsection 3.06.14.H.
6. Minimum short-term vacation rental information required postings. The short-term vacation rental shall be provided with posted material as required by Flagler County as prescribed in subsection 3.06.14.I.
7. Minimum short-term vacation rental lessee information. The short-term vacation rental lessee shall be provided with a copy of the information required in subsection 3.06.14.H.
8. Designation of a short-term vacation rental responsible party capable of meeting the duties provided in subsection 3.06.14.G.
9. Septic tank wastewater disposal. If wastewater service is provided through a private home septic system, then the owner shall provide Flagler County a valid Health Department septic permit and the application it is based upon for the property, demonstrating the capacity for the short-term vacation rental occupancy requested.
10. Advertising. Any advertising of the short-term vacation rental unit shall conform to information included in the Short-Term Vacation Rental Certificate and the property's approval, particularly as this pertains to maximum occupancy.
11. Other standards. Any other standards contained within the Flagler County Land Development Code to include but not be limited to: noise, setbacks, stormwater, and similar provisions.

- D. *Short-Term Vacation Rental Certificate*. To verify compliance with these short-term vacation rental standards, any property owner who wishes to use his or her dwelling unit as a short-term vacation rental must first apply for and receive a Short-Term Vacation Rental Certificate from Flagler County, and renew the Certificate annually for as long as the unit is used as a short-term vacation rental. Each dwelling unit used as a short-term vacation rental requires a separate Short-Term Vacation Rental Certificate. An annual Certificate fee shall be paid for each dwelling unit certified as a short-term vacation rental, in an amount to be determined by Resolution of the Board of County Commissioners, to cover the costs of administration of the Certificate and inspection program. Failure to comply with any of the requirements of this section shall be subject to the remedies and enforcement grounds for revocation or suspension of the Certificate provided in accordance with subsection 3.06.14.K. ~~the requirements contained herein.~~
- E. *Application for a Short-Term Vacation Rental Certificate*. Each property owner seeking initial issuance of a Short-Term Vacation Rental Certificate, renewal, transfer, or modification of a Short-Term Vacation Rental Certificate, shall submit a Flagler County Short-Term Vacation Rental application in a form specified by the County, along with an application fee in an amount to be determined by Resolution of the Board of County Commissioners. The initial Short-Term Vacation Rental Certificate shall be valid through December 31, 2016.
1. A complete application for the initial or modification of a Short-Term Vacation Rental Certificate shall demonstrate compliance with the Short-Term Vacation Rental Standards above through the following submittals:
 - a. A completed application and applicable fees.
 - b. Exterior site sketch – An exterior sketch of the facility demonstrating compliance with the Standards contained herein shall be provided to the County. ~~The sketch provided shall be drawn to scale, and showing all structures, pools, fencing, and uses, including areas provided for off-street parking and trash collection.~~ For purposes of the sketch, off-street parking spaces will be delineated so as to enable a fixed count of the number of spaces provided; however, no parking shall be permitted within a public right-of-way or private roadway tract.
 - c. Interior building sketch by floor – A building sketch(s) shall be provided by floor showing a floor layout and demonstrating compliance with the Standards contained herein. The sketch shall be drawn to scale, showing all bedrooms and sleeping areas, exits, smoke and carbon monoxide detectors, and fire extinguishers etc.

- d. Required short-term vacation rental postings – Copies of required postings shall be provided.
 - e. A draft short-term vacation rental/lease agreement showing required lease terms – A blank sample to be provided.
 - f. A Health Department septic tank permit and the application on which the permit is based, if applicable.
 - g. Any other required information necessary to demonstrate compliance with the Short-Term Vacation Rental Standards herein.
2. Certificate renewals or transfers. The application for renewal or transfer of a Short-Term Vacation Rental Certificate shall demonstrate compliance with the following:
- a. If no changes have occurred since the issuance of the most recent Short-Term Vacation Rental Certificate, then no additional submittals are required to accompany the renewal/transfer Short-Term Vacation Rental Certificate application except as subsection 3.06.14.E.2.b below may be applicable.
 - b. If minor changes not involving the specific modifications described below in subsection 3.06.14.E.3 have occurred since the issuance of the most recent Short-Term Vacation Rental Certificate, then additional submittals specific to the minor changes shall be required to accompany the application as necessary to demonstrate compliance with the Standards herein.
 - c. An inspection is required whenever there is a transfer of a Certificate.
 - d. A Short-Term Vacation Rental Certificate holder must apply annually for a renewal no sooner than August 1 and no later than October 1 of the Certificate by January 1 of each year and shall have passed all inspections and complied fully with section 3.06.14 by December 31.
3. Modification of Certificate. An application for modification of a Short-Term Vacation Rental Certificate is necessary where any of the following apply:
- a. The gross square footage of the dwelling unit has increased; or
 - b. The number of sleeping areas/bedrooms is proposed to increase; or
 - c. The occupancy is otherwise proposed to increase.

For the inspection of a modification to a Short-Term Vacation Rental Certificate, the modification in facility usage may not occur until after a successful County inspection; however, pending such successful inspection the current Certificate will still apply.

F. *Initial and routine compliance inspections of short-term vacation rentals.*

1. An inspection of the dwelling unit for compliance with this section is required prior to issuance of an initial Short-Term Vacation Rental Certificate. If violations are found, all violations must be corrected and the dwelling unit must be re-inspected prior to issuance of the initial Short-Term Vacation Rental Certificate as provided herein. ~~An exception to the correction of violations as required in this subsection is made for any short-term vacation rental seeking vested rights pursuant to subsection 3.06.14.N to the extent that a vesting determination specifically provides such exemption.~~
2. Once issued, a short-term vacation rental unit must be properly maintained in accordance with the Short-Term Vacation Rental Standards herein and will be re-inspected annually or, in the event of a Certificate transfer, re-inspected at the time of transfer. For an inspection, all violations must be corrected and re-inspected within thirty (30) calendar days. Failure to correct such inspection deficiencies in the timeframes provided shall result in enforcement as provided in subsection 3.06.14.K ~~the suspension of the Short-Term Vacation Rental Certificate~~ until such time as the violation(s) is/are corrected and re-inspected.
3. The inspections shall be made by appointment with the short-term vacation rental responsible party. If the inspector(s) has made an appointment with the responsible party to complete an inspection, and the responsible party fails to admit the officer at the scheduled time, the owner shall be charged a "no show" fee in an amount to be determined by Resolution of the Board of County Commissioners to cover the inspection expense incurred by Flagler County.
4. If the inspector(s) is denied admittance by the short-term vacation rental responsible party or if the inspector(s) fails in at least three (3) attempts to complete an initial or subsequent inspection of the rental unit, the inspector(s) shall provide notice of failure of inspection to the owner to the address shown on the existing Short-Term Vacation Rental Certificate or the application for Short-Term Vacation Rental Certificate.
 - a. For an initial inspection, the notice of failure of inspection results in the Certificate not being issued; and the short-term vacation rental is deemed not in compliance with section 3.06.14. ~~permitted to operate without a valid Certificate.~~

- b. For a subsequent inspection, the notice of failure of inspection is considered a violation pursuant to subsection 3.06.14.F.2. above and is subject to enforcement remedies as provided herein.

G. *Short-term vacation rental responsible party.*

1. The purpose of the responsible party is to respond to routine inspections and as well non-routine complaints and other more immediate problems related to the short-term vacation rental of the property.
2. The property owner may serve in this capacity or shall otherwise designate a short-term vacation rental responsible party to act on their behalf. Any person eighteen (18) years of age or older may be designated by the owner provided they can perform the duties listed in subsection 3.06.14.G.3 below.
3. The duties of the short-term vacation rental responsible party whether the property owner or an agent are to:
 - a. Be available by landline or mobile telephone at the listed phone number twenty-four (24) hours a day, seven (7) days a week and capable of handling any issues arising from the short-term vacation rental use;
 - b. If necessary, be willing and able to come to the short-term vacation rental unit within two (2) hours following notification from an occupant, the owner, or Flagler County to address issues related to the short-term vacation rental;
 - c. Authorized to receive service of any legal notice on behalf of the owner for violations of this section; and
 - d. Otherwise monitor the short-term vacation rental unit at least once weekly to assure continued compliance with the requirements of this section.
4. A property owner may change his or her designation of a short-term vacation rental responsible party temporarily or permanently; however, there shall only be one (1) short-term vacation rental responsible party for each short-term vacation rental at any given time. To change the designated responsible party, the property owner shall notify Flagler County in writing via a completed form provided by the County.

H. *Short-term vacation rental/lease agreement minimum provisions and requirements*. The rental/lease agreement must contain the following information at a minimum:

1. Maximum occupancy of the short-term vacation rental unit as permitted on the Short-Term Vacation Rental Certificate for the property;
2. The name and ages of all persons who will be occupying the unit;
3. The license tag numbers for all vehicles that the occupant(s) will be parking at the unit, with a total number not to exceed the number of off-street parking spaces at the unit as designated on the Short-Term Vacation Rental Certificate; and
4. A statement that all transient occupants must evacuate from the short-term vacation rental upon posting of any evacuation order issued by local, state, or federal authorities.
5. The rental/lease agreement shall be retained by the responsible party. The responsible party shall retain all rental/lease agreements for a period of one (1) year following the end of the rental period.
6. No rental/lease agreement shall be provided to or retained by the County except as part of an enforcement investigation, emergency, or other action by the County. At the County's request, the responsible party shall immediately provide the County with the rental/lease agreement.

I. *Required posting of the following short-term vacation rental unit information.*

1. On the back of or next to the main entrance door or on the refrigerator there shall be provided as a single page the following information:
 - a. The name, address and phone number of the short-term vacation rental responsible party;
 - b. The maximum occupancy of the unit;
 - c. Notice that quiet hours are to be observed between 10:00 p.m. and 8:00 a.m. daily or as superseded by any County noise regulation;
 - d. The maximum number of vehicles that can be parked at the unit, along with a sketch of the location of the off-street parking spaces;
 - e. The days of trash pickup and recycling;

- f. If the short-term vacation rental unit is located on the barrier island, notice of sea turtle nesting season restrictions and sea turtle lighting usage; and
- g. The location of the nearest hospital.

- 2. If the short-term vacation rental unit includes three (3) or more occupied floors, on the third floor above ground level and higher floors there shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map – Minimum 8-1/2" by 11" in size.

J. Offenses/violations.

- 1. Non-compliance with any provisions of this section shall constitute a violation of this section, which shall include, but shall not be limited to, the specific paragraphs within subsection 3.06.14.B.
- 2. Separate violations. Each day a violation exists shall constitute a separate and distinct violation, ~~except that occupancy violations shall be governed by subsection 3.06.14.L.3.~~

K. Remedies/enforcement. Violations of this section 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 vacation rental program it is key that short-term vacation rental responsible parties are responsive and responsible in the management of the property for compliance with this section. Code enforcement activities will be in accordance with Florida Statutes Chapter 162 and the Flagler County Code of Ordinances.

- 1. 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, such as the Department of Business and Professional Regulation, the Department of Revenue, the Flagler County Tax Collector and the Flagler County Property Appraiser, as applicable. Non-compliance with a correction compliance period shall result in the issuance of a citation.
- 2. ~~Fines per violation shall be set by Resolution of the Board of County Commissioners for first (1st), second (2nd), third (3rd) and further repeat violations.~~ The County may utilize Part 1 of Florida Chapter 162 to prosecute a code violation and in such case a special magistrate shall be authorized to hold hearings, assess fines in accordance with the statute and order other relief in lieu of using any county code enforcement board. Alternatively, the County may utilize Part 2 of Florida Chapter 162 and pursue violations by way of a civil citation system as provided in its Code

of Ordinances. The civil citation fines per violation shall be set by Resolution of the Board of County Commissioners for first (1st), second (2nd), third (3rd) and further repeat violations. Regardless of whether the County utilizes Part 1 or 2, t~~The County may also utilize~~ rely on an appropriate enforcing agency at the state or local level.

3. Additional remedies. Nothing contained herein shall prevent Flagler County from seeking all other available remedies which may include, but not be limited to, ~~suspension or revocation of a Short Term Vacation Rental Certificate~~, injunctive relief, liens, and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.

L. Reserved. ~~Suspension of Short Term Vacation Rental Certificate.~~ In addition to any fines and any other remedies described herein or provided for by law, the County may suspend a Short Term Vacation Rental Certificate for multiple violations of the maximum occupancy in any continuous thirty six (36) month period, in accordance with the following:

1. ~~Suspension timeframes.~~

a. ~~Upon a fourth (4th) violation of the maximum occupancy the Short Term Vacation Rental Certificate shall be suspended for a period of seven (7) calendar days.~~

b. ~~Upon a fifth (5th) violation of the maximum occupancy the Short Term Vacation Rental Certificate shall be suspended for a period of thirty (30) calendar days.~~

c. ~~For each additional violation of the maximum occupancy the Short Term Vacation Rental Certificate shall be suspended for an additional thirty (30) calendar days up to a maximum period of twelve (12) months. For example the sixth (6th) violation shall be for sixty (60) calendar days; the seventh (7th) violation shall be for ninety (90) calendar days, and so on.~~

2. ~~Suspension restrictions.~~ A short term vacation rental may not provide transient occupancy during any period of suspension of a Short Term Vacation Rental Certificate.

a. The suspension shall begin immediately following notice, commencing either:

1. ~~At the end of the current vacation rental lease period; or~~

~~2. Within thirty (30) calendar days, whichever date commences earlier, or as otherwise determined by the County.~~

~~b. Operation during any period of suspension shall be deemed a violation pursuant to subsection 3.06.14.K.2 and shall be subject to daily fine, up to five hundred dollars (\$500.00) or to the maximum amount as otherwise provided in Florida Statutes for repeat violations, for each day that the short term vacation rental operates during a period of violation.~~

~~3. Number of violations. For purposes of this section only, violations shall be considered per the rental period or per every seven (7) days, whichever is less and for only those violations in which a code enforcement citation or criminal charge was issued. Violations could potentially occur over multiple times over the same rental period.~~

M. Reserved.

N. Vesting. Any holder of a Short-Term Vacation Rental Certificate Existing, legally established short term vacation rentals located in zoning districts and developments described in subsection 3.06.14.A as of December 31, 2015 ~~June 1, 2015~~ is ~~is~~ may become vested in the ways described below, provided they are otherwise in compliance with all other requirements contained herein.

~~To qualify for any vesting, existing short term vacation rentals shall have until June 1, 2015 to make a full and complete application for a Short Term Vacation Rental Certificate and until September 1, 2015 to receive a Short-Term Vacation Rental Certificate to come into compliance with the County's requirements.~~

1. Rental agreement vesting. It is recognized that likely there are existing rental/lease agreements for short-term vacation rentals in existence at the time of passage of the ordinance enacting this section which may not be in compliance with the terms of this section. Rental agreements that were entered into prior to the adoption of section 3.06.14 on February 19, 2015, ~~for the period to up to February 28, 2016~~ shall be considered vested. No special vesting process or fee shall be required to obtain this vesting benefit. Should any issue arise as to whether a rental agreement allows occupancy in excess of occupancy provided by a Short-Term Vacation Rental Certificate or as otherwise authorized in this subsection, the owner or responsible party shall establish a vested rental agreement to the satisfaction of the County, including providing electronic data that establishes the date on which an agreement was entered into. ~~other than demonstrating eligibility through the normal Short-Term Vacation Rental~~

~~Certificate process. Such rental/lease agreement(s) shall not be required to be submitted to the County to retain this vesting.~~

~~Any rental/lease agreement(s) entered into prior to February 19, 2015, for the period after March 1, 2016 shall be required to be submitted to the County for verification and go through a vesting hearing process for a final determination. All rental agreements entered into after February 19, 2015 and for any rental period beyond January 1, 2017 shall comply with the provisions of the ordinance enacting this section.~~

~~2. Temporary vesting of certain safety requirements. Some existing short-term vacation rentals may not meet the minimum life/safety standards (subsection 3.06.14.C.1) required herein. Correcting these measures may take some time to secure a licensed contractor, obtain the necessary permits, and complete the work. All short-term vacation rentals shall have until December 1, 2015 (six (6) months from June 1, 2015) to come into compliance with these standards. A provisional Short-Term Vacation Rental Certificate may be issued for up to a maximum of six (6) months from June 1, 2015 (until December 1, 2015) granting this time for the facility to comply with the physical changes required. No special vesting process or fee shall be required to obtain this vesting benefit other than demonstrating eligibility through the normal Short-Term Vacation Rental Certificate process.~~

~~3. Maximum occupancy vesting. In applying the standards of subsection 3.06.14.C to the short-term vacation rentals lawfully in existence prior to February 19, 2015, it is understood that there are properties that may otherwise physically qualify for larger occupancies if the maximum occupancy were set higher. In an effort to recognize investment backed expectations and yet balance and protect the interest of other single-family and two-family properties which ~~who~~ are not rental properties, there shall be a phasing-in of maximum occupancy.~~

The maximum occupancy for these properties may be temporarily allowed to be capped at no more than fourteen (14) transient occupants providing all other requirements of subsection 3.06.14.C can be met. This maximum occupancy density may be retained through February 28, 2018 in which case it shall be reduced by two (2) thereafter. The maximum occupancy density of twelve (12) transient occupants shall then be retained through February 28, 2021 and then shall be reduced by two (2) to reach the maximum occupancy herein. No special vesting process or fee shall be required to obtain this vesting benefit other than demonstrating eligibility through the normal Short-Term Vacation Rental Certificate process.

~~34. For those owners that desire a higher vesting occupancy and/or different vesting schedule, the owner of the property may make application for~~

consideration of an alternative vesting benefit. The alternative vesting process shall require the following information at a minimum, although the actual application and review process may require the applicant to submit request additional information:

- a. Submittal of a complete vesting application to include applicable fee;
- b. Issuance of Short-term Vacation Rental Certificate on the property otherwise meeting all other requirements herein;
- c. A written narrative and any tabulation/evidence showing what potential financial impacts the reduction in occupancy will create;
- d. Any prospectus, financial pro forma, or other information relied upon to make the investment into the property;
- e. Actual short-term vacation rental/lease agreements on the property for the last three (3) years showing the number of occupants for the short-term vacation rental unit per rental;
- f. Profit and loss statement for the property certified accurate by a Certified Public Accountant for the last three (3) years;
- g. Detailed gross and net revenues/expenses for the property to include but not be limited to: management fees, maintenance fees, utility costs, and similar expenses;
- h. Purchase price for the property and/or structure - If constructed by the owner, the construction costs of the facility;
- i. Any mortgage or debt on the property along with any monthly debt service payments; and
- j. All other information the applicant believes is relevant in establishing any vested rights claim and to demonstrate an extraordinary circumstance or consideration that should be weighed ~~considered~~ by the County.

The review process for an application for a higher vesting occupancy and/or different vesting schedule under this subsection will, at a minimum, provide for public notice to property owners within three hundred (300) feet of the subject property.

45. In the consideration of applications for vested rights under this subsection, such determinations shall be made by a special master, for which the use

and procedures therefor shall be by Resolution of the Board of County Commissioners.

- a. The determination of the special master shall be deemed final action. In considering an application for vested rights, the burden of demonstrating entitlement to a vested right from the provisions of the ordinance enacting this section shall be on the owner or applicant seeking to establish vested rights.
- b. Owners, seeking to establish vested rights, must demonstrate that the application of the ordinance enacting this section would inordinately burden an existing use of their real property or a vested right to a specific use of their real property.

56. A vested use shall ~~not~~ transfer to a subsequent owner provided that all applicable Short-Term Vacation Rental Standards continue to be met in addition to any specific vesting conditions. A vested use is not transferrable to another short-term vacation rental property.

67. If a vested use ceases for a period of one (1) year ~~six (6) months~~, then the vesting shall be considered to have lapsed and the short-term vacation rental will be subject to all Short-Term Vacation Rental Standards as if a new application.

- 2. Amendment to section 3.03.02, *AC-Agriculture district*, subsection B., *Permitted principal uses and structures*, to read as follows:

18. Short-term vacation rentals.

- 3. Amendment to section 3.03.03, *AC-2-Agriculture/forestry district*, subsection B., *Permitted principal uses and structures*, to read as follows:

7. Short-term vacation rentals.

- 4. Amendment to section 3.03.04, *R-1-Rural residential district*, subsection B., *Permitted principal uses and structures*, to read as follows:

6. Short-term vacation rentals.

- 5. Amendment to section 3.03.05, *R-1b-Urban single-family residential district*, subsection B., *Permitted principal uses and structures*, to read as follows:

4. Short-term vacation rentals.

6. Amendment to section 3.03.06, *R-1c-Urban single-family residential district*, subsection B., *Permitted principal uses and structures*, to read as follows:

4. Short-term vacation rentals.

7. Amendment to section 3.03.07, *R-1d-Urban single-family residential district*, subsection B., *Permitted principal uses and structures*, to read as follows:

4. Short-term vacation rentals.

8. Amendment to section 3.03.08, *R-2-Two-family residential district*, subsection B., *Permitted principal uses and structures*, to read as follows:

5. Short-term vacation rentals.

9. Amendment to section 3.03.09.01, *R-3-Multifamily residential district*, subsection B., *Permitted principal uses and structures*, to read as follows:

5. Short-term vacation rentals.

10. Amendment to section 3.03.09.02, *R-3b-Multifamily residential district*, subsection B., *Permitted principal uses and structures*, to read as follows:

5. Short-term vacation rentals.

11. Amendment to section 3.03.10, *MH-1-Rural mobile home district*, subsection B., *Permitted principal uses and structures*, to read as follows:

6. Short-term vacation rentals.

12. Amendment to section 3.03.11, *MH-2-Urban mobile home district*, subsection B., *Permitted principal uses and structures*, to read as follows:

3. Short-term vacation rentals.

13. Amendment to section 3.03.13, *Residential/limited commercial use district*, subsection B., *Permitted principal uses and structures*, to read as follows:

4. Short-term vacation rentals.

14. Amendment to section 3.03.20, *PUD-Planned unit development*, subsection B., *Permitted principal uses and structures*, to read as follows:

19. Short-term vacation rentals.

15. Amendment to section 3.03.20.2, *MUL-PUD-Mixed use, low intensity-planned unit development*, subsection B., *Permitted principal uses and structures*, to read as follows:

16. Short-term vacation rentals.

16. Amendment to section 3.03.20.3, *MUH-PUD-Mixed use, high intensity-planned unit development*, subsection B., *Permitted principal uses and structures*, to read as follows:

17. Short-term vacation rentals.

17. Amendment to section 3.03.21, *FDD-Future development district*, subsection B., *Permitted principal uses and structures*, to read as follows:

16. Short-term vacation rentals.

18. Amendment to section 3.08.02, *Specific definitions of certain terms used in this article*, to include the following definitions:

Bedroom: The term "bedroom" shall have the same meaning as in §381.0065(2)(b), Florida Statutes. The term "sleeping room" is the same as a bedroom.

Short-term vacation rental: Any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit which is also a "transient public lodging establishment." As used in section 3.06.14, the term "vacation rental" is the same as a short-term vacation rental.

Transient public lodging establishment: 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 (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. A "transient public lodging establishment" shall be considered as a non-residential, commercial business, whether operated for profit or as a not-for-profit, and be subject to the additional requirements of section 3.06.14 if the transient public lodging establishment is additionally considered to operate as a short-term vacation rental as defined herein.

SECTION 3. CODIFICATION AND SCRIVENER'S ERRORS

- A. The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances of Flagler County, Florida, as additions and amendments thereto, and shall be appropriately renumbered or relettered to conform to the uniform numbering system of the Code. Scrivener's errors may be corrected as deemed necessary.
- B. Only Section 2 herein shall be codified within the Flagler County Code of Ordinances. Sections not specifically amended herein shall remain unchanged.

SECTION 4. SEVERABILITY

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. EFFECTIVE DATE

This ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

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Signature page to follow**

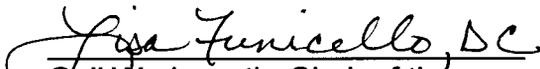
PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS
OF FLAGLER COUNTY, FLORIDA THIS 11TH DAY OF JANUARY, 2016.

FLAGLER COUNTY BOARD OF
COUNTY COMMISSIONERS



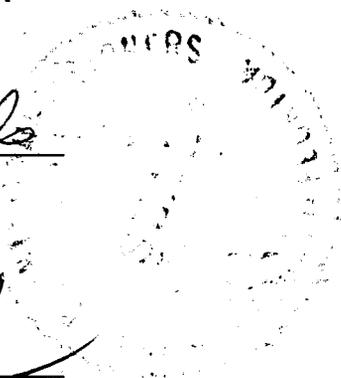
Barbara S. Revels, Chair

ATTEST:


Gail Wadsworth, Clerk of the
Circuit Court and Comptroller

APPROVED AS TO FORM:


Al Hadeed, County Attorney



ORDINANCE 15-807

AN ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA AMENDING CHAPTER 108, OF THE CODE OF THE CITY OF ANNA MARIA, 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; REQUIRING INSPECTION; SPECIFYING DUTIES OF VACATION RENTAL OWNERS AND ALLOWING AGENTS; PROVIDING MAXIMUM OCCUPANCY AND GRANDFATHERING OF OCCUPANCY; REQUIRING RENTAL AGREEMENT PROVISIONS AND POSTINGS; AND PROVIDING FOR SEVERABILITY, CODIFICATION AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ANNA MARIA, FLORIDA:

SECTION 1. Chapter 108, "Vacation Rentals" of the Code of Ordinances of the City of Anna Maria is hereby amended by repealing Chapter 108 in its entirety (as attached hereto as Exhibit "A") and replacing it to read as follows:

ARTICLE 1. IN GENERAL

Sec. 108-1. Authority, Scope and Purpose.

This chapter is enacted under the home rule power of the City of Anna Maria 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, as well as other transient public lodging establishments that do not have on-site management, which are located in the single family and two family residential dwelling zoning districts of the City of Anna Maria, 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 Anna Maria 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. 108-2. Findings of Facts

Based on information presented at various city commission meetings by residents of Anna Maria and owners and operators of Vacation Rentals, the practical first-hand experience and observations of city commissioners, common sense deductions of city commissioners based on long term experiences in Anna Maria, information learned by city commissioners from various residents, information from the U.S. Census, as well as evidence and testimony presented at public hearings before the City Commission, 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 Commission 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 are presently located within the single family and two family dwelling residential zoning districts of the City of Anna Maria.

(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) In 2011, the City of Anna Maria suffered an increase in the construction of new structures containing as many as six or more bedrooms which were subsequently used, with no notice to the City, as Vacation Rentals with as many as 22 or more transient occupants staying there at one time.

(9) According to the 2010 U.S. Census, the City of Anna Maria has an average household size of 1.89 persons.

(10) According to the 2010 U.S. Census, the City of Anna Maria has an average family size of 2.33 persons.

(11) Vacation Rentals situated in single-family and two-family residential neighborhoods can and do create a great disparity in occupancy.

(12) The presence of on-site management militates against the negative impacts of Vacation Rentals.

Sec. 108-3. 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 en suite 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 (November 19, 2015), 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.

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

“On-site management” means an office located at the site of a transient public lodging establishment that has, no less than eight (8) hours per day, seven (7) days a week, a person or persons physically present on site for purposes of supplying management, rental, and/or maintenance services for that particular transient public lodging establishment, and, when the office is closed, has a person who is available upon one hour’s phone notice to return to the transient public lodging establishment to supply management or maintenance services.

“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 Sec. 70-1 of the Anna Maria Code of Ordinances.

“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 that does not have on-site management, which is located in the single family and/or two family residential dwelling zoning districts of the City of Anna Maria.

“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, each and every person who owns 20% or more of the equitable interest in the Vacation Rental shall also be deemed a Vacation Rental Owner. 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 Commission. The Vacation Rental Owner shall be held responsible for all actions of such designated agent with respect to the applicable Vacation Rental.

Sec. 108-4. Enforcement.

Violations of this ordinance shall be enforced in accordance with the provisions of Chapter 2, Administration, Article III, Code Enforcement of this Code of Ordinances, and through fines in accordance with ordinances and resolutions adopted by the City Commission.

Sec. 108-5. Appeals.

Any decision of the Mayor 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 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. 108-6. Construction of chapter.

This chapter shall be liberally construed to accomplish its purpose of regulating Vacation Rentals, protecting the residential character of Anna Maria, the health, safety, and general welfare of its residents and visitors, and the quiet enjoyment by Anna Maria's residents of their residential property.

Sec. 108-7. Severability

In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Chapter, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Chapter shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this Chapter, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this Chapter, which shall remain in full force and effect. This Chapter shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this Chapter as expressed herein.

Sec. 108-8 – 108-20. Reserved.

ARTICLE 2. VACATION RENTAL REGISTRATION

Sec. 108-21. Registration required.

No later than April 1, 2016, every Vacation Rental Owner, either personally or through an agent, shall register with the City of Anna Maria utilizing forms promulgated by the City. 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 January 1, 2016. A separate 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 as provided hereinafter. Every day of such operation without registration shall constitute a separate violation.

Sec. 108-22. Vacation Rental registration.

- (a) A Vacation Rental Owner or agent, 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 a registration fee in the amount set by resolution of the City Commission.
- (b) A registration form shall include the following submittals:
 - (1) A completed Vacation Rental Registration form.
 - (2) Payment of applicable fee.
 - (3) A copy of the Vacation Rental's current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation, if the registrant has such license.
 - (4) A copy of the Vacation Rental's current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue, if the registrant has such certificate of registration.
 - (5) Evidence of the Vacation Rental's current and active account with the Manatee County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Manatee County Tax Collector, if the registrant has such account.
 - (6) *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.

(7) *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.

(c) If a registration form is incomplete, the registrant will be notified of the deficiency, and be allowed ten (10) days to provide any missing information or fees.

Sec. 108-23. Modification of Vacation Rental Registration.

An amendment of a Vacation Rental Registration shall be required 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 in the maximum occupancy of the Vacation Rental.
- (3) An increase or decrease in the number of parking spaces, or a change in the location of parking spaces for the Vacation Rental.
- (4) A change in ownership of the Vacation Rental.

Sec. 108-24. Duration of Vacation Rental Registration.

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

Sec. 108-25. 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.

Sec. 108-26. 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 (November 19, 2015).

- (b) Annual inspections shall be made by the City through appointment with the Vacation Rental Owner or agent, as applicable. If a City inspector has made an appointment with Vacation Rental Owner or agent, as applicable, for an inspection, and the City inspector 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 Commission 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 or agent, 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 Commission. Such violation shall continue until the inspection is accomplished. Each day that such violation continues shall be a separate violation.

Sec. 108-27. Transfer of Vacation Rental Registration

Vacation Rental Registrations are transferable only when the ownership of the Vacation Rental is sold or otherwise transferred, and the new owner has filed a modification of the registration with the City within thirty (30) days from the date of the sale or transfer. Failing such modification of the registration, any outstanding Vacation Rental Registration as to that Vacation Rental shall be null and void on the thirty-first (31st) day after such sale or transfer.

Sec. 108-28. 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 Anna Maria City Code or Comprehensive Plan, 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 Anna Maria City Code or Comprehensive Plan.

Sec. 108-29 – 108-42. Reserved.

Sec. 108-43. Duties of Vacation Rental Owner.

Every Vacation Rental Owner or agent, as applicable, shall be available by landline or mobile telephone answered by the Vacation Rental Owner or agent 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 Saturday, 9am to 6pm. Failure of the Vacation Rental Owner or agent, as applicable, to fulfil this duty, shall be a violation of this ordinance which shall be punished by fine as set by resolution of the City Commission.

Sec. 108-40 – 108-50. Reserved.

ARTICLE 3. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

Sec. 108-51. 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 Anna Maria.

Sec. 108-52. Minimum safety and operational requirements.

Vacation Rentals in the City of Anna Maria shall meet the applicable standards under the Florida Statutes, Florida Building Code and the Florida Fire Code and Life Safety Code, and each Vacation Rental shall have at least one telephone with the ability to call 911.

Sec. 108-53. 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 the lesser of:
 - (1) Two persons per bedroom that contains one hundred (100) square feet or more, (counting only those rooms that meet the definition of bedroom herein), plus one person per bedroom that contains no less than seventy (70) square feet, but less than one hundred (100) square feet, (counting only those rooms that meet the definition of bedroom herein), plus two persons.
 - (2) A total of eight occupants per Vacation Rental. In the event there is more than one building or dwelling on one platted lot, the maximum occupancy shall be capped at eight (8) occupants per lot or structure, whichever is less.
- (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, (November 19, 2015), may apply for the status of grandfathered for a period of five (5) years, as to occupancy limitations, and may cap its occupancy based upon the following criteria and procedures. Vacation Rentals that have an occupancy of eight (8) or less as determined according to Sec. 108-53 (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 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 Anna Maria 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, by no later than the time of registration of the Vacation Rental, but not later than April 1, 2016. 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 Anna Maria 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 as set by the City Commission by resolution. If there is such a determination by City staff, the City of Anna Maria 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. 108-54. Vacation Rental agreements – minimum provisions.

Vacation Rentals shall be rented, leased or occupied pursuant to a written rental agreement which contains, at a minimum, the following information:

- (1) Maximum occupancy of the Vacation Rental that is consistent with the Vacation Rental Registration.
- (2) The maximum number of vehicles that will be allowed to park at the Vacation Rental. Such number of vehicles shall not exceed the number of parking spaces located at the Vacation Rental as shown in the sketch submitted with the Vacation Rental registration, plus any other legal parking spaces that the Vacation Rental Owner can show are available to the Vacation Rental.
- (3) A statement that a sketch of the permitted off-street parking locations where Occupants may park according to the Vacation Rental Registration sketch and any other legal parking spaces available to the Vacation Rental will be posted at the Vacation Rental.
- (4) A statement that all Occupants must promptly evacuate from the Vacation Rental upon posting of any evacuation order issued by state or local authorities.
- (5) A copy of a document to be supplied by the City which includes excerpts from City of Anna Maria 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 Anna Maria 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.

Sec. 108-63. Required providing of Vacation Rental and local information - posting.

- (a) In each Vacation Rental, there shall be provided, in a prominent location, the following written information:
 - (1) The name, address and phone number of the Vacation Rental Owner or agent, as applicable.
 - (2) The maximum occupancy of the Vacation Rental.
 - (3) A copy of a document to be supplied by the City which includes excerpts from City of Anna Maria 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 Anna Maria 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.

- (4) The maximum number of vehicles that can be parked at the Vacation Rental, along with a sketch of the location of the off-street parking spaces.
 - (5) The days and times of trash pickup.
 - (6) The location of the nearest hospital.
- (b) There shall be posted, next to the interior door of each bedroom a legible copy of a building evacuation map – Minimum 8-1/2" by 11".

ARTICLE 4. EXEMPTIONS

Sec. 108-64. 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 Chapter 108, (November 19, 2015), (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 as Pre-existing Agreement under this Chapter.

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 Anna Maria 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 as set by the City Commission by resolution.

SECTION 2. Severability. In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this ordinance, and such holding shall in no manner affect the validity of the remaining words,

phrases, portions, sub-sub-sections, sub-sections, or sections of this Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as expressed herein.

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 Anna Maria. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

SECTION 4. Effective Date. This Ordinance shall be effective upon adoption by the City Commission and approval by the Mayor in accordance with the Charter of the City of Anna Maria. The City will not begin the enforcement of the standards and requirements relating to vacation rentals set forth in Article 3 of this Ordinance until April 1, 2016, or until such later date as the date registration is required if such date is extended by notice on the City's website.

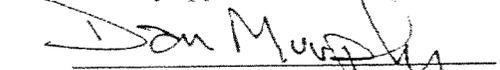
PASSED AND ADOPTED, by the City Commission of the City of Anna Maria, Florida, in regular session assembled, this 19 day of Nov., 2015.

Doug Copeland, Commissioner
Nancy Yetter, Commissioner
Charles Webb, Commissioner
Carol Carter, Commissioner
Dale Woodland, Commissioner



Doug Copeland, Chairman

I hereby approve this Ordinance:



Dan Murphy, Mayor

Nov. 19, 2015

ATTEST:



Diane Percycoe, City Clerk

Approved as to form and legality for
the use and reliance of the City of
Anna Maria only



Gretchen R. H. "Becky" Vose
City Attorney

ORDINANCE NO. C-15-29

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, CREATING ARTICLE X. – VACATION RENTALS, OF CHAPTER 15 – BUSINESS TAX RECEIPTS AND MISCELLANEOUS BUSINESS REGULATIONS, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO PROVIDE FOR REGULATION OF VACATION RENTALS AS DEFINED IN SECTION 509.242, FLORIDA STATUTES (2015); AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

WHEREAS, Subsection 163.3202(1), Florida Statutes (2015), requires municipalities to adopt and enforce land development regulations that are consistent with and implement their adopted comprehensive plans; and

WHEREAS, the City of Fort Lauderdale Comprehensive Plan Future Land Use Map designates areas for residential use that are intended primarily for dwellings as well as other land uses that support the residential environment; and

WHEREAS, the City of Fort Lauderdale established residential zoning districts within its Unified Land Development Regulations (“ULDR”) consistent with the residential land use designations of the City of Fort Lauderdale Comprehensive Plan Future Land Use Map; and

WHEREAS, the ULDR provides a list of permitted and conditional uses permitted within each zoning district and prohibits any use not substantially similar to those permitted uses; and

WHEREAS, Chapter 509, Lodging and Food Service Establishments; Membership Campgrounds, regulates public lodging establishments, which is divided into the two subcategories: transient public lodging establishment and nontransient public lodging establishment; and

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WHEREAS, Subsection 509.013(4)(a)1., Florida Statutes (2015), defines transient public lodging establishment as “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 one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.”; and

WHEREAS, land uses that are transient public lodging establishments, as defined in Section 509.013, Florida Statutes (2015), are non-residential uses not permitted within City’s single family residential zoning districts and are inconsistent with the City of Fort Lauderdale Comprehensive Plan Future Land Use Map; and

WHEREAS, the Chapter 2011-119, Laws of Florida, created a new classification of public lodging establishment known as vacation rentals that is defined in Section 509.242(c), Florida Statutes (2015), as “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.”; and

WHEREAS, Subsection 509.032(7), Florida Statutes (2015), provides that local laws, ordinances, or regulations may not prohibit vacation rentals or regulate the duration and frequency of rental of vacation rentals; and

WHEREAS, the Florida Attorney General opined in Advisory Opinion AGO 2014-09, that “[t]o the extent a zoning ordinance addresses vacation rentals in an attempt to prohibit them in a particular area where residences are otherwise allowed, it would appear that a local government would have exceeded the regulatory authority granted in Section 509.032(7)(b), Florida Statutes.”; and

WHEREAS, unregulated vacation rentals can create disproportionate impacts related to their size, excessive occupancy, and lack of proper facilities; and

WHEREAS, the presence of vacation rentals within residential dwelling units in established residential neighborhoods can create negative compatibility impacts, among which include, but are not limited to, excessive noise, on-street parking, accumulation of trash, and diminished public safety; and

WHEREAS, the other classifications of transient public lodging establishments are subject to stricter development standards, undergo annual inspections, and have more stringent operational and business requirements; and

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WHEREAS, many residential structures were constructed prior to the enactment of more current building and fire prevention codes that require minimum life, safety improvements, like hardwired or interconnected smoke detectors, carbon monoxide detectors, or pool safety drains, etc.; and

WHEREAS, Section 509.032(7), Florida Statutes, authorizes local governments to conduct inspections of public lodging establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to Sections 553.80 and 633.206, Florida Statutes (2015); and

WHEREAS, the City of Fort Lauderdale finds a substantial interest in furthering the public health, safety and welfare by controlling density, by protecting the residential character of areas designated for residential use, implementing its comprehensive plan, and establishing and enforcing minimum life safety standards;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Article X, Vacation Rental, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby created to provide as follows:

ARTICLE X. VACATION RENTAL

Sec.15-270. Purpose.

The city commission finds that certain transitory uses of residential property tend to 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 of Fort Lauderdale to mitigate impacts created by such transitory uses of residential property within the City of Fort Lauderdale. It is unlawful for any owner of any property within the geographic bounds of the City of Fort Lauderdale, Florida, to rent or operate a vacation rental of residential property contrary to the procedures and regulations established in this Article or applicable state statute, except as provided in subsection 15-272(b).

Sec. 15-271. Definitions.

For the purpose of this Article, the following terms, phrases, words, abbreviations and

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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 and not merely directory. Words not defined shall be given their meaning as provided in Section 1-2, Rules of construction, of the Code of Ordinances of the City of Fort Lauderdale, Florida.

Garbage as defined in Section 24.1 of the Code of Ordinances.

Residential property as defined in Section 47-35.1 of the Unified Land Development Regulations.

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

Transient Occupants means any person, or guest or invitee of such person, who occupies or is in actual or apparent control or possession of residential property registered as a Vacation 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 Vacation Rental is a Transient Occupant.

Vacation 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 more than three (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to Transient Occupants, but that is not a timeshare project.

Sec. 15-272. Registration Required.

(a) It is unlawful for any person to allow another person to occupy any residential property as a Vacation Rental within the City of Fort Lauderdale, or offer such rental services within the City of Fort Lauderdale, unless the person has registered the Vacation Rental property with the City of Fort Lauderdale and the Vacation Rental property has been issued a certificate of compliance in accordance with the provisions of this Article.

(b) A person may allow another person to occupy any residential property as Vacation Rental without the issuance of a certificate of compliance if:

1. The residential property has an effective and valid license as a Vacation Rental

classification of public lodging establishment issued by the Florida Department of Business and Professional Regulations prior to August 18, 2015; and,

2. The residential property is not in violation of any section of the Code of Ordinances of the City of Fort Lauderdale; and,

3. An application for registration of the residential property as a Vacation Rental has been filed pursuant to Section 15-273 and all applicable fees have been paid; and,

4. That said occupancy was scheduled prior to August 18, 2015 as evidenced by a written and validly executed rental agreement or contract provided to the City Manager no later than November 2, 2015.

Sec. 15-273. Application for registration.

Application for registration of a Vacation Rental shall be made to the City Manager or his or her designee and shall set forth at a minimum:

- (1) The legal description of the property offered for rental (i.e., address, lot, block and subdivision name);
- (2) Name, address, and phone number of owner of said property;
- (3) Name, address, and emergency contact phone number of Responsible party for said property, which shall be a twenty-four (24) hour, seven (7) days a week contact number;
- (4) That the phone number for the Responsible party will be answered twenty-four (24) hours a day, seven (7) days a week by the Responsible party;
- (5) Acknowledgements by owner of the following:
 - a. That all vehicles associated with the Vacation Rental must be parked within the subject property in compliance with the Code of Ordinances of the City of Fort Lauderdale;
 - b. That it shall be unlawful to allow or make any noise or sound that exceeds the limits set forth in Chapter 17, Noise Control;
 - c. That the owner shall comply with all applicable city, county, state and

federal laws, rules, regulations, ordinances and statutes.

- d. That no solid waste container shall be located at the curb for pickup before 6:00 p.m. of the day prior to pick up, and solid waste container shall be removed before midnight of the day of pickup;
 - e. That whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance of a 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;
 - f. That other properties are not jointly shared commodities and should not be considered available for use by transient occupants of the property subject of the application; and
- (6) Proof of owner's current ownership of the property;
 - (7) Proof of registration with the Florida Department of Revenue for sales tax collection and Broward County for Tourist Development Tax; and
 - (8) Proof of licensure with the Florida Department of Business and Professional Regulation for a transient public lodging establishment; and
 - (9) Proof of compliance with Subsection 15-275.

Submission of an incomplete registration application form shall result in rejection of the application.

Sec. 15-274. Fees for registration.

The City of Fort Lauderdale charges reasonable fees for registration to compensate for administrative expenses. The fees for registration shall be provided for, from time to time, by resolution adopted by the City Commission of the City of Fort Lauderdale.

Sec. 15-275. Responsible party required.

Whenever any property is required to be registered under this Article, the owner shall appoint a natural person who resides within twenty-five (25) miles of the Vacation Rental property, the distance measured using airline measurement from the closest property lines of

the Vacation Rental and the Responsible party's residence, to serve as the 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. An initial Responsible party shall be designated and name submitted with the application for registration, and the city manager or his designee shall thereafter be notified of any change of Responsible party within fifteen (15) days of such change. Further, it is the affirmative duty of the Responsible party to:

- (1) Inform all guests, in writing, prior to occupancy of the property of applicable City of Fort Lauderdale ordinances concerning noise, vehicle parking, garbage, and common area usage with a copy of the applicable City of Fort Lauderdale ordinances printed in the English language and posted prominently near the main entrance of the establishment;
- (2) Maintain all properties under their control in compliance with the occupancy limits, as specified in the Florida Building Code and the Code of Ordinances of the City of Fort Lauderdale, Florida, as determined by the building official or his designee;
- (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;
- (4) 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;
- (5) Be situated close enough to the property as to be able to, and shall, respond to emergency calls within one (1) hour of notification;
- (6) Keep available a register of all guests, which shall be open to inspection by authorized personnel of the City of Fort Lauderdale at all times; and
- (7) Maintain the entire property free of garbage and litter, provided however, that this subsection shall not prohibit the storage of garbage and litter in authorized receptacles for collection.

Sec. 15-276. False information.

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

Sec. 15-277. Minimum Requirements for Issuance of a Certificate of Compliance.

The city manager or his designee may issue a Certificate of Compliance to the applicant upon proof of the following:

- (a) The owner or Responsible party completes the City of Fort Lauderdale registration application form;
- (b) The registration fee has been paid to the City of Fort Lauderdale;
- (c) A business tax receipt from the City of Fort Lauderdale pursuant to Chapter 15 of the Code of Ordinances;
- (d) A business tax receipt from Broward County;
- (e) A Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes and transient rental taxes;
- (f) A Florida Department of Business and Professional Regulation license as a transient public lodging establishment;
- (g) An affidavit, demonstrating maintaining initial and on-going compliance with Vacation Rental Standards contained herein, plus any other applicable local, state and federal laws, regulations and standards to include, but not be limited to Chapter 509, Florida Statutes, and Rules, Chapter 61C and 69A, Florida Administrative Code; and
- (h) A copy of the form vacation rental/lease agreement to be used when contracting with Transient Occupants and guests.

Sec. 15-278. Vacation Rental Standards.

The following standards shall govern the use of any vacation 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, Chapter 515, Florida Statutes.
- b. Sleeping rooms. All sleeping rooms shall meet the single- and two-family dwelling minimum requirements of the Florida Building Code.
- 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 vacation rental unit, 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.
- e. That all vehicles associated with the Vacation Rental must be parked within the subject property in compliance with the Code of Ordinances of the City of Fort Lauderdale

2. Maximum occupancy. The occupancy of a Vacation Rental shall not exceed:

- a. One (1) person per one hundred fifty (150) gross square feet of permitted, air-conditioned living space, and
- b. Two (2) persons per sleeping room, meeting the requirements for a sleeping room.

3. Solid waste handling and containment. Based on the maximum transient occupancy permitted, City solid waste containers shall be as required in Chapter 24 of this Code. Appropriate screening and storage requirements for solid waste containers shall apply per any development approval and be incorporated into the Certificate. For purposes of this section, 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 midnight of the day of pickup.
4. Minimum vacation rental/lease agreement wording. The vacation rental/lease agreement shall contain the minimum information as provided for in this subsection 15-278.
5. Minimum vacation rental lessee information. The vacation rental lessee shall be provided with a copy of the information required in subsection 15-278 and shall post the following conspicuously within the establishment:
 - a. A statement advising the Occupant that any sound shall not be plainly audible for a period of one (1) minute or longer at a distance of twenty-five (25) feet or more when measured from the source property line between the hours of 10:00 p.m. and 7:00 a.m. daily and at a distance of fifty (50) feet or more when measured from the source property line between the hours of 7:00 a.m. and 10:00 p.m. daily;
 - b. A sketch of the location of the off-street parking spaces;
 - c. The days and times of trash pickup;
 - d. The notice of sea turtle nesting season and sea turtle lighting regulations, if applicable;
 - e. The location of the nearest hospital; and
 - f. The City's non-emergency police phone number.
 - g. There shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map – Minimum 8-1/2" by 11".
6. Designation of a vacation rental responsible party capable of meeting the duties provided in subsection 15-276.

7. Advertising. Any advertising of the vacation rental unit shall conform to information included in the Vacation Rental Certificate of Compliance and the property's approval, particularly as this pertains to maximum occupancy.
8. Sexual offenders and sexual predators. It is unlawful to allow another person to occupy any residential property as a Vacation Rental within the City of Fort Lauderdale, with the knowledge that it will be occupied by a person prohibited from establishing a permanent residence or temporary residence at said residential property pursuant to section 16-127 of the Code of Ordinances, if such place, structure, or part thereof, trailer or other conveyance, is located within one thousand four hundred (1,400) 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 Article VI, Chapter 16 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 Vacation Rental.
10. That all vehicles associated with the Vacation Rental must be parked within a driveway in compliance with the Code of Ordinances of the City of Fort Lauderdale.
11. Other standards. Any other standards contained with the Code of Ordinances and the Unified Land Development Regulations of the City of Fort Lauderdale to include, but not be limited to: noise, setbacks, stormwater and similar provisions.

Sec. 15-279. Initial and Routine Compliance Inspections of Vacation Rentals.

(a) An inspection of the dwelling unit for compliance with this section is required prior to issuance of an initial Vacation Rental Certificate of Compliance. If violations are found, all violations must be corrected and the dwelling unit must be re-inspected prior to issuance of the initial Vacation Rental Certificate of Compliance as provided herein.

(b) Once issued, a Vacation Rental unit must be properly maintained in accordance with the Vacation Rental Standards herein and will be re-inspected annually. For an inspection, all violations must be corrected and re-inspected within thirty (30) calendar days. Failure to correct such inspection deficiencies in the timeframes provided shall result in the suspension of the vacation rental certificate of compliance until such time as the violations are

corrected and re-inspected.

(c) The inspections shall be made by appointment with the Vacation Rental responsible party. If the inspector has made an appointment with the responsible party to complete an inspection, and the Responsible Party fails to admit the officer 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 of the City of Fort Lauderdale to cover the inspection expense incurred by the City of Fort Lauderdale.

(d) If the inspector(s) is denied admittance by the vacation rental Responsible Party or if the inspector fails in at least three (3) attempts to complete an initial or subsequent inspection of the rental unit, the inspector(s) shall provide notice of failure of inspection to the owner to the address shown on the existing vacation rental certificate of compliance or the application for vacation rental.

- (1) For an initial inspection, the notice of failure of inspection results in the certificate of compliance not being issued; the Vacation 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. 15-280. Registration not transferable.

No registration 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. 15-281. Expiration of registration.

All registrations issued under the provisions of this Article shall be valid for no more than one year, and all registrations shall expire on September 30th of each year. Dates for renewal and applicable late renewal fees shall be established by resolution of the City Commission of the City of Fort Lauderdale.

Sec. 15-282. Revocation.

(a) Any certificate of compliance issued pursuant to this Article may be denied, revoked, or suspended by the City Manager upon the adjudication of a violation of this Article, any City of Fort Lauderdale Ordinance, or state law by the Responsible party, property owner or

Transient Occupant attributable to the property for which the certificate of compliance is issued. 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 15-282(e).

(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 vacation rental program it is key that vacation rental Responsible Parties are responsive and responsible in the management of the property for compliance with this section. Code enforcement activities will be in accordance with Chapter 11 of the Code of Ordinances of the City of Fort Lauderdale, Florida and the Unified Land Development Regulations of the City of Fort Lauderdale.
- (2) Additional remedies. Nothing contained herein shall prevent the City of Fort Lauderdale from seeking all other available remedies which may include, but not be limited to, suspension or revocation of a Vacation 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 of Vacation Rental Certificate of Compliance. In addition to any fines and any other remedies described herein or provided for by law, a special magistrate may suspend a Vacation Rental certificate of compliance in accordance with the following:

(1) Suspension time frames.

- a. Upon a third violation of this Article the vacation rental certificate shall be suspended for a period of seven (7) calendar days.

- b. Upon a fourth violation of this Article the Vacation Rental Certificate shall be suspended for a period of thirty (30) calendar days.
- c. For each additional violation of this Article the Vacation Rental Certificate shall be suspended for an additional thirty (30) calendar days up to a maximum period of twelve (12) months. For example, the fifth violation shall be for sixty (60) calendar days; the sixth violation shall be for ninety (90) calendar days, and so on.

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

- a. The suspension shall begin immediately following notice, commencing either:
 - i. at the end of the current vacation rental lease period; or
 - ii. within thirty (30) calendar days, whichever date commences earlier, or as otherwise determined by the special magistrate.
- 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 One thousand dollars (\$1,000.00) or to the maximum amount as otherwise provided in Florida Statutes for repeat violations, for each day that the vacation rental operates during a period of violation.

(e) Number of violations. For purposes of this section only, violations shall be considered per the rental period or per every seven (7) days, whichever is less and for only those violations in which a code enforcement citation or criminal charge was issued. Violations could potentially occur multiple times over the same rental period.

Sec. 15-283. 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 manager or his designee. The city manager or his designee shall promptly record such complaint, investigate, and take action thereon in accordance with this article and Chapter 11 of the Code of Ordinances of the City of Fort Lauderdale, Florida.

Sec. 15-284. Enforcement.

The provisions of this Article shall be enforced as provided in Chapter 11 – Code Enforcement, of the Code of Ordinances of the City of Fort Lauderdale, Florida.

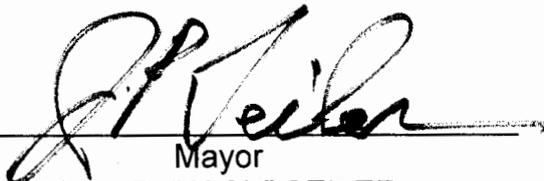
SECTION 2. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 3. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 4. That this Ordinance shall be in full force and effect on November 1, 2015.

PASSED FIRST READING this the 7th day of July, 2015.

PASSED SECOND READING this the 18th day of August, 2015.



Mayor
JOHN P. "JACK" SEILER

ATTEST:



City Clerk
JEFFREY A. MODARELLI

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CITY OF MARCO ISLAND

ORDINANCE NO. 15-01

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA CREATING A NEW ARTICLE AND NEW SECTIONS 8-100 THROUGH 8-104, INCLUSIVE, IN CHAPTER 8, BUSINESSES, IN THE MARCO ISLAND CODE OF ORDINANCES, CONCERNING THE REGISTRATION AND OPERATION OF SHORT-TERM RENTALS; PROVIDING APPLICABILITY; PROVIDING FOR REGISTRATION, INSPECTIONS AND FEES; PROVIDING FOR REQUIRED POSTINGS AND NOTICE; PROVIDING FOR INTERPRETATION AND ENFORCEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Marco Island finds that residential rental properties within the City are not being properly maintained or managed, creating a potential nuisance for neighboring properties; and

WHEREAS, the Council desires to ensure that residential properties available as short-term rentals are properly maintained and operated; and

WHEREAS, the Council finds that inadequately maintained and operated properties directly affect the surrounding neighborhoods and the City as a whole, and that the regular collection and maintenance of accurate information about rental properties will aid in ensuring compliance with this Ordinance and the Code in general; and

WHEREAS, the Council, therefore, desires to establish a registration program to educate rental property owners, their managers and tenants, on compliance with various statutory and Code requirements relating to the short-term rental of residential property; and

WHEREAS, intent of this Ordinance is to collect current and accurate information regarding rental properties and to encourage the appropriate management of those properties in order to protect the general health, safety and welfare of the residents of and visitors to the City of Marco Island.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA:

SECTION 1. Recitals.

The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct

46 and reflective of the legislative intent underlying this Ordinance.

47
48 **SECTION 2.** The Code of Ordinances, Marco Island, Florida, is hereby amended by
49 creating Article V, entitled "Short Term Rentals" and adding a section to be numbered 8-100, which
50 section reads as follows:

51
52
53 **ARTICLE V. SHORT TERM RENTALS**

54
55 **Sec. 8-100. Applicability; Definitions.**

56
57 (a) The provisions of this Article shall apply to "short-term rentals" which include any
58 dwelling or group of dwellings units, as defined in Section 30-10 of the Code, including those units
59 in a condominium, cooperative, mobile home, or timeshare dwelling located in the City that is, at
60 any time, available for rent or lease for a period of less than 365 days. This Article does not apply
61 to motels or hotels as defined in Section 30-10 of the City of Marco Island Code of Ordinances. As
62 used in this sub-section, the term "available for rent or lease" means that the dwelling is actually
63 being offered for rent or lease or is rented or leased for varying periods of time.

64
65 (b) All owners of properties subject to the provisions of this Article shall, prior to
66 offering their property for rent or lease to the public, register each dwelling with the City.

67
68 (c) In addition to their tenants, the owner of all applicable properties subject to this
69 Article are at all times be ultimately responsible for compliance with the terms of this Article, and
70 the failure of any tenants, their guests, or agents of the owner to comply will be deemed
71 noncompliance by the owner.

72
73 (d) Definitions. As used herein, unless the context affirmatively indicates to the
74 contrary, the following terms are defined to mean:

75 (1) "City Manager" means the City Manager, or the person or persons designated
76 by the City Manager, to administer the provisions of this Article on behalf of the City.

77 (2) "Designated Contact" means a person, property manager, or entity designated
78 by the owner of a particular dwelling to serve as the contact for the purpose of immediately
79 addressing or resolving the concerns of the tenants, or responding to and resolving complaints by
80 the City or other persons, regarding property or the conduct of the occupants of a particular
81 dwelling subject to regulation pursuant to this Article. The designated contact must have the
82 authority granted by the owner and the tenant to consent to allow a police, fire or code enforcement
83 entry onto the property to conduct an inspection. The owner may serve as the designated contact.
84 Alternatively, the owner may designate as the designated contact any natural person 18 years of age
85 or older. Alternate designated contacts may also be designated by the owner as part of a regulation
86 application subject to this Article.

87 (3) "Dwelling" means any building, or part thereof, intended, designed, used or
88 occupied in whole or in part as the residence or living quarters of one or more persons, permanently
89 or temporarily, continuously or transiently, with cooking and sanitary facilities. See Section 30-10,
90 Marco Island Code of Ordinances.

91 (4) "Owner" means the current title holder or owner as reflected on the current
92 Collier County *ad valorem* tax rolls as reflected in the Collier County Property Appraiser's Records.

93 (5) "Short-term rental" means any dwelling or group of dwellings, including
94 those units in a condominium, cooperative, mobile home, or timeshare dwellings located within the
95 City that is, at any time, available for rent or lease for a period of less than 365 days. A short-term
96 rental does not apply to motels or hotels, as defined in Section 30-10 of the Marco Island Code of
97 Ordinances. As used in this definition, the term "available for rent or lease" means that the
98 dwelling is actually being offered for rent or lease or is rented or leased for varying periods of time.
99

100 **SECTION 3.** The Code of Ordinances, Marco Island, Florida, is hereby amended by
101 creating Article V, entitled "Short Term Rentals" and adding a section to be numbered 8-101, which
102 section reads as follows:
103

104 **Sec. 8-101. Registration, Inspections and Fees.**
105

106 (a) Rental Property Registration.

107 (1) Except as provided in paragraph (2), registration is required for every dwelling
108 subject to this Article. If a property contains more than one (1) dwelling, a separate registration
109 shall be required for each dwelling. Registration application shall be made to the City Manager.
110 The City Manager shall review the registration application to determine that it is for a dwelling
111 subject to this Article and that all required information has been submitted as a part of the
112 registration application. Upon a determination that the dwelling is subject to this Article and that
113 the registration applicant has submitted all required information, the City Manager shall issue a
114 certificate of registration, noting: (A) the effective date of registration; (B) the termination of the
115 registration; (C) the dwelling owner's name; (D) the address and legal description of the dwelling
116 that is subject to the registration certificate; and (E) the designated contact's name, address,
117 telephone number, and e-mail address. The City Manager shall make all determinations with regard
118 to whether a dwelling is subject to regulation pursuant to this article and with regard to registration.
119

120 (2) Condominium, cooperative, mobile home, or home owner associations
121 acting in accordance with Chapters 718, 719, 720, or 723, Florida Statutes, respectively, may obtain
122 a blanket registration or request an exemption from registration for a portion or all of the entire
123 property subject to the jurisdiction of the association, encompassing all affected dwellings;
124 provided that such registration or exemption request is supported by a majority of the total
125 ownership of said dwellings included within a registration application or exemption request and is
126 as evidenced by either: (A) a written consent executed by all owners of a dwelling unit, lot, or other
127 similar parcel of land; or (B) a majority vote of those association members voting at an association
128 meeting at which a voting quorum was present and at which the issue to file a blanket registration or
129 an exemption request from the provisions of this Ordinance other than a semi-annual report "opt
130 out" was presented for a vote as an official action of the association. Notwithstanding whether a
131 blanket registration or exemption is granted by the City, the association shall report semi-annually
132 to the City each calendar year which dwellings are currently being used as short-term rentals.
133 However, in the event the association has been found in violation of this Article three (3) times by
134 the City's Special Magistrate within any 365 day time period, the blanket registration shall be
135 revoked by the City, and the dwelling owner(s) shall be so notified in writing by the City and each

136 affected dwelling unit will be required to obtain an individual registration. Notwithstanding the
137 foregoing, individual dwellings owners have the option of registering independently of their
138 association. Any owner so registering shall be excluded from an association blanket registration.

139 (3) At the time of application for the issuance of a registration pursuant to this
140 Article, each owner of a dwelling must show evidence of having obtained the requisite license, if
141 available and if required by Florida law or administrative regulation, or a qualifying exemption,
142 from the Division of Hotels and Restaurants of the Florida Department of Business and Professional
143 Regulation; provided, however that the failure to exhibit a license from the Florida Department of
144 Business and Professional Regulation shall not preclude the operation or registration of a short-term
145 rental. The City reserves its right to report said short-term rental to the state of Florida or Collier
146 County, if City officials believe that the dwelling should be licensed or otherwise regulated by the
147 state or County.

148 (4) The following information must be included in any application for
149 registration: (A) name, address, telephone number, and e-mail address of the owner, any property
150 manager of the dwelling, and the designated contact for the dwelling regulated by this Article and
151 subject to the application must be included in any application for dwelling registration with the City
152 pursuant to this Article; (B) if the designated contact is other than the owner, an agreement signed
153 by both the owner and the designated contact in which the designated contact agrees to perform the
154 duties of being a designated contact for the specific dwelling subject to registration and in which
155 the designated contact is authorized on behalf of the owner to consent to a search of the dwelling by
156 Marco Island Police, Fire or code enforcement; (C) the owner's agreement to use his or her best
157 efforts to assure that the use of the dwelling will be consistent with the Code of Conduct Policy as
158 specified in Section 8-102(7) of this Article V; and (D) any such other relevant information deemed
159 pertinent to the registration. The application must be signed and contain the date of execution by
160 the owner.

161
162 (b) Duties of the owner or designated contact. The duties of the owner or designated
163 contact are to:

164 (1) Be available at all times at all times to handle any problems arising from
165 the dwelling registered pursuant to this Article;

166 (2) Be able and willing to email, text or telephone the tenant or guest pursuant
167 to this Article and notify the City of the results within one (1) hour following notification from
168 the City of issues related to the dwelling; and

169 (3) Receive service of any notice of violation of this Article.

170
171 (c) Inspections. Upon filing of a registration application with the City for a dwelling,
172 every short-term rental dwelling is subject to an initial inspection to ensure compliance with the
173 applicable Florida Building Code, and Fire Prevention Code provisions. Dwellings permitted prior
174 to March 1, 2002 shall be subject to annual re-inspection. Dwellings permitted after March 1, 2002
175 will be subject to biennial re-inspections until December 31, 2025 at which time such dwellings will
176 be subject to annual re-inspection.

177
178 (d) Term and Renewal. Initial registrations filed prior to January 1, 2016, are valid
179 through December 31, 2016. All subsequent registrations are valid for a term of one (1) calendar

180 year until the end of the calendar year in which the registration was issued. Renewal applications
181 that are not submitted in a complete and final form within 30 days of the expiration of the preceding
182 term may be treated similar to new registrations and subject to additional inspections and fees.

183 (e) Fees. Each dwelling subject to this Article shall pay the applicable building and fire
184 inspection fee assessed at the time of registration and paid upon completion of inspections in
185 accordance with Chapters 6 and 22 of the City Code or as otherwise established by resolution of the
186 City Council. All fees required under this article, including administrative fees, operating and
187 capital, if any, shall be adopted by resolution, reviewed annually, and placed in a self-sustaining
188 special revenue fund.

189 (f) Agency. Any owner who engages the services of an agent, property manager, or
190 other representative for the purposes of compliance with this Article shall indicate so in their
191 registration.

192 (g) Modification and Transferability. The occurrence of any of the following shall
193 require the filing of an updated registration application with the City within thirty (30) days
194 thereafter: (1) any alteration, remodel, or other modification to any building or structure subject to
195 this Article requiring the issuance of a building permit; (2) any change in the ownership of the
196 dwelling; or (3) any other material change in the registration application, including the designation
197 of a new contact person. Any such updates, which require re-inspection, may be subject to
198 additional fees. Designation of a new agent or designated contact person more than three (3) times
199 within any 365 day time period shall be subject to an administrative fee.

200 (h) Non-Exclusive. The registration and fees required by this Article shall be in addition
201 to any other tax, certificate, permit, or fee, required under any other provision of the City Code.
202 Registration pursuant to this Article shall not relieve the owner of the obligation to comply with all
203 other provisions of the City Code pertaining to the use and occupancy of the dwelling or the
204 property on which it is located.

205 (i) Electronic Registration. The City may establish an electronic registration system for
206 the registry of property, payment of fees, scheduling of inspections, and updating of information
207 required by this Article.

208
209 **SECTION 4.** The Code of Ordinances, Marco Island, Florida, is hereby amended by
210 creating Article V, entitled "Short Term Rentals" and adding a section to be numbered 8-102, which
211 section reads as follows:

212
213 **Sec. 8-102. General Provisions.**

214
215 All owners of dwellings registered as provided herein shall comply with the following:

216
217 (1) Designated Contact. Each applicant for registration shall at the time of application
218 designate a designated contact for the purpose of addressing the concerns of the tenants or
219 responding to complaints by the City or other persons regarding the conduct of the occupants of a
220 dwelling subject to regulation pursuant to this Article. When an entity is designated, the registration
221 shall include the name of a specific contact person(s); provided, that in all events, there shall be a
222 designated person available for contact by the City for each hour or each day, seven days per week.
223 The designated contact shall respond to concerns regarding potential violations of this Article
224 within one (1) hour of receiving a contact call from the City. The designated contact shall promptly

225 make at least three (3) attempts following the receipt of a complaint from the City to contact the
226 tenants and resolve the complaint. The designated contact is also responsible for documenting the
227 complaint; the date and time of receipt of the complaint from the city; the date and time of attempts
228 to contact the tenant(s) and the result of the contact; the nature of the response by the tenant(s); and
229 forwarding that documentation to the City Manager within one (1) hour of their response to the
230 initial complaint.

231 (2) Occupancy Limits:

232 a. In no case shall the maximum total occupancy for any dwelling exceed the
233 limits permitted by the Florida Fire Prevention Code or Florida Building Code.

234 b. In addition to the foregoing, the maximum overnight tenant occupancy load
235 of any unit shall not exceed two (2) persons for each bedroom, as "bedroom" is defined under the
236 Florida Building Code, in the rental, plus two (2) persons.

237 c. Before the hours of 7 AM, or after 10 PM, on any day, the occupancy load of
238 the unit may not exceed the maximum allowed number of overnight tenants.

239
240 (3) Recordkeeping. The owner of each dwelling shall maintain a registry of all tenant(s),
241 their address, telephone number, and e-mail address, and the make, model, year, and tag number of
242 their motor vehicle(s) located at the dwelling. The owner shall maintain this information for each
243 tenant for a minimum of two (2) years. The owner or designated contact shall make the information
244 regarding the current tenant(s) available to the City within one (1) hour of a request by the City
245 Manager.

246
247 (4) Vehicles and Parking. Tenants or guests of any registered unit shall not:

248 a. Engage in any prohibited parking activities as provided in Sections 50-37 or 30-
249 1007 of the City of Marco Island Code of Ordinances.

250 b. Park any boat or boat trailer in a residential zoning district, unless fully enclosed
251 in a structure so that it cannot be seen from any abutting property, public way, or waterway. As
252 used in the foregoing sentence, the term "residential zoning district" shall include properties zoned
253 Residential Single Family (RSF), Residential Multiple Family 6 units per acre (RMF-6), Residential
254 Multiple Family 12 units per acre (RMF-12), Residential Multiple Family 16 units per acre (RMF-
255 16), and Residential Tourist (RT).

256 c. Utilize recreation vehicles for sleeping or overnight accommodations at any
257 property regulated by this Article.

258
259 (5) Waterways and Vessels. Vessels may be moored, berthed, or otherwise stored on an
260 approved docking facility; however no vessels may be docked or stored in a manner that constitutes
261 a hazard to navigation and trailers shall also be stored in a legal manner, as authorized by the Marco
262 Island Code of Ordinances.

263
264 (6) Refuse. As provided by section 18-36 of the Marco Island Code of Ordinances, refuse,
265 trash, and recycling may not be left out by the curb on a public right-of-way for pick-up until 6 PM
266 on the evening before the scheduled trash or recycling pick-up day with all trash, refuse or recycling
267 containers removed thereafter by 7 PM on the evening of the day of refuse, trash, or recycling
268 pickup, as applicable.

269 (7) Noise. Tenants and their guests must comply with the requirements of Chapter 18,
270 Article IV, Noise Control, of the Marco Island Code of Ordinances, and not unnecessarily make,
271 continue or cause to be made or continued, any noise disturbance as defined therein.

272
273 (8) Code of Conduct Policy. As a general policy and aspirational goal, tenants and
274 their guests are required to adhere to a "good neighbor" Code of Conduct Policy by which they will
275 be respectful of their neighbors and not disrupt the peace and tranquility of their neighbors; not
276 make raucous, loud, or unnecessary noise at any time; not set off fireworks in violation of the city
277 code, not allow drunken, disorderly, or intoxicated conduct on the short-term rental dwelling
278 property; and not violate parking or occupancy restrictions. The owner shall provide a copy of the
279 Code of Conduct "good neighbor" Policy to all tenants at the commencement of occupancy of a
280 dwelling.

281
282 (9) Fireworks. The use of fireworks is not permitted and violators will be prosecuted.
283 See section 22-32(b)(ii)(3)(i)a, of the Marco Island Code of Ordinances.

284
285 (10) Advertisement. It shall be unlawful to offer or advertise any short-term rental dwelling
286 for rent or lease in the City without that unit first being registered as provided in this Article.
287 Where advertised, the registration number provided by the City must appear on all forms of
288 advertisement and on the landing or "home" page for the dwelling when advertised over the
289 internet. Alternatively, the registration number of a designated contact or property manager can
290 appear in lieu of the individual property registrations numbers.

291
292 (11) Compliance with Other Regulatory Authorities. Properties subject to this Article must
293 meet all applicable requirements of state law. To the extent provided by general law, violation of
294 any state law relating to the subject matters contained in the Article shall also constitute a violation
295 of this subsection; provided that no penalty under this Article shall be greater than that authorized
296 by state law for violation of the state law provision.

297
298 (12) Evacuation. All rental properties shall be evacuated as required upon the posting of a
299 nonresident evacuation order issued by the City, County or State.

300
301 **SECTION 5.** The Code of Ordinances, Marco Island, Florida, is hereby amended by
302 creating Article V, entitled "Short Term Rentals" and adding a section to be numbered 8-103, which
303 section reads as follows:

304
305 **Sec. 8-103. Required Postings and Notice.**

306
307 (a) Each registered dwelling shall have a clearly visible and legible notice conspicuously
308 posted within the dwelling, containing the following information:

309 (1) The designated contact for the unit and a telephone number where the
310 designated contact may be reached on a 24-hour basis.

311 (2) The occupancy limits, total and overnight, for the dwelling.

312 (3) The maximum number of vehicles allowed to be parked on the property and
313 the location of on-site parking spaces.

- 314 (4) The trash and recycling pick-up day(s).
315 (5) A notice that no fireworks shall be set off and a statement that violations will
316 be prosecuted.
317 (6) A summary of the City's noise ordinance.
318

319 (b) The information set forth in sub-section (a) must be kept current at all times by the
320 dwelling owner. All tenants must be provided a Code of Conduct summary of the remaining
321 general provisions of this Article including the penalties for violation as set forth in in section 1-14
322 of the City of Marco Island Code of Ordinances, and a copy of the current City registration.
323

324 **SECTION 6.** The Code of Ordinances, Marco Island, Florida, is hereby amended by
325 creating Article V, entitled "Short Term Rentals" and adding a section to be numbered 8-104, which
326 section reads as follows:
327

328 **Section 8-104. Interpretation; Enforcement.**
329

330 (a) Interpretation. All questions of interpretation, or application, of the
331 provisions of this Article shall first be presented to the City Manager. In interpreting or
332 determining the application of the provisions of this Article, the City Manager shall be guided
333 first by the plain meaning of the words and terms in the code and second by the intent expressed
334 therein. Thereafter, the City Council shall have the authority to hear and decide appeals from the
335 decision or interpretation by the City Manager.

336 (b) Enforcement. Any violation of the provisions of this Article may be
337 prosecuted and shall be punishable as provided in section 1-14, or chapter 14, of the City of
338 Marco Island Code of Ordinances, including but not limited to: (i) a fine of up to \$500 per
339 violation, per day for continuing repeating violations; (ii) by civil citation up to \$500 per offense;
340 (iii) by the seeking of injunctive relief through the courts, or; (iv) any combination thereof. Each
341 day of renting a dwelling without having a registration certificate issued pursuant to this Article
342 shall constitute a separate and distinct violation of this Article. Tenants and owners may be
343 prosecuted concurrently.
344

345 **SECTION 7. Codification.**
346

347 It is the intention of the City Council, and it is hereby ordained that the amendments to the
348 City of Marco Island Code of Ordinances made by this Ordinance shall constitute a new Article V
349 to Chapter 8 of the City of Marco Island Code of Ordinances, and that the sections of this Ordinance
350 may be renumbered and re-lettered as necessary, and that the word "Ordinance" may be changed to
351 "Section, "Article" or other appropriate word.
352

353 **SECTION 8. Conflicts.**
354

355 All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict
356 with the provisions of this Ordinance are hereby superseded and resolved to the extent of any
357 conflict in favor of the provisions of this Ordinance.
358

SECTION 9. Severability.

(a) If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases portions 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.

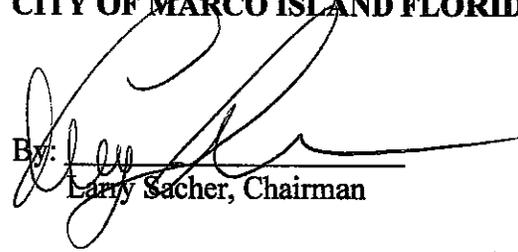
(b) That in interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks (* * * *) indicate a deletion from the Ordinance of text, which exists in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

SECTION 10. Effective Date.

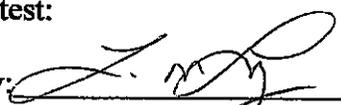
This Ordinance shall become effective on July 1, 2015, following its adoption by the City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 4th day of May 2015.

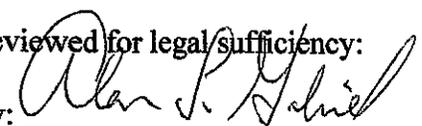
CITY OF MARCO ISLAND FLORIDA

By: 
Larry Sacher, Chairman

Attest:

By: 
Laura M. Litzan, City Clerk

Reviewed for legal sufficiency:

By: 
Alan L. Gabriel, City Attorney



ORDINANCE NO. 06-03

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING DIVISION 6 OF ARTICLE VI OF CHAPTER 30 OF THE VILLAGE CODE GOVERNING VACATION RENTAL USES; PROVIDING FOR INTENT AND PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR VACATION RENTAL USE OF RESIDENTIAL PROPERTIES; PROVIDING FOR REGISTRATION OF EXISTING VACATION RENTAL UNITS; PROVIDING FOR ANNUAL REGISTRATION OF VACATION RENTAL USES; PROVIDING FOR VACATION RENTAL LICENSE REGULATIONS; PROVIDING FOR VACATION RENTAL USE AND OCCUPANCY RESTRICTIONS; PROVIDING FOR ENFORCEMENT OF VACATION RENTAL REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL CONFLICTING PROVISIONS OR REGULATIONS INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF COMMUNITY AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF COMMUNITY AFFAIRS

WHEREAS, Islamorada, Village of Islamorada, Florida (the "Village") has an adopted Comprehensive Plan found in compliance pursuant to Chapter 163, Florida Statutes; and

WHEREAS, Islamorada, Village of Islands, Florida (the "Village") finds it appropriate and necessary to restrict the use of residential properties for vacation rental purposes in order to preserve the character and quality of residential neighborhoods; and

WHEREAS, the Village's adopted Comprehensive Plan provides for the continued use of certain properties, and the discontinuation of use of other properties, for vacation rental purposes under certain land use categories and zoning districts; and

WHEREAS, the Village desires to amend its land development regulations to implement the vacation rental provisions of the Comprehensive Plan; and

WHEREAS, the Village Local Planning Agency has reviewed this Ordinance in accordance with the requirements of Chapter 163, Florida Statutes; and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development in the Florida Keys Area of Critical State Concern, Chapter 380.0552(7), Florida Statutes.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Vacation Rental Regulations. Division 6 of Article VI, Chapter 30 of the Village Code is hereby amended to read as follows¹:

Division 6

Section 30-1291. Intent and purpose. The intent and purpose of this division is to protect single family homes and residential neighborhoods from the adverse impacts of vacation rental uses; to limit new vacation rental properties to Residential Conservation, Residential Low, Residential High, Mixed Use and Residential High Airport future land use map category areas where vacation rental uses are compatible; and to provide a reasonable period of time for the amortization of existing vacation rental uses within residential areas where the continuation of such uses are not compatible with the character of the neighborhoods and the quiet enjoyment of residential properties therein.

Section 30-1292 Definitions. The words and phrases used in this division shall have the meanings prescribed in this chapter, except as otherwise defined below:

Occupant means any lessee, tenant or other person who, for consideration, occupies a residential dwelling unit pursuant to a vacation rental agreement.

Owner means the fee simple owner of any residential dwelling unit as reflected by the public records of Monroe County, Florida.

Property Manager means any ~~local person or entity~~ other than an owner who resides in the Village and is responsible for the leasing or day-to-day maintenance and operation of a residential dwelling unit used as a vacation rental use.

Vacation Rental Unit means a single family or multi-family residential dwelling unit or mobile home that operates for vacation rental use.

Vacation Rental Use means a use of a single family or multi-family residential dwelling unit or mobile home that is rented, leased or exchanged for a period of ~~less than~~ 28 days or less, also referred to as Transient Rental Use pursuant to the Village Comprehensive Plan.

¹Additional text is shown as underlined; deleted text is shown as ~~strikethrough~~

Vessel means any boat or watercraft, including personal watercraft, as defined in F.S. ch. 327.

~~Section 30-1293. Discontinuation of vacation rental uses required in certain future land use categories. Vacation Rental Use of Residential Properties. No later than May 1, 2003, all vacation rental uses shall be discontinued on property located in the residential future land use categories of the Village Comprehensive Plan, except for those multifamily developments as described in section 30-1294. Notwithstanding the above, if a property used for vacation rental uses any time after the effective date of Ord. No. 01-12 and before May 1, 2003, shall be determined on more than two occasions by nonappealable final order to have violated this Code, the vacation rental use shall be discontinued. The vacation rental use of single family and multifamily residential properties within the Village shall be allowed, including properties located within the Residential Conservation (RC), Residential Low (RL), Residential Medium (RM), Residential High (RH), Mixed Use (MU) and Airport (A) Future Land Use Map categories. Vacation rental use allowed under this policy shall not be considered as part of the cap on transient units contained in Policy 1-2.1.10 of the Comprehensive Plan.~~

~~Section 30-1294. Vacation rental uses permitted within certain multifamily developments.~~

~~Vacation rental uses shall be permitted to continue after May 1, 2003, in property located in the Residential High (RH) future land use category of the Village Comprehensive Plan within multifamily developments with mandatory property associations, and if the member property owners pursuant to applicable association requirements approve vacation rental uses within such multifamily development.~~

Registration of Existing Vacation Rental Units.

(a) The owner of a property located in the RC, RL, RM, RH, MU, and A Future Land Use Map categories may continue vacation rental use provided that the owner's use of the unit meets all of the following conditions:

(1) Since December 6, 2001, the owner has continuously either paid or filed for all County tourist development taxes due and paid local impact fees for the unit it wishes to register as a vacation rental use;

(2) The owner has applied for and received the appropriate state licensure to conduct vacation rental use for the unit;

(3) The property is not registered for a homestead tax exemption pursuant to Article VII, Section 6 of the Constitution of the State of Florida;

(4) The unit is not a deed restricted affordable housing unit; and

(5) The property otherwise meets all requirements of the Village Land Development Regulations.

(b) Notwithstanding the provisions of (a)(2) if the owner has not received the appropriate state licensure to conduct vacation rental at the property, a provisional registration certificate shall be issued effective for only six months. Within six months from the date of application the owner must submit a copy of the appropriate state licensure to the Village or the provisional registration certificate shall become null and void.

(c) An application fee shall be established by resolution of the village council. The application fee shall be paid upon application for an initial vacation rental license and all subsequent annual licenses. Funds collected by the application fee shall be used for code compliance related to vacation rental uses, with any excess funds to be used to further affordable housing programs. For purposes of this section code compliance shall also include all activities required to process the applications, inspections, and prosecutions.

Section 30-1295. Annual Registration of vacation rental uses.

(a) Every owner operating a vacation rental use within the Village shall register the use with the Village during the initial annual registration period which shall be determined by the Director of Planning and Development Services. At the time of initial registration, every such each owner shall demonstrate to the satisfaction of the community Planning and Development Services director that all necessary state sales tax, and Monroe County bed taxes, tourist development taxes, state licenses and Monroe County occupational licenses have been paid for

the year since May 1, 1999. No vacation rental use may continue unless it has been registered according to this section.

(b) For each annual registration period after the initial registration period, the following conditions shall additionally apply:

- (1) No new vacation rental unit shall be allowed in any Residential Medium (RM) Future Land Use Map category, in mobile home parks or in the Settler's Residential zoning district.
- (2) No new vacation rental unit in the RH and MU Future Land Use Map categories may be registered unless it is assessed by the Monroe County Property Appraiser at a value in excess of 600% of the median adjusted gross annual income for households within Monroe County.
- (3) No new vacation rental unit in the RC, RL, or A Future Land Use Map categories may be registered unless it is assessed by the Monroe County Property Appraiser at a value in excess of 900% of the median adjusted gross annual income for households within Monroe County.

(c) The annual registration shall allow up to a total of 331 single family and multifamily vacation rental units. The priority of registration for vacation rental units for all registration periods, for the purpose of setting the order of priority for issuance of licenses for the 331 unit cap, shall be based upon the total number of months that the unit owner has paid the Monroe County tourist development tax, with units registered in ascending order (i.e., those licenses demonstrating the most months of payment shall be the last retired). Notwithstanding the provisions of Section 30-1294(a), if the 331 unit cap is not reached in any year by those units that have paid the Monroe County tourist development tax, new units may be given priority by registration date.

Section 30-1296. Vacation rental license regulations.

- (a) Generally. Every owner operating a vacation rental use within the Village must initially obtain an active Village vacation rental license for each vacation rental unit

~~from the village pursuant to this section~~ subsequent to approved registration and maintain the license during all terms of rental.

- (b) Application. The application for vacation rental license shall be in the form required by the Village Planning and Development Services director and shall contain:
- (1) An signed and notarized acknowledgment that the property owner has read and fully understands the Village's vacation rental use regulations.
 - ~~(2) The village's vacation rental use regulations.~~
 - (2) A copy of all necessary county occupational licenses.
 - (3) A copy of all necessary State licenses, including but not limited to all licenses from the Division of Hotel and Restaurants, Florida Department of Business and Professional Regulation as required by Chapter 509, Florida Statutes, for a public lodging facility, if the property shall so qualify.
 - (4) A copy of any deed, subdivision, or condominium restriction applicable to the proposed vacation rental unit.
 - (5) The number and location of approved parking spaces on the property;
 - (6) The name, address and 24-hour telephone number(s) of the owner, the property manager, and of a secondary contact person residing in Monroe County north of the Seven Mile Bridge in case the property manager or owner is not available; and
 - (7) Mailing labels with the current names and addresses of adjacent property owners.
- (c) Name. Each vacation rental unit requires a Village vacation rental license in the name of the owner.
- (d) Term of license. Each vacation rental license shall have a term of one year, and must be renewed by the owner or the owner's authorized agent prior to expiration in order to avoid interruption of permitted vacation rental activity. ~~After May 1, 2003, The~~ All new and renewal applications shall be accompanied by an inspection report by the Village Fire ~~marshal~~ Chief that the vacation rental unit meets the applicable

provisions of Rule 4A ~~69A~~-43, Florida Administrative Code and the Florida Fire Prevention Code (as may be amended).

- (e) Delinquent license. Those ~~permits~~ licenses not renewed when due and payable are delinquent and subject to a delinquency penalty of ten percent for the first month of delinquency, plus a five percent penalty for each subsequent month of delinquency until paid. However, the total delinquency penalty may not exceed 25 percent of the license fee for the unit. The renewal of any license shall require a new license fee. During the period of delinquency, the vacation rental license is deemed inactive and no rental activity may occur. A vacation rental unit that does not have its license renewed within a year of its term will be ineligible for renewal and must re-register.
- ~~(e) Transfer of license. Vacation rental licenses may be transferred from one owner to another, but not from one vacation rental unit to another. In the event ownership or property management of a permitted unit is changed, except where the unit must then be discontinued pursuant to these regulations, the new owner shall be required to apply for and receive the license within 30 days of the transfer, and pay the village a license transfer fee of \$25.00.~~
- (f) Transferability. Property owners permitted vacation rental use of a unit pursuant to this section shall lose their privileges and retire their licenses when ownership (in whole or in part) of the unit is transferred, through an arm's length sale of the property or the asset. If the unit is owned by a natural person, the transfer of the fee simple ownership of the unit to the owner's spouse or children shall not result in termination of the license.

Section 30-1297. Vacation rental use and occupancy restrictions.

All use and occupancy of vacation rental units shall be in accordance with the following:

- (1) No vacation rental use in a residential subdivision shall be for less than seven days, unless otherwise permitted in a tourist commercial zoning district.
- (2) Motor vehicles and vessel trailers shall only be parked in driveways or other areas designed and designated for parking on the vacation rental unit property, and not on

the street or extending over the right-of-way or sidewalk. The number of motor vehicles and vessel trailers parked at on a vacation rental use unit property shall not exceed the maximum number of permitted parking spaces identified in the application. Only motor vehicles of registered occupants may be parked overnight. No ~~motor home camper~~ recreational vehicle, sport utility vehicle or any other motor vehicle or vessel parked or moored at the vacation rental unit property shall be used for sleeping, liveaboard use or other overnight accommodations.

- (3) For vacation rental units that contain dock areas, ~~occupants may dock no more than two vessels per unit~~ the total length of moored vessels shall not exceed the length of the shoreline and no vessel shall be moored against another vessel or create a navigational obstruction or hazard.
- (4) All trash and debris shall be kept in covered trash containers. Each vacation rental unit shall be equipped with adequate covered trash containers for such purposes. Occupants shall comply with all trash provisions and recycling provisions that are applicable to the vacation rental unit. Schedules of garbage pick-up and recycling pickup shall be posted with the rental agreement.
- (5) The maximum occupancy load of any vacation rental unit shall not exceed two adults ~~for each~~ per bedroom (children over ~~12~~ six shall be considered adults for purposes of this section), ~~plus two persons~~ or the lesser of such other maximum occupancy load level as may be set by either the Florida Fire Prevention Code for the particular residential dwelling unit pursuant to its administration rule making authority or the Village building official.
- (6) All vacation rental units shall comply with all building and fire safety codes for public lodging establishments as required by state law or this Code.
- (7) Prior to occupancy of a vacation rental unit, the occupants of each unit shall be provided with a written copy of the use and occupancy restrictions contained herein in the form of a copy of these regulations and a written rental agreement. Each owner or property manager shall have a written agreement requiring an occupant who agrees to be responsible for all occupants during the rental term to comply with such

restrictions as a condition of the agreement, signed by such occupant prior to occupancy. A copy of these use and occupancy restrictions shall also be prominently displayed in each vacation rental unit in no less than 16-point type, along with a warning in bold type, that any violation thereof shall constitute grounds for immediate termination of the rental agreement, eviction from the vacation rental unit by the owner or property manager and appropriate fines levied.

- (8) All lease and rental agreements shall contain in bold type, the following:
- a. Each occupant's (by family) home address and phone number;
 - b. Property manager's address and 24-hour phone number(s); and
 - ~~c. Owner's address and phone number where no property manager is available, the local contact person;~~
 - c. The phone number at the vacation rental unit.
- ~~and must contain, in bold type, these occupancy and use restrictions. A copy of the rental agreement must be maintained on the property at all times and made available for review at the request of the sheriff or deputy sheriff, municipal police officer, code compliance officer, or other designated village representative. Failure to maintain a copy of the rental agreement and to make it available upon request shall constitute a violation of these regulations~~
- (9) A copy of the rental agreement must be maintained on the property at all times and made available for review at the request of any Village code compliance officer, fire safety inspector, law enforcement officer or other designated Village representative. Failure to maintain a copy of the rental agreement and to make it available upon request shall constitute a violation of these regulations.
- (10) A sign no smaller than twelve inches by twelve inches and measuring between two and four feet in height shall be prominently displayed, as determined by the Planning and Development Services director, on each property indicating an effective annual permit and permit number.
- (11) Lease agreements shall disclose Village regulatory requirements regarding vacation rental use, noise ordinances and parking regulations. Lease agreements shall also

include a provision that authorizes access by code enforcement personnel for purposes of determining compliance with the Village Code;

(9) (12) In addition to complying with these regulations, the owner and property manager of a vacation rental unit shall comply with the provisions of all applicable statutes, administrative rules and this Code, including but not limited to Chapter 509 and Chapter 212, Florida Statutes. A violation of any such statute, rule, or this Code shall also constitute a violation of these regulations. To the extent that a conflict exists between the provisions of these regulations and any statute, rule, or this Code, the more restrictive regulations shall prevail.

(10) (13) All vacation rental units shall be immediately evacuated upon the posting of a hurricane warning by the National Weather Service or the National Hurricane Center for any portion of the Florida Keys or upon posting of a non-resident evacuation order issued by the village, county or state.

(11) The following provisions apply to violations:

~~a. Operation of any vacation rental unit without a license or in violation of these regulations shall be punishable as to the owner, occupant, or property manager in accordance with the village code enforcement procedures, or as authorized by state law.~~

~~b. After May 1, 2003, an accumulation of a second violation of these regulations within any 12 month period for the same property shall be punishable by a fine in accordance with this Code and the revocation of the vacation rental license for that property. The owner may apply for a new license after one year from the date of revocation, and an additional vacation rental license fee shall be paid to reinstate such license after revocation.~~

~~c. Occupant violations of these regulations may result in immediate eviction of the occupant by the owner or property manager pursuant to state law, in addition to any other remedies available at law.~~

~~d. Alleged violations of these regulations or the Code may be reported to the code compliance department, the Monroe County Sheriff's Office, or other~~

~~such provider of municipal law enforcement services, who shall issue an appropriate warning, notice of violation, citation, summons or notice to appear for a violation of these regulations in conformance with the village's adopted code compliance procedures. Any person who reports an alleged violation of these regulations must identify the location of the violation, the property manager and owner, if known, the date and time of the incident, and the name and address and telephone number of the complainant.~~

~~e. Non payment of any assessed fines may result in a lien being placed on the property that is the subject of the violation, and said lien may be foreclosed upon pursuant to this Code or state law.~~

~~f. Nothing contained in these regulations shall prohibit the village from enforcing these regulations or this Code by any other means including, but not limited to a summons, a notice to appear in the county court, an arrest, or a civil action for injunctive relief. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed prerequisites to filing suit for the enforcement of these regulations or any section of this Code.~~

(14) All advertising of vacation rental units shall require identification of State and Village license numbers. Any advertising of vacation rental units that are not lawfully licensed by the Village shall constitute a violation of these regulations.

Section 30-1298. Enforcement of Vacation Rental Regulations

a. Operation of any vacation rental unit without a license or in violation of these regulations shall be punishable as to the owner, occupant, and/or property manager in accordance with the village code enforcement procedures, or as authorized by state law, or by a fine established by separate resolution.

b. An accumulation of a second violation of these regulations within any 12-month period for the same property shall be punishable by a fine in accordance with this Code and as may be established by separate resolution, and the revocation of the vacation rental license for that property. Vacation rental unit owners shall lose their privileges and their license shall be revoked for a vacation rental property if

the property has been found by non-appealable Final Order on two occasions to have violated the Village Code regarding vacation rental units. The owner may apply for a new license after one year from the date of revocation, but shall have no priority based on past use for purposes of the 331 unit cap, and an additional vacation rental license fee shall be paid to reinstate such license after revocation.

- c. Occupant violations of these regulations may result in immediate eviction of the occupant by the owner or property manager pursuant to state law, in addition to any other remedies available at law.
- d. Alleged violations of these regulations may be reported to the Village or such other official as designated by the Village Manager. Any person who reports an alleged violation of these regulations shall identify the location of the violation, the property manager and owner, if known, the date and time of the incident, and the name and address and telephone number of the complainant.
- e. Non-payment of any assessed fines may result in a lien being placed on the property that is the subject of the violation, and the lien may be foreclosed upon pursuant to this Code or state law.
- f. Nothing contained in these regulations shall prohibit the village from enforcing these regulations by any other means including, but not limited to issuance of a warning, a notice of violation, a civil citation, a summons, a notice to appear in the county court, an arrest, or a civil action for injunctive relief. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed prerequisites to filing suit for the enforcement of these regulations or any section of this Code.

Section 2. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 3. Repeal of Conflicting Provisions. All Code provisions, ordinances, resolutions or parts thereof in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Inclusion in the Code. It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of the Village of Islamorada; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" may be changed to "Section" or other appropriate word.

Section 5. Approval by the State Department of Community Affairs. The provisions of this Ordinance constitute a "land development regulation" as State law defines that term. Accordingly, the Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Community Affairs for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 6. Effective Date. This Ordinance shall be effective immediately upon approval by the State Department of Community Affairs pursuant to Chapter 380, Florida Statutes.

The foregoing Ordinance was offered by Councilman Sante, who moved for its adoption on first reading. This motion was seconded by Councilman Forster, and upon being put to a vote, the vote was as follows:

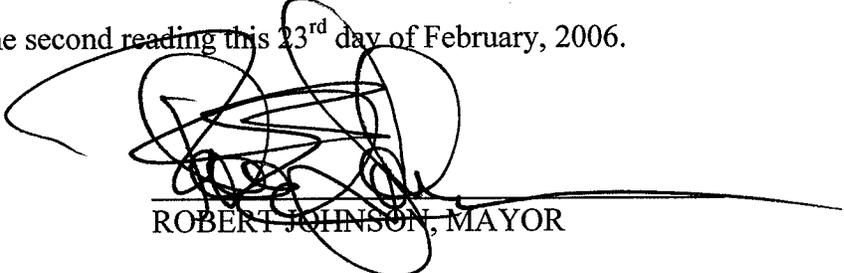
Mayor Robert Johnson	ABSENT
Vice Mayor Patty Schmidt	YES
Councilman Mike Forster	YES
Councilman Michael Reckwerdt	YES
Councilman Chris Sante	YES

PASSED on the first reading this 26th day of January, 2006.

The foregoing Ordinance was offered by Councilman Sante, who moved its adoption on second reading. The motion was seconded by Vice Mayor Schmidt, and upon being put to a vote, the vote was as follows:

Mayor Robert Johnson	YES
Vice Mayor Patty Schmidt	YES
Councilman Mike Forster	ABSENT
Councilman Michael Reckwerdt	YES
Councilman Chris Sante	YES

PASSED AND ADOPTED on the second reading this 23rd day of February, 2006.



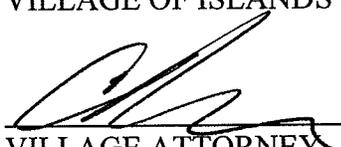
ROBERT JOHNSON, MAYOR

ATTEST:



VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF ISLAMORADA,
VILLAGE OF ISLANDS ONLY:



VILLAGE ATTORNEY