

ORDINANCE 15-788

AN ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA ADOPTING A NEW CHAPTER 108, "VACATION RENTALS," PROVIDING A GENERAL FRAMEWORK FOR THE REGULATION OF VACATION RENTALS; MAKING FINDINGS OF FACTS; PROVIDING FOR PENALTIES AND ENFORCEMENT; REQUIRING A VACATION RENTAL LICENSE FOR VACATION RENTALS; PROVIDING REQUIREMENTS FOR APPLICATIONS; REQUIRING INSPECTIONS; REQUIRING VACATION RENTAL AGENTS, AND PROVIDING APPLICATION AND OTHER REQUIREMENTS, DUTIES; PENALTIES AND QUALIFICATIONS RELATING TO SAME; PROVIDING STANDARDS AND REQUIREMENTS FOR VACATION RENTALS; PROVIDING FOR SEVERABILITY, CODIFICATION AND EFFECTIVE DATE.

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

SECTION 1. A new Chapter 108, "Vacation Rentals" of the Code of Ordinances of the City of Anna Maria is hereby adopted 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.

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. In order to accomplish those purposes, the City of Anna Maria, through the requirements of this Chapter, is regulating development, including changes in the intensity of the use of land relating to Vacation Rentals.

Sec. 108-2. Findings of Facts

Based on 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 Residential and Residential/Office/Retail zoning districts of the City of Anna Maria.

(4) Vacation Rentals, left unregulated, can and do create negative impacts within residential neighborhoods due to excessive noise, parking and traffic problems, excessive use and impact on public services and public works, and extreme size and 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 and do 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) Subsequent to the passage of House Bill 883 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 24 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) Water and wastewater usage by Vacation Rentals will typically exceed the anticipated design capacity of a structure when permitted and built, creating an additional demand on the water and wastewater systems and utility plants.

(13) The City of Anna Maria has limited parking available to the general public, typically "day-trippers" to the City who wish to utilize beach access and enjoy the amenities available in the City. Due to a lack of other available parking within the City, parking upon rights of way is generally allowed for use of the general public. The City receives funds from governmental sources for purposes of beach renourishment, and such funds are typically based upon the availability of parking for the general public. Therefore, it is vital for the City to keep on-street parking available for such use, and not allow such use to be effectively blocked by on-site parking at Vacation Rentals that requires over-sized access to City rights of way that limit the use of such rights of way for general public parking.

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 that contains 70 square feet or more, and which has a bed or other place for sleeping and a closet, but shall not include a bathroom, a kitchen, and one main living area. No room shall be considered to be a bedroom unless it was so designated on the plans submitted to the City for the construction of the building.

"Continuing Violation" means a violation of this Chapter that is continuing in nature and for which there may be an opportunity to cure, such as, but not limited to, operation of a Vacation Rental without a currently valid Vacation Rental License, failing to acquire a modified Vacation Rental License when required, violations of minimum safety and operational requirements under this Chapter, and violations of the Florida Building Code, Florida Fire Code or Life Safety Code.

"Occupant" means any person who occupies, either during the day or overnight, a Vacation Rental.

"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.

"Transitory Violation" means a violation of this Chapter that is transitory, transient, or temporary in nature, such as, but not limited to, a violation of quiet hours or pool hours, maximum occupancy violations, parking in the right of way or blocking general public parking in the right of way, failure to make Vacation Rental available for inspection as required herein, failure of Rental Agent to comply with the duties of a Vacation Rental Agent as set forth in this Chapter, and failure to have required postings at the Vacation Rental.

"Vacation Rental" 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.

"Vacation Rental Agency" is any real estate company, or other entity, or group of entities and/or individuals, that employs or has associated with it in any way, any two or more Vacation Rental Agent(s), or is used for purposes of advertising two or more Vacation Rentals, managing two or more Vacation Rentals, providing booking services for two or more Vacation Rentals, purchasing or otherwise obtaining insurance for two or more Vacation Rentals or two or more Vacation Rental Agents. It is the intent of this definition to broadly include all entities or groups that provide services to two or more Vacation Rentals or Vacation Rental Agents.

"Vacation Rental Agent" is a person designated as a Vacation Rental Agent in accordance with the provisions of Article 3 of this chapter.

"Vacation Rental License" is an official action of the City of Anna Maria having the effect, among other things, of permitting the development of land, and is the development order granted pursuant to Article 2 of this Chapter.

"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.

Sec. 108-4. Penalties and enforcement.

(a) *Transitory Violations.* For Transitory Violations as defined herein, the Vacation Rental owner, the Vacation Rental Agent, and/or the offending Vacation Rental Occupant(s), as applicable and without limitation, shall each be deemed to be a "violation" as that term is used in Article III of Chapter 2 of the Code of Ordinances of the City of Anna Maria, and may be punished as follows. Each individual Transitory Violation shall constitute a separate and distinct violation, and if the Transitory Violation continues for more than one day, each day that the violation continues will be considered a separate and distinct violation. Any Transitory Violation may be punished by citation, as specifically described in Sec. 2-65 of the Anna Maria City Code, including but not limited to the requirements of a reasonable warning prior to issuance of a citation; provided, however, such violation shall be subject to a fine in the amount of \$250.00, for the first offense, \$500.00 for the second and subsequent offenses, plus a suspension of the Vacation Rental License as provided hereinafter, for the third offense.

(b) *Continuing Violations.* For Continuing Violations as defined herein, the Vacation Rental owner, the Vacation Rental Agent, and/or the offending Vacation Rental Occupant(s), as applicable and without limitation, shall each be deemed to be a "violation" as that term is used in Article III of Chapter 2 of the Code of Ordinances of the City of Anna Maria, and may be punished as follows. Each day a violation exists shall constitute a separate and distinct violation. Continuing Violations may be punished by citation, as specifically described in Sec. 2-65 of the Anna Maria City Code, including but not limited to the requirements of a reasonable warning prior to issuance of a citation; or through the Code Enforcement Magistrate procedure as provided under the Anna Maria City Code;

provided, however, such violations shall be subject to a fine in the amount of \$250.00, for the first offense, \$500.00 for the second and subsequent offenses, plus a suspension of the Vacation Rental License as provided hereinafter, for the third offense.

(c) *Other enforcement methods and penalties.* Notwithstanding anything otherwise provided herein, violations of this chapter shall also be subject to all the enforcement methods and penalties that may be imposed for the violation of ordinances of the city as provided in Article III of Chapter 2 of the Code of Ordinances of the City of Anna Maria. Nothing contained herein shall prevent the City of Anna Maria from seeking all other available remedies which may include, but not be limited to, injunctive relief, abatement of public nuisance, liens, fines, imprisonment, and other penalties as provided by law.

(d) *Suspensions of license.*

(1) In addition to any fines and any other remedies described herein or provided for by law, the City of Anna Maria shall suspend a Vacation Rental License upon a third violation of this Chapter in any continuous 12 month period. Such suspension of a Vacation Rental License shall be for a period of one year, and shall begin following notice, commencing either at the end of the current vacation rental lease period, or after thirty (30) calendar days, whichever is less.

(2) For violations of Sec. 108-52, subsections, (a), (d), (e), (f), (g), or (h), or violations of the Florida Building Code, or Florida Fire Code or Life-Safety Code, a Vacation Rental License shall be subject to temporary suspension starting immediately three (3) working days after citation for such violation if it is not corrected, re-inspected, and found in compliance. Such suspension shall remain in place until corrected, re-inspected, and found in compliance.

(e) For all purposes under this chapter, service of notice on the Vacation Rental Agent shall be deemed service of notice on the applicable Vacation Rental Agent, Vacation Rental Owner, the Vacation Rental Agency with which such Vacation Rental Agent is associated, and Occupant.

(f) No Occupant shall occupy a Vacation Rental, and no advertisement for the Vacation Rental shall occur during any period of suspension of a Vacation Rental's Vacation Rental License.

Sec. 108-5. Responsibilities of departments.

The ultimate responsibility for the administration of this Chapter is vested in the City Commission. The Mayor or his or her authorized designee is responsible for granting, denying, revoking, renewing, suspending and canceling Vacation Rental Licenses for proposed and existing Vacation Rentals as set forth in this chapter. Additionally, the Mayor or his or her authorized designee is responsible for inspecting any proposed or existing Vacation Rental in

order to ascertain compliance with this chapter, and all applicable building codes, fire codes, statutes, ordinances and regulations.

Sec. 108-6. Appeals.

Any decision of the Mayor or his or her authorized designee relating to the grant, denial, renewal, modification, or suspension of a Vacation Rental License under this Chapter shall be rendered in writing in appealable form, and reviewed by the City Commission if a notice by the applicant 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 an upcoming meeting of the City Commission, at which the matter will be reviewed. The decision of the City Commission shall be final and shall be rendered in writing in appealable form. Such final decision may be reviewed as permitted under Florida law.

Sec. 108-7. Notice.

Any notice required under this Chapter shall be accomplished by sending a written notification by U.S. Mail, postage paid, to the mailing address of the Vacation Rental Agent set forth on documents filed with the City of Anna Maria under this Chapter, which shall be considered for all purposes as the correct address for service, or by personal service or delivery to the Vacation Rental Agent.

Sec. 108-8. Immunity from prosecution.

The City of Anna Maria, the City Commission, the Mayor, the City Commissioners, and any of the City's departments or agents, and any law enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon a Vacation Rental while acting within the scope of this Chapter.

Sec. 108-9. 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. 108-10. 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, or application thereof, 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.

Sec. 108-11 – 108-20. Reserved.

ARTICLE 2. VACATION RENTAL LICENSE

Sec. 108-21. License required.

After January 1, 2016, an active Vacation Rental License shall be required to operate a Vacation Rental within the City of Anna Maria. After January 1, 2016, only Vacation Rentals holding an active Vacation Rental License issued by the City of Anna Maria may operate within the City. Prior to the issuance of a Vacation Rental License, the City of Anna Maria shall ensure that the building in which the Vacation Rental is or will be located is in full compliance with the appropriate portions of the Florida Building Code and the Florida Fire and Life Safety Codes. A separate Vacation Rental License shall be required for each Vacation Rental. Applications for Vacation Rental License(s) for currently existing Vacation Rentals shall be submitted to the City of Anna Maria in accordance with the Vacation Rental Application Schedule adopted by Resolution of the City Commission of the City of Anna Maria.

Sec. 108-22. Application for Vacation Rental license.

- (a) A property owner seeking initial issuance of a Vacation Rental License, or the renewal, or modification of a Vacation Rental License, shall submit to the City a completed Vacation Rental License application in a form promulgated by the City, together with an application fee in an amount set by resolution of the City Commission.
- (b) A complete application for the initial issuance, or renewal, or modification, of a Vacation Rental License shall demonstrate compliance with the standards and requirements set forth in this Chapter through the following submittals:
 - (1) A completed Vacation Rental License application form.
 - (2) Payment of applicable fees.
 - (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 applicant has such license. Pursuant to Section 166.033, Florida Statutes, the City may process and issue a Vacation Rental License before the issuance of that state license; provided, however, that the Vacation Rental may not operate prior to receiving such state 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

tourist development taxes, sales surtaxes, transient rental taxes, and any other taxes required by law. Pursuant to Section 166.033, Florida Statutes, the City may process and issue a Vacation Rental License before the issuance of that state certificate of registration; provided, however, that the Vacation Rental may not operate prior to receiving such state certification of registration.

- (5) A copy of the current Certificate of Occupancy for the building in which the vacation rental is or will be located. The City shall check to ensure that the current Certificate of Occupancy indicates an occupancy pursuant to Section 310.01 of the Florida Building Code of R-1 for the building planned to be used as a Vacation Rental. In the event the current Certificate of Occupancy is for an occupancy other than R-1, the applicant must apply to the City of Anna Maria for a Change of Use to R-1 pursuant to the Florida Building Code prior to the issuance of a Vacation Rental License.
- (6) *Exterior site sketch.* An exterior sketch of the Vacation Rental facility shall be provided, demonstrating compliance with the standards and requirements set forth in this Chapter. The sketch provided shall be drawn to scale, and shall show and identify all structures, pools, spas, hot tubs, fencing, and uses, including areas provided for off-street parking and trash collection. 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.
- (7) *Interior building sketch by floor.* A building sketch by floor shall be provided, showing a floor layout and demonstrating compliance with the standards and requirements set forth in this Chapter. The sketch provided shall be drawn to scale, and shall show and identify all bedrooms, other rooms, exits, hallways, stairways, smoke and carbon monoxide detectors, fire extinguishers and exit signage/lighting.
- (c) Incomplete applications will not be accepted, but will be returned with any fees submitted to the applicant Vacation Rental Owner with a notation of what items are missing.
- (d) Vacation Rental License applications shall be sworn to under penalty of perjury, and false statements in an application shall be a basis for the revocation of any license issued pursuant to such application.

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

An application for modification of a Vacation Rental License shall be required in the event that any of the following changes to the Vacation Rental are proposed:

- (1) An increase in the gross square footage of the Vacation Rental.
- (2) An increase in the number of bedrooms in the Vacation Rental.

- (3) An increase in the maximum occupancy of the Vacation Rental.
- (4) An increase in the number of parking spaces, or a change in the location of parking spaces for the Vacation Rental.
- (5) An increase in the number of bathrooms in the Vacation Rental.
- (6) Any other material modifications that would increase the intensity of use of the Vacation Rental.

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

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

Sec. 108-25. Renewal of Vacation Rental License.

A Vacation Rental Owner must apply annually for a renewal of the Vacation Rental License no later than sixty (60) days prior to the expiration date of the previous Vacation Rental License.

Sec. 108-26. Initial and Periodic Compliance Inspections of Vacation Rentals.

- (a) Inspection of a Vacation Rental to verify compliance with this Chapter, the Florida Building Code, and the Florida Fire and Life Safety Codes, shall be required prior to issuance of an initial Vacation Rental License. If instances of noncompliance with the standards and requirements set forth in this Chapter are found, all such instances of noncompliance shall be corrected and the Vacation Rental shall be re-inspected prior to the issuance of an initial Vacation Rental License.
- (b) Once a Vacation Rental License is issued for a Vacation Rental, such Vacation Rental shall be properly maintained in accordance with the standards and requirements set forth in this Chapter. The City shall re-inspect such Vacation Rental at least once a year to ensure compliance with the standards and requirements set forth in this Chapter and the Anna Maria Code of Ordinances. All violations of this Chapter or the Anna Maria Code of Ordinances identified in such inspection shall be corrected and re-inspected within 30 calendar days after the issuance of a notice of violation, with the exception of life safety violations, which must be corrected within the earlier of three (3) working days or the start of the next rental period. Failure to correct such violations within the timeframes provided shall result in the suspension of the Vacation Rental License until such time that the violations are corrected, re-inspected, and found in compliance.
- (c) The City may inspect a Vacation Rental at any time upon reasonable notice to the Vacation Rental Agent. Inspections shall be made by appointment with the Vacation Rental Agent. If an City inspector has made an appointment with Vacation Rental Agent 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 Agent, Vacation Rental Owner, or an occupant of the Vacation Rental, the Vacation Rental 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.

- (d) If, after two attempts, a City inspector is unable to complete an inspection of a Vacation Rental as a result of an action or inaction of the Vacation Rental Agent, Vacation Rental Owner, or an occupant of the Vacation Rental, the City inspector shall provide notice of failure of inspection to the Vacation Rental Agent at the address shown on the Vacation Rental License or application for Vacation Rental License. With respect to an application for a Vacation Rental License, such notice of failure of inspection shall constitute a basis for the denial of the Vacation Rental License. With respect to an active Vacation Rental License, such notice of failure of inspection shall result in the suspension of the Vacation Rental License until such time that the Vacation Rental is inspected and found in compliance.

Sec. 108-27. Vacation Rental License non-transferable, non-assignable

Vacation Rental Licenses are non-transferable and non-assignable. If the ownership of any Vacation Rental is sold or otherwise transferred, any outstanding Vacation Rental License as to that Vacation Rental shall be null and void upon the sale or transfer.

Sec. 108-28. Vested Rights/Waiver/Estoppel

The issuance of a Vacation Rental License shall not be construed to establish any vested rights or entitle the license holder to any rights under the theory of estoppel. Issuance of a Vacation Rental License 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 receipt of a Vacation Rental License 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 – 108-39. Reserved.

ARTICLE 3. VACATION RENTAL AGENT.

Sec. 108-40. Designation, application.

- (a) Prior to the issuance, modification or renewal of a Vacation Rental License, the Vacation Rental Owner shall designate a Vacation Rental Agent on the Vacation Rental License application. In order to designate a Vacation Rental Agent, the Vacation Rental Owner and Vacation Rental Agent shall complete documentation as prescribed by the City of Anna Maria that includes the following:

- (1) Designation of Vacation Rental Agent by Vacation Rental Owner;
 - (2) Vacation Rental Agent's full name, home and business addresses, home telephone number, business telephone number, cellular phone telephone number, facsimile machine phone number, and e-mail address, together with copies of the Vacation Rental Agent's Florida Driver's License, and proof of professional licensure, if any.
 - (3) Certificate on a form prescribed by the City certifying that the Vacation Rental Agent meets the qualifications of a Vacation Rental Agent as set forth herein; that he or she has read the Vacation Rental Chapter in full and certifies that he or she meets the qualifications of a Vacation Rental Agent and agrees to perform the duties of a Vacation Rental Agent as set forth herein; that he or she agrees to be bound by the requirements, conditions, and penalties for Vacation Rental Agents as set forth herein; and that in the event he or she no longer has the qualifications, or is unable or unwilling to fulfill the role of Vacation Rental Agent, he or she will immediately so notify the City of Anna Maria and the owner of the Vacation Rental.
 - (4) A document prescribed by the City of Anna Maria, and signed under oath before a notary public, by both the Vacation Rental Owner and the Vacation Rental Agent, agreeing to, jointly and severally, indemnify, defend, save and hold harmless the City of Anna Maria, and its elected officials, officers, agents, and employees, from any and all liability, claims, demands, disputes, damages, costs, attorney's fees, and expenses (including prior to trial, through trial, and to and on appeal), as a result, directly or indirectly, of any matter relating to the application for Vacation Rental License, the Vacation Rental License, actions or inactions of the Vacation Rental Owner, actions or inactions of the Vacation Rental Agent, actions of any Vacation Rental Occupants, tenants, guests, or invitees, or the operation or use of the Vacation Rental.
 - (5) Proof of insurance held by the Vacation Rental Agent as required herein.
 - (6) Proof of compliance with all Vacation Rental Agent requirements as provided herein.
 - (7) If the Vacation Rental Agent is associated in any way with a Vacation Rental Agency, such association shall be disclosed, along with the name, address, phone number, and e-mail address of such Vacation Rental Agency.
- (b) A Vacation Rental Owner may change his or her designation of a Vacation Rental Agent temporarily or permanently; however, there shall only be one Vacation Rental Agent for each Vacation Rental at any given time. The method to change the designated Vacation

Rental Agent is the same as the method set forth hereinabove for the initial designation of Vacation Rental Agent.

- (c) Any notice of violation or legal process which has been delivered or served upon the previous Vacation Rental Agent, prior to the appointment of a subsequent Vacation Rental Agent, shall be deemed effective notice for all purposes.
- (d) A Vacation Rental Agent may serve as Vacation Rental Agent for more than one Vacation Rental, but a separate designation of Vacation Rental Agent and applicable documentation must be submitted as to each Vacation Rental.

Sec. 108-41. Insurance for Vacation Rental Agent.

- (a) Vacation Rental Agent, at his or her own cost and expense, shall have in force at all times, and as a condition of being appointed a Vacation Rental Agent, insurance from an insurance company licensed in the State of Florida and rated "Class A" or better by A. M. Best or some other form of assurance reasonably approved by the City of Anna Maria as follows:

- (1) Commercial General Liability Insurance insuring the Vacation Rental Agent against liability arising from his or her actions in the capacity as Vacation Rental Agent and all actions incidental thereto. Vacation Rental Agent shall list and endorse the City of Anna Maria as an additional insured under the general liability policy. Except as otherwise agreed in writing by the City, the insurance shall be provided on a form no more restrictive than the Standard Commercial General Liability Form (ISO FORM CG 00 01) without any restrictive endorsements, and the City shall be included as an "Additional Insured" on a form no more restrictive than Form CG 20 10, Additional Insured-Owners, Lessees, or Contractors (Form B). The minimum limits (inclusive of amounts by an umbrella or excess policy) shall be available at all times and shall be:

\$1,000,000 General Aggregate
\$1,000,000 Products Liability/Completed Operation Aggregate
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Each Occurrence

The General Liability policy is to contain or be endorsed to name the City of Anna Maria, its elected officials, officers, officials and employees as additional insureds as respects to the liability arising out of the activities performed as the Vacation Rental Agent. Such coverage shall be primary to the extent of the Vacation Rental Agent's negligent acts or omissions or willful misconduct, and shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. In addition, a waiver of subrogation by the commercial liability insurer shall be provided that lists or names the additional insured as subject to the waiver.

- (2) Worker's Compensation Insurance, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employer's Liability Act and any other applicable Federal and State law. If the Vacation Rental Agent is exempt from Worker's Compensation Insurance, the Vacation Rental Agent shall supply documentation sufficient to prove such exemption. The minimum amount provided by an umbrella or excess policy shall be:

Part One-"Statutory" requirements

Part Two-\$500,000 Each Accident

\$500,000 Disease-Policy Limit

\$500,000 Disease Each Employee

- (3) Automobile Liability Insurance on a form no more restrictive than that provided by Section II (Liability Coverage) of the Standard Business Auto Policy (ISO Form CA 00 01) and shall cover User owned, non-owned, and hired autos used in any manner or incidental to the duties of the Vacation Rental Agent. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1,000,000 per each Occurrence-Bodily Injury and Property Damage Combined.
- (b) The required insurance shall be evidenced by a certificate of insurance which must be submitted to the City of Anna Maria prior to the appointment of the Vacation Rental Agent. A copy of all notices, from all insurance companies providing coverage, directly or indirectly related to the insurance required hereunder, must be provided to the City of Anna Maria within five (5) days of receipt. All insurance companies shall be instructed in writing by the Vacation Rental Agent to provide thirty (30) days' notice of any cancellation to the City. Failure to comply with this requirement shall render this designation of Vacation Rental Agent null and void, and Vacation Rental Owner shall be required to designate another Vacation Rental Agent. The Vacation Rental Agent shall provide the City with renewal or replacement evidence of insurance at least ten (10) days prior to expiration or termination of such insurance.

Sec. 108-42. Vacation Rental Agent's qualifications.

All Vacation Rental Agents shall be eighteen (18) years of age or older with a valid Florida Driver's License, and must not be a registered sex offender. The Vacation Rental Owner may serve as the Vacation Rental Agent, but only if such Vacation Rental Owner otherwise meets the qualifications of, and is able to fulfill the duties of, a Vacation Rental Agent as provided herein. In addition, the Vacation Rental Agent must either customarily be present at a business location within Manatee County for the purposes of transacting business; or have his or her permanent residence within Manatee County.

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

Every Vacation Rental Agent shall:

- (1) Be available by landline or mobile telephone answered by the Vacation Rental Agent at the listed phone number 24-hours a day, seven days a week to handle any problems arising from the Vacation Rental; and
- (2) Be willing and able to be physically present at the Vacation Rental within thirty (30) minutes following notification from a Vacation Rental Occupant, the Vacation Rental Owner, law enforcement officer, emergency personnel, or the City of Anna Maria for issues related to the Vacation Rental, and shall actually be physically present at that location in that time frame when requested; and
- (3) Conduct an on-site inspection of the Vacation Rental no less often than weekly to assure continued compliance with the requirements of this Chapter.

Sec. 108-44. Suspension of Vacation Rental Agent/Agency.

- (a) If a Vacation Rental Agent has received an aggregate total of three (3) Unresolved Violations for the Vacation Rentals the Vacation Rental Agent manages, within a continuous twelve (12) month period, the Vacation Rental Agent shall lose the ability to act as a Vacation Rental Agent in the City of Anna Maria for a period of twenty-four (24) months. In that event, the Vacation Rental Agent, and all Vacation Rental Owners of Vacation Rentals that he or she manages, shall be notified by the City of Anna Maria that he or she has been removed as the Vacation Rental Agent for all Vacation Rentals managed. If the Vacation Rental Agent so removed is associated with a Vacation Rental Agency, no employee or associate of that Vacation Rental Agency may be a Vacation Rental Agent for the particular Vacation Rentals that had formerly been managed by the removed Vacation Rental Agent for a period of twenty-four (24) months. All Vacation Rental Licenses associated with the removed Vacation Rental Agent shall be suspended until new Vacation Rental Agents are appointed by the relevant Vacation Rental Owners.
- (b) If Vacation Rental Agents associated with a particular Vacation Rental Agency collectively receive an aggregate total of ten (10) Unresolved Violations for the Vacation Rentals the Vacation Rental Agents associated with the Vacation Rental Agency manage, within a continuous twelve (12) month period, all Vacation Rental Agents associated with that Vacation Rental Agency shall lose their ability to act as Vacation Rental Agents in the City of Anna Maria for a period of twenty-four (24) months. In that event, the Vacation Rental Agents associated with the Vacation Rental Agency, and all Vacation Rental Owners of Vacation Rentals managed by those Vacation Rental Agents shall be notified by the City of Anna Maria that their Vacation Rental Agent has been removed as the Vacation Rental Agent for all Vacation Rentals managed. All Vacation Rental Licenses associated with the removed Vacation Rental Agents shall be suspended until new Vacation Rental Agents are appointed by the relevant Vacation Rental Owners.

- (c) For purposes of this section, an Unresolved Violation shall mean any time the Vacation Rental Agent does not comply with the specific duties of the Vacation Rental Agent as set forth in this Chapter, and any time, in the reasonable determination of the Mayor or his or her designee, violations relating to the Vacation Rentals managed by the Vacation Rental Agent are the result of negligent or intentional actions or inactions of the Vacation Rental Agent, such as, but not limited to, knowingly allowing more Occupants than allowed in a Vacation Rental, or not appropriately preventing or mitigating violations of this Chapter by Occupants of the Vacation Rental.

Sec. 108-45 – 108-50. Reserved.

ARTICLE 4. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

Sec. 108-51. Generally

The standards and requirements set forth in the 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 following minimum safety and operational requirements, and the applicable standards under the Florida Statutes, Florida Building Code and the Florida Fire Code and Life Safety Code. Whenever there is an inconsistency among the requirements of this section, the Florida Statutes, the Florida Building Code, or the Florida Fire Code and Life Safety Code, the most restrictive requirement shall apply.

- (a) *Swimming pool, spa and hot tub safety.* A swimming pool, spa or hot tub offered or made available as an amenity at a Vacation Rental shall comply with the current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes. The Vacation Rental Agent shall cause the swimming pool drain system, any underwater lighting system, and the electrical pump system of such swimming pools, spas, and hot tubs to be inspected annually by an appropriately licensed technician. The Vacation Rental Agent shall maintain a contemporaneous log of such inspections, which shall be made available to the City for inspection upon request during normal business hours.
- (b) *Swimming pool, spa and hot tub hours of use.* Swimming pools, spas and hot tubs offered or made available as an amenity at a Vacation Rental may only be used between the hours of 10:00 a.m. and 10:00 p.m.
- (c) *Swimming pool, spa and hot tub screening.* In all Vacation Rentals located in the R-1, R-2 Residential District, and those Vacation Rentals located in the ROR, Residential/Office/Retail District that are not located above the ground floor over a permitted retail/service or office use, swimming pools, spas, and hot tubs shall be

screened by a six-foot, 100 percent opacity fence. The fence shall be constructed with a vinyl acoustic material within the fence or along the interior side of the fence. Swimming pool equipment shall be separately screened on all open sides with a six-foot 100 percent opacity fence constructed with vinyl acoustical material.

- (d) *Bedrooms.* All bedrooms within a Vacation Rental shall meet the applicable requirements of the Florida Building Code, and the Florida Fire Code and Life Safety Code.
- (e) *Smoke and carbon monoxide (CO) detection and notification system.* An interconnected, hard-wired smoke alarm and carbon monoxide (CO) alarm system shall be installed within the Vacation Rental 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.
- (f) *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 of a Vacation Rental. 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 of the fire extinguisher.
- (g) *Emergency egress maintenance and lighting.* Halls, entrances and stairways within a Vacation Rental shall be clean, ventilated and well lighted day and night. Hall and stair runners shall be kept in good condition. Rails shall be installed on all stairways and around all porches and steps.
- (h) *Local phone service.* At least one landline telephone with the ability to call 911 shall be available in the main level common area in the Vacation Rental.

Sec. 108-53. Maximum occupancy based on site capacity / limitations.

The maximum occupancy of a Vacation Rental shall be limited to the lesser of:

- (1) Two persons per bedroom within the Vacation Rental (counting only those rooms that satisfy the definition of bedroom under this Chapter).
- (2) A total of eight occupants per Vacation Rental, inclusive of day guests.
- (3) In the event there is more than one building or dwelling on one platted lot, (not to include Vacation Rentals located in the ROR, Residential/Office/Retail District that are located above the ground floor over a permitted retail/service or office use), the maximum occupancy shall be capped at the lesser of eight occupants per lot, or two persons per bedroom, regardless of the building in which such bedroom(s) are located.

Sec. 108-54. Parking standards.

In all Vacation Rentals located in the R-1, R-2 Residential District, and those Vacation Rentals located in the ROR, Residential/Office/Retail District that are not located above the ground floor over a permitted retail/service or office use, the following parking standards shall apply. There shall be one off-street parking space for each bedroom in a Vacation Rental. One such required parking space for each Vacation Rental shall be in a covered garage or carport. Structures complying with Chapter 82, existing construction definition are exempt from the requirement of providing one parking space in a garage or carport. Recreational vehicles and accessory trailers shall only be permitted in driveways, or other parking areas specifically designated for such use by the City. No recreational vehicle or any other motor vehicle parked on the premises of a Vacation Rental shall be used for sleeping. Parking spaces shall not be tandem. Neither on-street parking nor parking within the right-of-way shall be permitted for use by Vacation Rentals or Occupants. Access to parking spaces for Vacation Rentals shall be limited to one driveway with maximum access way(s) in the nature of curb cut(s), to the right of way of a total of 24 feet, so as to not unduly limit the use of the right of way for general public parking.

Sec. 108-55. Solid waste handling and containment.

In all Vacation Rentals located in the R-1, R-2 Residential District, and those Vacation Rentals located in the ROR, Residential/Office/Retail District that are not located above the ground floor over a permitted retail/service or office use, the following standards shall apply. One trash storage container shall be provided per three occupants or fraction thereof, calculated based upon the maximum occupancy of the Vacation Rental. Trash storage containers shall be screened with a six foot fence, with an opening for container removal. The Vacation Rental shall contract with the waste management provider for side door pick-up service. Notice of side door pick up and the times and regulations thereof shall be posted by the main entrance of the Vacation Rental.

Sec. 108-56. Quiet hours and pool hours.

Quiet hours for Vacation Rentals shall be from 10:00 p.m. to 8:00 a.m. daily. Swimming pool, spa and hot tub use on the premises of a Vacation Rental is limited to the hours of 10:00 a.m. to 10:00 p.m. daily. During quiet hours, no excessive or boisterous noise or amplified sound extending beyond the lot or parcel line is permitted.

Sec. 108-57. Violations of other legal provisions.

No person shall allow the occupancy or use any portion of a structure as a Vacation Rental if the structure or its use is in violation of or inconsistent with any applicable zoning, comprehensive planning, building, housing, density, life safety, utility, public health, sanitary or fire code, ordinance, plan, statute, regulation, or rule. Such a violation shall also be considered a violation of this Chapter.

Sec. 108-58. Vacation Rental advertising.

Advertising of a Vacation Rental shall be consistent with the information contained within the Vacation Rental's Vacation Rental License. Such advertising shall conspicuously disclose the maximum occupancy of the Vacation Rental under this Chapter.

Sec. 108-59. Licensure as transient public lodging establishment.

A Vacation Rental shall at all times maintain a current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation.

Sec. 108-60. Florida Department of Revenue certificate.

A Vacation Rental shall at all times maintain a current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting tourist development taxes, sales surtaxes, transient rental taxes, and any other taxes required by law.

Sec. 108-61. Prohibition of occupancy by registered sex offenders.

A Vacation Rental shall not be rented to or occupied by a registered sex offender. The Vacation Rental Agent for each Vacation Rental shall have the affirmative duty to research, via third party information service, and document that each Occupant of a Vacation Rental is not a registered sex offender. Such documentation shall be maintained by the Vacation Rental Agent for a period of not less than three years after the stay of a given Occupant, and shall be made available to the City for inspection upon request during normal business hours.

Sec. 108-62. Vacation Rental agreements – minimum provisions.

Vacation Rentals shall only 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 License.
- (2) The name and ages of all Occupants; provided, however, the age of any Occupant over the age of 30 can be stated merely as "Adult".
- (3) The license tag numbers for all vehicles that the Vacation Rental Occupant(s) will be parking at the Vacation Rental, with a total number not to exceed the number of off-street parking spaces at the Vacation Rental as designated on the Vacation Rental License;
- (4) The Occupant(s)' agreement to abide by all the requirements of this Chapter, and acknowledgement that his or her rights under the agreement may not be transferred or assigned in whole or in part to anyone else without a new agreement being entered into between the new Occupant(s) and the Vacation Rental Owner; and

- (5) The Occupant(s)' acknowledgement and agreement that violation of the agreement or this Chapter may result in immediate termination of the agreement and eviction from the Vacation Rental by the Vacation Rental Owner or Vacation Rental Agent, and potential liability for payment of fines levied by the City.
- (6) The permitted off-street parking locations where Occupants may park according to the Vacation Rental License sketch.
- (7) A statement that all Occupants must promptly evacuate from the Vacation Rental upon posting of any evacuation order issued by state or local authorities.
- (8) Consent to the reasonable entry by the City of Anna Maria inspectors into the Vacation Rental.
- (9) A copy of the noise, quiet hours, pool hours, and trash regulations, as well as regulations related to sea turtle lighting, if applicable, as lease addendums.

Sec. 108-63. Required posting of Vacation Rental information.

- (a) In each Vacation Rental, located on the back or next to the main entrance door there shall be posted as a single page the following information:
 - (1) The name, address and phone number of the Vacation Rental Agent;
 - (2) The maximum occupancy of the Vacation Rental;
 - (3) Notice that quiet hours are to be observed between 10:00 p.m. and 8:00 a.m. daily and that between these hours no excessive or boisterous noise or amplified sound extending beyond the lot or parcel line is permitted;
 - (4) Notice that swimming pool, spa and hot tub use on the premises of a Vacation Rental is limited to the hours of 10:00 a.m. to 10:00 p.m. daily;
 - (5) 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;
 - (6) The days and times of trash pickup;
 - (7) The notice of sea turtle nesting season and sea turtle lighting regulations, if applicable; and
 - (8) The location of the nearest hospital.

- (b) 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".
- (c) There shall be posted in each Vacation Rental, located on the back or next to the main entrance door, a copy of the Rental Agreement for the vacation rental listing all the names of all Occupants, and the license numbers of all vehicles permitted to park at the vacation rental, during the lease period.

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, or application thereof, 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.

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

I approve this Ordinance:

Dan Murphy, Mayor

_____, 2015

ATTEST:

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

Diana Percycoe, City Clerk

Gretchen R. H. "Becky" Vose