

**IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT IN AND FOR
MANATEE COUNTY, FLORIDA**

TIMOTHY J. IAFOLLA, an individual; AYNE
KIMBERLY IAFOLLA, an individual, CAROL A.
ROALDI, an individual, CAROL A. ROALDI
REVOCABLE TRUST DATED 12/4/2014;
SALOUH FLORIDA, LLC, a Florida limited
liability company, RYSAL ENTERPRISES, LLC, a
Delaware limited liability company, SEVEN
EMERALDS, LLC, a Florida limited liability
company, ISLAND REAL ESTATE OF ANNA
MARIA ISLAND, INC., a Florida corporation,
ANNA MARIA ISLAND VACATION
PROPERTY ASSOCIATION, INC. a not-for-profit
corporation.

CASE NO.:
DIVISION:

Plaintiffs,

v.

CITY OF ANNA MARIA, a municipality
of the State of Florida,

Defendant.

**VERIFIED COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Plaintiffs, TIMOTHY J. IAFOLLA and AYNE KIMBERLY IAFOLLA, individuals
(hereinafter "Iafollas"), CAROL A. ROALDI, individual, and CAROL A. ROALDI REVOCABLE
TRUST DATED 12/4/2014 (hereinafter "Roaldi"), SALOUH FLORIDA, LLC, a Florida limited
liability company (hereinafter "Salouh"), RYSAL ENTERPRISES, LLC, a Delaware limited
liability company (hereinafter "Rysal"), SEVEN EMERALDS, LLC, a Florida limited liability
company (hereinafter "Seven Emeralds"), ISLAND REAL ESTATE OF ANNA MARIA ISLAND,
INC., a Florida corporation, (hereinafter "IRE") and ANNA MARIA ISLAND VACATION
PROPERTY ASSOCIATION, INC. a not-for-profit corporation (hereinafter "Association") (the
"Iafollas," "Roaldi," "Salouh," "Rysal," "Seven Emeralds," "IRE" and "Association" are hereinafter

collectively referred to as the "Plaintiffs") by and through their undersigned counsel, sue Defendant, CITY OF ANNA MARIA (hereinafter the "City"), and state:

JURISDICTION AND VENUE

1. This is an action for declaratory relief and preliminary and permanent injunctions.
2. This Court has jurisdiction in this matter pursuant to Art. V(5)(b), Fla. Const., and Sections 26.012(2)(c) and (3), and 86.011, Fla. Stat., as this is a claim seeking equitable and injunctive relief and raises claims otherwise not cognizable by the county courts.
3. Venue is proper in Manatee County pursuant to Section 47.011, Fla. Stat., as the actions and the facts giving rise to this Complaint occurred in Manatee County, the real property owned by Iafollas, Roaldis, Salouh, Rysal, and Seven Emeralds and otherwise impacted by the actions of the City is located in Manatee County, and the City maintains its headquarters and principle place of business and is otherwise located in Manatee County.

THE PARTIES

4. The Iafollas own property located at 12108 Gulf Drive and 207 Coconut Avenue, Anna Maria, Manatee County, Florida, and rent their properties several months per year.
5. Roaldi owns property located at 110 Palm Avenue and 220 Chilson Avenue, Anna Maria, Manatee County, Florida, and rent their properties several months per year.
6. Salouh is a Florida limited liability company who own property located at 106 Los Cedros Drive, Anna Maria, Manatee County, Florida, and rent their property several months per year.
7. Rysal is a Delaware limited liability company, registered to do business in Florida. Rysal maintains its principal office at 8374 Market Street, #477, Bradenton, FL 34202, and does business in Manatee County. Rysal owns property at 812 N. Shore Drive, in Anna

Maria, Florida, and rents this property several months per year. Rysal is in the process of closing on two other properties located at 843 N. Shore Drive and 113 Park Avenue, Anna Maria, Florida. Rysal plans to rent these properties several months per year as has been done by the properties' current owner for several years.

8. Seven Emeralds is a Florida limited liability company, created and existing under Florida law. Seven Emeralds, maintains its principal office at 803 N. Shore Drive, Anna Maria, FL, and does business in Manatee County. Seven Emeralds owns property at 780 Jacaranda Rd., Units A and B, and 404 Alamanda Rd., Units A and B, Anna Maria, Florida, and rents its properties several months per year.

9. IRE is a Florida corporation created and existing under Florida law. IRE maintains its principal office at 6101 Marina Drive, Holmes Beach, Florida and does business in Manatee County, Florida. IRE also maintains a rental location at 419 Pine Avenue, Anna Maria, Florida and is in the business of managing vacation rentals in Manatee County with a focus on Anna Maria Island.

10. The Association is a Florida not-for-profit corporation created and existing under Florida law. The Association maintains its principal office at 6101 Marina Drive, Holmes Beach, Florida and does business in Manatee County, Florida.

11. The City a municipality in the State of Florida. The City is responsible for adopting, administering, and enforcing land development regulations for real property within the incorporated areas of the City.

12. The Iafollas are Maryland residents, who own two homes in the City. Both homes have two (2) bedrooms. The Gulf Drive property was purchased as a small beach cottage in need of repair. The Iafollas restored the small cottage to maintain the "old Florida" feel. The cottage does not

have a garage or carport, only a driveway. The Coconut Ave. property is also a small cottage that has a wooden fenced in pool and one (1) car carport with driveway. The Iafollas use the cottages for their personal use, for family to stay in periodically throughout the year, and as a rental. Currently the Iafollas have rental contracts on the properties for much of 2015 and 2016. IRE is the Rental Agent for the Iafolla's property.

13. Roaldi is a Florida resident, who owns two single family homes in the City of Anna Maria. The Palm Ave. property has 4 bedrooms and a pool with four (4) foot vinyl fence around it and a driveway, but no carport or garage. The Chilson Ave. property has two (2) bedrooms and also has a pool with four (4) foot vinyl fence around it. Both properties are used by the Roaldi family during the holidays and rented the remainder of the year. The properties currently have rental contracts pending for time in 2015 and 2016. Anna Maria Island Accommodations, Inc. is the Rental Agent for the Roaldi's property.

14. Salouh owns a five bedroom single family home in the City of Anna Maria. The home has a one (1) car garage and driveway. The home also has a pool with a six (6) foot vinyl fence along only the north side of the property. Salouh currently has rental contracts pending on the property for 2015 and 2016. Salouh uses a Rental Agent for the property, Coastal Cottages AMI.

15. Rysal owns a five bedroom single family home in the City of Anna Maria. Lyn Puskas is the manager of Rysal. Ms. Puskas uses the property for personal vacations, allows family to use the property several times a year and also rents the property. The property currently has rental contracts pending for 2015, 2016, and 2017. Rysal is also set to close on two additional properties (843 N. Shore Drive and 113 Park Avenue) by the middle of May 2015. The Park Avenue property also has a pool with a part wooden and part vinyl fence around it. Both of these properties have historically been used as rentals and have rental contracts pending for 2015 and 2016. Rysal entered

the contract to purchase the two (2) new properties with the intent to continue to use the properties as rentals. Rysal does not use a Rental Agent for its properties.

16. Seven Emeralds owns two duplexes that are adjacent to each other. Seven Emeralds is owned by the Miller family. The Jacaranda Rd. property has a 3-bedroom unit and 2-bedroom unit. The Alamanda Rd. property has two 2-bedroom units and a pool with fence. Both properties have carports. The properties are often rented together for family reunions. The properties are also used by the Miller family. Currently, both properties have rental contracts pending for 2015 and 2016. Island vacation Properties, LLC is the Rental Agent for Seven Emeralds' properties.

17. IRE sells property, manages condominiums, and manages seasonal vacation rentals. IRE manages 275 vacation rentals on Anna Maria Island, more than 65 of which are within the City, and rents to more than 5000 visitors per year. IRE is the largest real estate company in the City. IRE advertises properties for short-term rental, handles contracts on behalf of the single family home owner for the short-term rental of their properties, and advises and assists property owners in complying with all applicable laws, ordinances and regulations concerning the short-term rental of their properties. IRE receives a fee from the owners of the properties based upon the income generated from short-term vacation rental. The Ordinance will apply to the properties managed by IRE and will destroy the viability of the rental of the homes managed by IRE to families and vacationers on a short-term basis and cause substantial business damages to IRE.

18. The Association has almost 1000 members, which consist of property owners in the City who rent their property as short-term rentals, and managers of those short-term rentals.

19. The Plaintiffs have all invested substantial sums of money in their rental properties, maintaining them and keeping them suitable and attractive to potential renters and in

many cases for their own personal use. The Plaintiffs consider the rental of their properties consistent with historic practices in the City and a benefit to the City's way of life and economy.

THE CHALLENGED ORDINANCE

20. The City of Anna Maria City Commission held a first reading of Ordinance 15-788 and voted in favor of the draft ordinance.

21. On or about April 9, 2015, the City of Anna Maria City Commission held the second reading of Ordinance 15-788. At the April 9, 2015 public hearing, the City Commission approved by a majority vote the Ordinance, with one change in the restriction on the hours of pool operations to address a concern raised by a City Commissioner at the public hearing.

22. The Ordinance imposes a series of regulations and restrictions that apply solely to single, two, three, or four-family homes, dwelling units, and condominiums located in the City, that are rented to guests more than three times in a calendar year for periods of less than 30 days or which are held out to the public as a place regularly rented. The Ordinance includes restrictions on vacation rental property occupancy, use, building and fire code regulations, the content of rental contracts and their advertising. These restrictions apply to no other type of residential property in the City. The regulations contained in the Ordinance are specifically and uniquely *targeted* to a single class of property owners: residential property located in the City that is used for short-term rentals, which is basically defined as a period of less than a month.

23. The Ordinance regulates the rental property owner, vacation rental Agent, renter and any occupant, which is defined as any person who occupies the rental either during the day or overnight, including day guests.

24. The Ordinance applies to short-term vacation rentals, which are defined by Section 1, 108-3 of the Ordinance as "transient public lodging establishments" and are more specifically defined 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 (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.

Exhibit A at p. 4.

25. The Ordinance creates an onerous regimen of City-issued licenses and approvals that must be obtained by a property owner. The Ordinance then creates a series of restrictions and requirements that must be met in order for the property owner to obtain these City-issued licenses and rent their single, two, three, or four-family home to families or vacationers on a short term basis. Exhibit A at p. 10.

26. In order for a property owner to rent out their home on a short-term basis under the Ordinance, they must obtain a vacation rental License from the City, which includes:

- a. Completing a sworn vacation rental License application form;
- b. Paying to the City all applicable fees;
- c. Obtaining a Florida Department of Business and Professional Regulation license as a transient public lodging establishment;
- d. Obtaining a Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development. taxes, sales surtaxes, and transient rental taxes;
- e. Providing 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 Tax Collector;

- f. Providing a copy of the current Certificate of Occupancy for the building in which the vacation rental is or will be located;
- g. Providing an exterior site sketch, including all structures, pools, hot tubs, fencing, areas used for off-street parking and trash collection;
- h. Providing an interior building sketch by floor identifying all bedrooms, other rooms, hallways, exits, stairways, smoke detectors, fire extinguishers and exit signage;
- i. Submitting to an inspection of the vacation rental; and
- j. Meeting and continuing to comply with a lengthy list of vacation rental Standards and Requirements created by the Ordinance.

Exhibit A at pp. 8-9 &16-21.

27. Section 1, 108-26, of the Ordinance requires that a vacation rental be properly maintained in accordance with the standards set forth in the Ordinance and that the City shall “re-inspect such vacation rental at least once a year to ensure compliance with the standards and requirements” of the Ordinance.

28. If the property owner obtains a vacation rental License, the license is only valid for one (1) year and then the property owner must apply annually for a renewal of the license no later than sixty (60) days prior to the expiration date of the previous license.

29. Additionally, in order for a property owner to rent out their home on a short-term basis under the Ordinance, they must hire a designated vacation rental Agent (“Agent”) or become one, which includes providing the City with the following information:

- a. The Agent's full name, home and business address, home telephone number, business telephone number, cellular phone telephone number, facsimile machine phone number, and email address with copies of the Agent's Florida Driver's License and proof of professional licensure, if any;
- b. Completed Certificate, certifying that the Agent meets the qualification of the Agent as set forth in the Ordinance; including that he or she has read the Ordinance and certifies he or she meets the requirements, agrees to perform the duties, and agrees to be bound by the requirements, conditions, and penalties of the Agent as set forth in the Ordinance;
- c. A document provided by the City in which the Agent swears under oath to indemnify, defend, save and hold harmless the City, its elected officials, officers, agents, and employees from any and all liability, claims demands, disputes, damages, costs, attorney's fees and expenses as a result 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 or inactions of a vacation rental Occupant, tenants, guests, or invitees, or the operation or use of the vacation rental;
- d. Proof of insurance held by the Agent including:
 - i. Commercial general liability \$1,000,000 limits with the City listed as an additional insured,
 - ii. Worker's Compensation Insurance without restrict endorsements and the minimum amount provided by an umbrella or excess policy shall be: (1) statutory requirements and (2) \$500,000 per accident; and

- iii. Automobile Liability Insurance with minimum limits \$1,000,000 per each occurrence;
- e. Written instruction to all insurance companies to provide thirty (30) day notice of any cancellation to the City;
- f. Proof of compliance with all Agent requirements provided in the Ordinance, including:
 - i. 18 years old or older;
 - ii. Valid Florida Driver's License;
 - iii. 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;
 - iv. Available by telephone answered by Agent at listed number 24 hours a day, seven days a week;
 - v. Be willing and able to be physically present at the vacation rental within thirty (30) minutes and shall actually be physically present within that time frame when requested; and
 - vi. Conduct an on-site inspection of the vacation rental no less often than weekly to assure compliance;
- g. If an Agent is associated with a vacation rental Agency, then the Agent must disclose the name, address, phone number and email address of the Agency;

Exhibit A at pp. 12-15.

30. Section 1, 108-52 of the Ordinance creates eight separate categories of "minimum safety and operational requirements" of vacation rentals; all of which must be initially and

continually met in order for a property owner to obtain and maintain the necessary City license and to rent out their home on a short-term basis. These requirements include regulation on the use of swimming pools and spas, requirement for a six foot high “acoustic” vinyl fence (a term not defined in the Ordinance), requirements for sleeping rooms or bedrooms, requirements for interconnected and hardwired smoke and carbon monoxide detection systems and a wall-mounted fire extinguisher located on each floor. Most of these standards are unique to short-term vacation rental properties and apply to no other type of residential property in the City.

31. Section 1, 108-53 sets maximum occupancy limitations at the lesser of: 1) two persons per bedroom; 2) eight (8) occupants per vacation rental (including day guests); or, 3) the lesser of the two where there is more than one building on one platted lot.

32. Section 1, 108-54 requires that not-less than one (1) off-street parking space be provided for each bedroom in a vacation rental and one parking space must be in a covered garage or carport. Additionally, the parking spaces shall not be tandem. No recreational vehicle parked on the premises shall be used for sleeping. On-street parking is prohibited and driveways for the vacation rental are limited to one driveway with maximum access way in the nature of curb cuts to the right of way of a total of 24 feet. Again, these requirements are unique to homes rented for short-term vacations and apply to no other property in the City.

33. Section 1, 108-55 requires that a one (1) trash container shall be provided per three (3) occupants, and the trash storage containers shall be screened with a six (6) foot fence with an opening for container removal. The vacation rental must contract with a waste management provider for side door pick-up service. These same restrictions are not placed on all other residential properties on the same street.

34. Section 1, 108-56 regulates the use of swimming pools and hot tubs located on the premises of the vacation rental and specifically prohibits any excessive noise or amplified sound extending beyond the lot or parcel line between the “given hours” of 10 p.m. and 8 a.m. daily. The Ordinance contains no definition of "quiet hours" nor any maximum decibel levels or other measureable criteria or guidance for determining what "quiet" means. Additionally, it requires the swimming pools and hot tubs undergo an annual inspection by a licensed technician and a log of the inspections be kept and provided to the City upon request. No similar restriction or regulation is placed on any non-rented or long term rented property on the same street.

35. Section 1, 108-58 regulates the advertising of a vacation rental and requires such advertising be consistent with the information contained in the vacation rental’s License and conspicuously disclose the maximum occupancy of the vacation rental.

36. Section 1, 108-61 prohibits rental or occupation of a vacation rental by a registered sex offender and specifically provides the Agent with an affirmative duty to research via a third party information service, document each Occupant of a vacation rental is not a registered sex offender, and maintain the documentation for not less than three (3) years. There are no similar requirements on long term rentals or homes for sale in the City.

37. Section 1, 108-62 requires specific terms and conditions be included in private rental contracts for short term rentals of single, two, three, or four-family homes, dwelling units, and condominiums, including:

- a. The maximum occupancy of the vacation rental;
- b. The names and ages of all Occupants, but the age of any Occupant over 30 can state “adult;”

- c. License tag numbers for all vehicles that the occupants will be parking at the vacation rental;
- d. The Occupants' agreement to abide by all the requirements of the Ordinance;
- e. The Occupants' acknowledgement and agreement that violation of the agreement or Ordinance may result in immediate termination of the agreement and eviction from the vacation rental and potential liability for payment of fines levied by the City.
- f. The permitted off-street parking locations;
- g. A statement that all Occupants must promptly evacuate from the vacation rental upon posting of any eviction order;
- h. Consent to reasonable entry by the City of Anna Maria inspectors into the vacation rental;
- i. A copy of the noise, quiet hours, pool hours, and trash regulations, as well as regulations related to sea turtle lighting, as lease addendums.

There are no similar requirements on long-term rentals or homes for sale in the City.

38. Section 1, 108-63 requires that specific informational signs be posted inside private homes rented to vacationers on a short-term basis.

39. Section 1, 108-4 of the Ordinance provides that the violation of any of the provisions of the Ordinance constitutes either a transitory reduction, (i.e., violation of guest hours, parking in a right-of-way), or a continuing violation (i.e., operating a vacation rental without a license); and for each day a violation exists constitutes a separate distinct violation which may result in monetary fines, suspension or revocation of a vacation rental license, liens and other civil and criminal penalties.

40. Section 1, 108-8 provides that any notice required under the Ordinance, which would include notice of violations, would be sent in writing by U.S. mail, postage paid to the Agent.

41. Section 4 provides that this Ordinance became effective upon adoption by the Commissioners and approval by the Mayor on April 9, 2015.

THE ORDINANCE'S IMPACT ON THE PLAINTIFFS

42. Although couched in the veil of "public safety" or zoning regulations, the totality of the requirements in the Ordinance is to create an unworkable, arbitrary, oppressive, and cost-prohibitive scheme which effectively prohibits the practicable operation of residential properties as short-term vacation rentals. It is clear that the City's true intent with this Ordinance is to eliminate short-term vacation rentals in the City. This intention has been apparent by the City Commission's discussions at numerous Commission meetings concerning the Ordinance and prior strategies advanced to prohibit short-term rentals in the City.

43. While the City claims the Ordinance is addressing actual problems experienced due to the prevalence of unregulated short term rentals within the City, the City presented little or no evidence of any of the supposed harm the Ordinance is to address at any of the public meetings or workshops the City Commission held leading up to the adoption of the Ordinance. To the contrary, the records of past meetings of the City Commission contain evidence that short term rentals of homes within the City is not a new phenomenon, and has been a significant, well known, integral and positive part of the way of life within the City for decades.

44. The Ordinance contains a number burdensome and expensive requirements on owners and agents. The costs for meeting all of the Ordinance's requirements, assuming they can be met, will be substantial. These costs will naturally have to be passed onto the renters of

these homes or borne by the owners who will either take reduced revenue or a loss associated with ownership.

45. The Ordinance will have a drastic effect on home values and rental availability in the City. Further, the cost of compliance will significantly drive up the cost of any rental. The effect of the Ordinance will be a drastically reduced pool of both rentals and renters able to afford any remaining vacation rentals in the City.

46. Since violations of the Ordinance will subject the property owners, Agent and occupants to civil and criminal penalties, it can be expected that a number of homeowners will either no longer rent their homes or sell their homes, likely at a significantly reduced value.

47. The substantial economic effects of the Ordinance will result in less homes being made available for short term vacation rentals (the actual goal of the Ordinance), at much higher charges. Therefore, the pool of renters who can afford these vacation homes will also shrink. The Ordinance will also substantially reduce the amount of revenue generated by vacation rentals. This will also reduce the revenue for rental agents, while also increasing rental agent costs, responsibility and liability. The combination of lost revenue to homeowners and rental agents will have a devastating effect on this important industry.

48. Ultimately, the collapse of the short term vacation rental industry within the City will further drive down the value of all real property within the City, since the value of such homes is driven in part by the ability of buyers to purchase homes as part-time residences or future retirement, and defray current carrying costs by renting their homes to short-term vacationers. The Ordinance's adverse economic impact is already being felt by real estate agents marketing homes and property in the City.

49. As the result of the actions of the City, the Plaintiffs have been required to retain the undersigned attorneys and are obligated to pay them a reasonable fee.

COUNT I - DECLARATORY JUDGMENT
EXPRESS PREEMPTION BY STATE LAW

50. Plaintiffs re-allege paragraphs 1 through 49 as if fully set forth herein.

51. This is an action for a declaratory judgment pursuant to Chapter 86, Fla. Stat.

52. The regulation of the operation of short-term vacation rental properties is expressly preempted to the State of Florida:

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.

§ 509.032(7)(a), Fla. Stat. (2014) (emphasis added). The Ordinance uses the identical definition as that found in the statute in identifying "transient lodging facilities" which in turn are defined as short-term vacation rentals subject to the Ordinance and its regulations. Exhibit A at p. 4

53. A "public lodging establishment" is defined by Section 509.013(4)(a), Fla. Stat., to include a "transient public lodging establishment," which is in turn defined as "any unit, group of units, dwelling, building, or group of buildings within a single complex 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 and held out to the public as a place regularly rented to guests." § 509.013(4)(a)1., Fla. Stat.

54. Short-term vacation rentals are "public lodging establishments," the regulation of which is expressly preempted to the State.

55. The City's Ordinance contains numerous regulations on the operation of short-term vacation rentals despite the express State preemption.

56. The Ordinance expressly requires owners of vacation rental properties to obtain a City license before the properties can be rented. The licensing of vacation rental properties is preempted to the State, and licenses for these properties are required to be obtained from the Florida Department of Business and Professional Regulation under a uniform set of State regulations, not from the City under a unique set of City regulations.

57. The Ordinance requires vacation rental owners to obtain a certificate of registration from the Florida Department of Revenue for the purpose of remitting certain state taxes, including *inter alia*, tourist development taxes.

58. This area of regulation has been expressly preempted to the State, which exempted the short-term rental of single family properties and duplexes from tourist development taxes under Section 125.0104(3)(a)1, Fla. Stat. However, the Ordinance overrides this uniform state-wide regulation and requires property owners to obtain a license that the Department of Revenue will not even issue.

59. The Ordinance requires an owner of a short-term vacation rental property to obtain and present to the City a transient lodging establishment license from the Department. This begs the question, since Department of Business and Professional Regulation (and not the City) is legislatively designated to license vacation rental properties.

60. The Ordinance creates a unique set of operational standards for vacation rental properties, which differs from the uniform, statewide regulation of short-term vacation rentals already preempted to the State.

61. As expressly provided in Section 509.032(7)(a), Fla. Stat., the City only retains the authority to inspect short-term vacation rentals to ensure compliance with the Florida Building Code and Florida Fire Safety Act, not to inspect them for compliance with the Ordinance as provided in Section 108-26 of the Ordinance.

62. The City is not authorized to change the Florida Fire Safety Act for one specific class of residential property. Section 633.206(1)(b), Fla. Stat., expressly provides that the State shall establish uniform fire safety standards that apply to public lodging establishments. The City may only ensure compliance with those standards. Under Section 633.206(2)(b), Fla. Stat., the City is expressly prohibited from requiring more stringent fire safety requirements unless specific rule adoption procedures are followed. These procedures were not followed in this case. The City merely enacted the Ordinance creating new, more stringent standards for a single class of residential property and requires that:

whenever there is an inconsistency among the requirements of this Section, the Florida Statutes, the Florida Building Code or the Florida Fire & Life Safety Code, the most restrictive requirement shall apply.

Ex. A, pp. 16. The City enforces these unique standards through its City-specific licensing program.

63. Section 509.032(7)(b) Fla. Stat. provides that a “**local law, ordinance, or regulation may not prohibit vacation rentals....**”

64. Section 1.108-21 of the Ordinance, effective January 1, 2016, *prohibits* any person from renting all or any portion of an affected property as a vacation rental without

complying with all the provisions of the Ordinance, including obtaining and maintaining a City-issued license.

65. Section 1, 108-4 of the Ordinance provides for the suspension of the City license as punishment for violation of the Ordinance, which is a *prohibition* of property from being used as a vacation rental during any period that the City license is suspended.

66. The Ordinance's prohibition of vacation rentals is contrary to State law and expressly preempted to the State of Florida.

67. The compilation of excessive regulation imposes such a burden on a vacation rental as to amount to a prohibition on vacation rentals because it will be cost prohibitive if not physically impossible to engage in the practice. Further, the risk of civil or criminal penalties creates a chilling effect on any homeowner choosing to rent their property as a vacation rental.

68. The City has improperly regulated the operation of public lodging establishments by setting occupancy standards that apply only to short-term vacation rentals. Only the State is authorized to regulate short-term vacation rentals, and only the State can establish occupancy standards for them.

69. Other than inspecting a vacation rental for compliance with the Florida Building Code and Florida Fire Safety Code, the City is reserved only to the limited zoning power in Section 509.032(7)(b), Fla. Stat., to place traditional zoning controls upon property. However, the City's zoning power is limited to controls over the use of land such as height restrictions, lot sizes, floor area ratios, yard setbacks, and the like. The City is expressly barred by statute from prohibiting or regulating the short-term vacation rental of residential properties. Here, the City is attempting to directly prohibit and regulate the operation of vacation rentals under the guise of this limited retention of zoning authority.

70. Plaintiffs and the City have antagonistic interests in the subject matter of this dispute.

71. The City has adopted an Ordinance that far exceeds the limited powers of zoning regulation and inspection for compliance with State Building and Fire Codes reserved to local governments by the Florida Legislature. The Ordinance regulates every aspect of the operation of vacation rental properties from the number of occupants, to bedroom size, to parking, to available use of pool hours, and even including the content of rental agreements and advertising. The City has invaded an area of regulation that has been expressly preempted by State law.

72. Plaintiffs are entitled to a judicial decree regarding the preemption of the City's Ordinance by State law.

73. There exists a current dispute and controversy between Plaintiffs and the City as to the application of the express preemption in the Florida Statutes to the Ordinance adopted by the City.

74. Because the City has invaded an area of regulation expressly preempted by State law and has created a situation where IRE will be unable to rent its property to families or vacationers, or for Plaintiffs to even honor previously signed rental contracts given the extensive requirements of the Ordinance, a prompt resolution of this matter is vital.

75. Plaintiffs are therefore entitled to a speedy hearing in this cause pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. issue an order declaring that the Ordinance is preempted by State law and therefore invalid and unenforceable;
- b. set this cause for an expedited date for trial in accordance with §86.111, Fla. Stat.;

- c. award Plaintiffs their costs; and
- d. provide such other relief as this Court deems just and proper.

COUNT II - DECLARATORY JUDGMENT
EQUAL PROTECTION

76. Plaintiffs re-allege paragraphs 1 through 49 as if fully set forth herein.

77. This is an action for a declaratory judgment pursuant to Chapter 86, Fla. Stat.

78. The City is required by the Constitution to treat all persons and entities subject to its ordinances equally.

79. Through the Ordinance, the City imposes restrictions on certain short-term rental properties that are unique to these properties and are not imposed equally on other real property.

80. By its terms, the Ordinance does not apply to long-term rentals of residential homes, or to any properties which are occupied on a full time basis by the owner as an on-premises permanent resident. The Ordinance clearly targets short-term rentals of residential homes. There is no rational basis for this distinction between the long-term rental of residential properties and the short-term rental of residential properties, nor distinguish between properties occupied on a full time basis by the owner as an on-premises permanent resident. Furthermore, there is no rational basis for the distinction between a short term property rental that occurs only two times a year and that which occurs four times a year. Yet, the City has irrationally chosen to heavily restrict one category of properties and to exempt another.

81. The Ordinance also includes occupancy restrictions on short-term rental properties. Under the Ordinance, the maximum short-term rental occupancy of single two, three and four-family properties and condominiums which are not occupied on a full time basis by the owner as an on-premises permanent resident, is restricted to the lesser of 2 people per bedroom

or a total of 8 occupants, **including day guests**. However, no occupancy restrictions exist on properties rented long-term or occupied full time. A five bedroom vacation rental property is limited to eight occupants. Yet an identical property next door may be occupied by an extended family of unlimited size. Even when the owner of the short-term rental property uses his own property, he is still prohibited from having more than 8 people, including any day guest occupying the property. There is no rational relationship to a legitimate government purpose to support this disparate treatment.

82. The Ordinance prohibits parking on the public right of way for any property for which a license for short-term vacation rentals is obtained, apparently even prohibiting the owner of the property or his or her guest from parking on the street during a period when the owner himself is occupying the property. However, the permanent occupants or long-term rental occupants of the property next door are free to park on the street as much as they wish, as is the general public.

83. The Ordinance mandates one off-street parking space for each bedroom for a vacation rental property, one parking space must be in a covered garage or carport, parking spaces cannot be tandem. However, the permanent occupants or long-term rental occupants of the property next door have no such restrictions imposed. Thus, a 5 bedroom single-family home used as a vacation rental must have 5 off-street non-tandem parking spaces with at least one space in a covered garage or carport, but a similar home next door with 5 bedrooms can park as many cars as it likes in its driveway, including tandem parking. Moreover, these parking restrictions are only mandated for certain vacation rentals; specifically those vacation rentals located in R-1, R-2, Residential Districts and those in Residential/Office/Retail (ROR) District

that are not located above the ground floor. This selective and arbitrary regulation of parking is not rationally related to a legitimate government purpose.

84. The Ordinance requires one trash storage container per every three occupants, that the containers be screened with a six foot fence, and that the rental contract with the waste management provider for side door pick-up service. Long-term rentals and permanently occupied homes do not have similar restrictions. This selective and arbitrary regulation of trash storage is not rationally related to a legitimate government purpose.

85. The Ordinance imposes on short-term rentals "quiet hours" at unspecified noise levels. Yet the City imposes no similar noise restrictions on any other type of property. The permanently occupied or long-term rental property next to a short-term vacation rental property has no such quiet hours restriction. No rational basis exists to create a unique noise ordinance for a single type of residential property in the City where no other similarly situated property in the City is subject to regulation.

86. The Ordinance imposes restrictions on the hours a person may use the hot tubs and pools at short term rentals; yet imposes no similar time restriction on any other time of residential property. The permanently occupied or long-term rental property next to a short-term vacation rental property has no restriction of the hours a person may use the hot tub or pool. This selective and arbitrary regulation of personal pool and hot tub use is not rationally related to a legitimate government purpose. The only purpose being served by such a regulation is to create a regulation almost impossible comply and when combined with harsh civil and criminal compliance creates a deterrence to the short-term rental of property.

87. The Ordinance imposes requirements that a short-term rental have a six (6) foot vinyl fence around a pool or spa, but there is no requirement for such fencing on a long-term rental

property or permanently occupied home. In addition, there is no definition of what is meant by an “acoustic” fence. Furthermore, under the Ordinance a short-term rental property owner would be forced to remove an existing six (6) foot high wood or a vinyl, non-acoustic fence, or a four (4) foot vinyl acoustic fence around a pool and replace it with a six (6) foot high vinyl acoustic fence, while other home owner fencing choices are not regulated. This again is selective and arbitrary regulation of fencing around a personal pool and is not rationally related to a legitimate government purpose. The only purpose of the requirement is to increase the regulatory cost burden on owners of short-term rental property, in the hopes such use will be discontinued.

88. The Ordinance imposes requirements for annual inspections by a licensed technician of short term rental swimming pools and hot tubs and that those inspections are logged and the log provided to the City upon request. The permanently occupied or long-term rental property have no annual inspection requirement. This selective and arbitrary regulation of personal swimming pools and hot tubs is not rationally related to a legitimate government purpose. The only purpose being served by such a regulation is to create a regulation that increases the cost burden on short term property owners, in an attempt to deter to the short-term rental of properties in the City.

89. The Ordinance imposes requirements on short-term vacation rentals, which are not occupied on a full time basis by the owner as an on-premises permanent resident, that “mandate the rental agreement contain the name and age of each occupant, the license tag number of all occupants’ vehicles, imposes requirements on their advertising, and specifies that there must be a designated Agent who is available 24 hours a day, seven days a week, to respond to the property within 30 minutes notice. This provision is virtually impossible to comply with. In most instances, at the time when a guest enters into a rental agreement he will not know the names and ages of all of the

occupants nor the tag number of the vehicles which will be parked there. Many guests fly in and rent a car when they arrive. Furthermore, this Ordinance raises safety concerns where it requires the names and ages of all children be disclosed in a rental agreement that then must be posted next to the main entrance door. Furthermore, the Ordinance unnecessarily restricts the designated Agent from being unable to leave town, work or live more than 30 minutes away from the City (i.e. a person living in the eastern portion of Manatee County such as Lakewood Ranch, could not be an Agent). No rational basis exists for imposing these requirements on some properties rented on a short-term basis and not on others.

90. In numerous other instances, short-term vacation rentals are subject to unequal treatment under the Ordinance. In each instance, no rational basis exists for the distinction or the disparate treatment imposed by the Ordinance.

91. Plaintiffs and the City have antagonistic interests in the subject matter of this dispute.

92. The City has singled out a narrowly defined group of property owners for unequal treatment and regulation under the Ordinance without any rational basis for either the distinction or the disparate treatment. By doing so, the City has violated Plaintiffs' right to equal protection under the law pursuant to Article I, § 2 of the Florida Constitution.

93. Plaintiffs are entitled to a declaration of the discriminatory effect of the Ordinance.

94. There exists a current dispute and controversy between Plaintiffs and the City as to the discriminatory effect of the Ordinance as adopted by the City.

95. Because the City has unlawfully singled out Plaintiffs and similarly situated property owners for distinct and much harsher regulations and penalties, the City has created a circumstance

where IRE will be unable to rent its properties and where Plaintiffs cannot even honor signed rental contracts for the coming year. Given the extensive requirements of the Ordinance and the burden it imposes on affected properties, a prompt resolution of this matter is vital, Therefore, Plaintiffs are entitled to a speedy hearing pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. issue an order declaring that the Ordinance violates Article I, § 2 of the Florida Constitution and/or Amendment XIV of the U.S. Constitution and is therefore invalid and unenforceable;
- b. set this cause for an expedited trial in accordance with Section 86.111, Fla. Stat.;
- c. award Plaintiffs their attorneys' fees and costs; and
- d. provide such other relief as this Court deems just and proper.

**COUNT III - DECLARATORY JUDGMENT
UNCONSTITUTIONAL VAGUENESS**

96. Plaintiffs re-allege paragraphs 1 through 49 above as if fully set forth herein.

97. This is an action for declaratory judgment pursuant to Chapter 86, Fla. Stat.

98. Ordinances, particularly those which carry the threat of civil and criminal sanctions, must provide a person of ordinary intelligence with fair notice of what constitutes forbidden conduct. The City may not adopt an ordinance which, by its vague wording, leaves persons to necessarily guess at its meaning.

99. The Ordinance provides a variety of enforcement mechanisms, including code enforcement fines, a civil citation system, and "all other available remedies which may include...injunctive relief, abatement of public nuisance, liens, fines, imprisonment, and other penalties as provided by law." Section 1, 108-4.

100. Section 1, 108-56 provides:

Quiet hours for vacation rentals shall be from 10:00 p.m. to 8:00 a.m. daily...During quiet hours, no excessive or boisterous noise or amplified sound extending beyond the lot or parcel line is permitted.

101. There are no objective criteria for a person of ordinary intelligence to apply, to determine what would constitute a violation of the quiet hours requirement in the Ordinance.

102. Without definition or objective standards, the Ordinance, as written, guarantees that enforcement will be arbitrary and discriminatory.

103. Section 1, 108-55 provides that the “vacation rental shall contract with the waste management provider” for side-door trash pick-up service. Vacation rental is specifically defined as certain buildings. A building cannot contract with a service provider. Thus, it is unclear whether the property owner or Agent is the person required to enter into the trash pick-up service contract. As written, it guarantees that the property owner and Agent are not on notice of their obligations under the Ordinance.

104. Section 1, 108-58 of the Ordinance; which became effective April 16, 2015, requires that any advertising of a property for short-term vacation rental "shall be consistent with the information contained within the vacation rental's vacation rental license."

105. In order to procure rental agreements for future periods; property owners must advertise their properties now. However, the City has not yet even made available its application for vacation rental licenses, no licenses have been issued, and a property owner cannot reasonably be expected to know what “information will be contained within the vacation rental's vacation rental license.” Thus, a property owner is faced with the choice of not advertising the property or publishing an advertisement in violation of the Ordinance.

106. Section 1, 108-62 of the Ordinance, which became effective April 16, 2015, requires that all new rental agreements entered into contain the maximum occupancy for the property

“consistent with the vacation rental license” and contain the names and ages of all persons who will be occupying the property as well as the tag numbers of all vehicles that will be parking at the property.

107. Rental agreements for vacation rentals are typically entered into months in advance of the time when the rental period will commence and at the time when the agreement is executed most renters do not know all of the persons who will be occupying the property nor do they know the tag numbers of the vehicles which will be parked there.

108. In order for owners of vacation rentals to enter into rental agreements now for future periods which comply with the Ordinance, the owner must include the maximum occupancy contained on a license, which has not been issued and is therefore unknown, as well as personal information on the renters which also may be unknown, and which renters likely will not wish to disclose.

109. Section 1, 108-4 of the Ordinance provides that three violations of the Ordinance result in suspension of the City license and that each individual violation shall constitute a separate and distinct violation of the owner, Agent, and occupant. Any notice of under the Ordinance shall be accomplished through written notification sent to the Agency via U.S. Mail. This violation and notification scheme provides that an occupant of a vacation rental who swims in the pool after the pool hour restrictions, could receive three violations for continued disobedience of the pool hours, and the license revoked before the Agent received mailed notice of the first violation. Furthermore, it subjects the owner, occupant, and agent – all three – to fines and imprisonment based on the sole actions of the occupant, or guest, or visitor without the owner or agent having ever been aware ongoing violations were occurring.

110. Plaintiffs and the City have antagonistic interests in the subject matter of this dispute.

111. Plaintiffs are entitled to a declaration that the Ordinance is void for vagueness.

112. There exists a current dispute and controversy between Plaintiffs and the City as to whether the Ordinance as adopted by the City is void for vagueness.

113. Because the City has unlawfully singled out Plaintiffs and similarly situated property owners for distinct and much harsher regulation under an Ordinance that is unconstitutionally vague, the City has created a circumstance where IRE will be unable to rent its property in the future or for Plaintiffs to even honor signed rental contracts for the coming year without violating the Ordinance. Given the extensive requirements of the Ordinance and the burden it imposes on affected properties, a prompt resolution of this matter is vital. Therefore, Plaintiffs are entitled to a speedy hearing pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. issue an order declaring that the Ordinance is impermissibly vague and is therefore void and unenforceable;
- b. set this cause for an expedited trial in accordance with Section 86.111, Fla. Stat.;
- c. award Plaintiffs their costs; and
- d. provide such other relief as this Court deems just and proper.

COUNT IV - DECLARATORY JUDGMENT
IMPAIRMENT OF CONTRACT

114. Plaintiffs re-allege paragraphs 1 through 49 as if fully set forth herein.

115. This is an action for a declaratory judgment pursuant to Chapter 86, Fla. Stat.

116. Article I, Section 10 of the Florida Constitution provides: "No, law impairing the obligation of contracts shall be passed." The intent of this constitutional provision is to protect the beneficiaries of contract obligations and their successors and assigns.

117. Plaintiffs have entered into short-term rental contracts for future periods including 2016 and 2017.

118. The Ordinance makes performance of many of these contracts impossible or at least uncertain, diminishes the value of these contracts, and places Plaintiffs in a position where they cannot perform or it is uncertain whether they will be able to perform under these contracts. The Ordinance makes it uncertain and difficult, if not impossible, for the parties to these various contracts to realize the benefits of their bargains.

119. Further, any property owner who has a short-term rental of their property for any time after January 1, 2016, may be prohibited from honoring its rental agreements.

120. The occupancy limitations and other regulations and restrictions in the Ordinance effectively prohibit Plaintiffs from performing their obligations under existing agreements.

121. The Ordinance is unconstitutional and unenforceable because it unlawfully impairs existing contracts.

122. Plaintiffs and the City have antagonistic interests in the subject matter of this dispute.

123. Plaintiffs are entitled to a declaration that the Ordinance is unconstitutional and unenforceable because it unlawfully impairs existing contracts.

124. There exists a current dispute and controversy between Plaintiffs and the City as to the validity of the Ordinance as adopted by the City.

125. Because the City has unlawfully singled out Plaintiffs and similarly situated property owners for distinct and much harsher regulations under an Ordinance that unconstitutionally impairs its existing contracts, the City has created a circumstance where Plaintiffs will be unable to honor signed, rental contracts. Given the extensive requirements of the Ordinance and the burden it imposes on affected properties, a prompt resolution of this matter is vital. Therefore, Plaintiffs are entitled to a speedy hearing pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. issue an order declaring that the Ordinance violates Article I, § 10 of the Florida Constitution and is therefore invalid and unenforceable;
- b. set this cause for an expedited trial in accordance with Section 86.111, Fla. Stat.;
- c. award Plaintiffs their costs; and
- d. provide such other relief as this Court deems just and proper.

**COUNT V - DECLARATORY JUDGMENT
PREEMPTION/CONFLICT**

126. Plaintiffs re-allege paragraphs 1 through 49 as if fully set forth herein.

127. This is an action for a declaratory judgment pursuant to Chapter 86, Fla. Stat.

128. Section 1, 108-40 of the Ordinance imposes requirements on individuals owning short-term rental properties that they designate an "Agent" who is authorized to receive service on behalf of the owner of any legal notice concerning violation of the Ordinance.

129. Such requirement is, in essence, a requirement that the owner of a short-term rental property maintain a "registered agent" authorized to accept service of process on his behalf.

130. Sections 607.0501 and 608.415, Fla. Stat., require, respectively, that each corporation and limited liability company maintain a registered agent to, accept service of process and legal notices but no Florida statute requires an individual to designate or maintain a registered agent to accept service on their behalf.

131. Chapter 48, Fla. Stat., contains the requirements for service on individuals in the State of Florida.

132. The provisions of the Ordinance imposing a requirement on individuals owning short-term rental properties that they designate a person who is authorized to accept service on his behalf of any legal notice concerning violation of the Ordinance is in conflict with and preempted by Chapter 48 Florida Statutes.

133. Plaintiffs and the City have antagonistic interests in the subject matter of this dispute.

134. The City has adopted an Ordinance that is in conflict with and preempted by the aforesaid provisions of Florida law for service on individuals as set forth by the Florida Legislature.

135. Plaintiffs are entitled to a judicial decree regarding the conflict with and preemption of the City's Ordinance by State law.

136. There exists a current dispute and controversy between Plaintiffs and the City as to the conflict with and preemption by the provisions contained in Florida Statutes concerning the service of process and legal notices on individuals and the Ordinance adopted by the City.

137. Because the City has enacted an Ordinance in conflict with State law and has invaded an area of regulation preempted by State law, a prompt resolution of this matter is vital.

138. Plaintiffs are therefore entitled to a speedy hearing in this cause pursuant to

Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. issue an order declaring that the Ordinance is in conflict with and preempted by State law and is therefore invalid and unenforceable;
- b. set this cause for an expedited date for trial in accordance with § 86.111, Fla. Stat.
- c. award Plaintiffs their costs; and
- d. provide such other relief as this Court deems just and proper.

COUNT VI - DECLARATORY JUDGMENT
UNCONSTITUTIONAL VIOLATION OF RIGHT TO PRIVACY

139. Plaintiffs re-allege paragraphs 1 through 49 as if fully set forth herein.

140. This is an action for a declaratory judgment pursuant to Chapter 86, Fla. Stat.

141. Section 1, 108-62 provides that all short-term rental/lease agreements must contain the names and ages of all persons who will be occupying the property.

142. Article I, § 23 of the Florida Constitution provides that all citizens have the right to be free from governmental intrusion into their private lives.

143. Typically, rental agreements for short-term vacation rentals are entered into by only one individual who at his or her discretion may bring family, including children, and other guests to share the accommodation.

144. The party entering into the rental agreement may not know at the time he enters into the rental agreement the names or ages of all the persons who will occupy the vacation rental.

145. For various reasons, persons who are not the individual entering into the rental agreement may not want their names and/or ages appearing on the rental agreement.

146. Many parents are unwilling to disclose the names and ages of their children to unknown third parties owning vacation rentals or to include the names and ages of their children in a contract such as a rental agreement.

147. There exists a legitimate expectation of privacy with respect to the names and ages of such persons and minor children.

148. There is no legitimate need nor interest by the City to compel all persons occupying a vacation rental or the parents of minor children to disclose their names or ages to persons unknown to them or to require that their names or the names and ages of minor children be contained in a short-term rental agreement.

149. Plaintiffs are entitled to a declaration that the Ordinance violates the fundamental right of privacy and is unenforceable.

150. There exists a current dispute and controversy between Plaintiffs and the City as to the validity of the provision in the Ordinance requiring that the names and ages of all occupants be contained in a short-term rental agreement.

151. Plaintiffs and the City have antagonistic interests in the subject matter of this dispute.

152. The constitutional right to privacy is a fundamental right and a prompt resolution of this matter is vital. Therefore, Plaintiffs are entitled to a speedy hearing pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. issue an order declaring that the Ordinance violates the right to privacy contained in Article I, § 23 of the Florida Constitution and is therefore invalid and unenforceable;

- b. set this cause for an expedited date for trial in accordance with § 86.111, Fla. Stat.;
- c. award Plaintiffs their costs; and
- d. provide such other relief as this Court deems just and proper.

COUNT VII - PRELIMINARY INJUNCTIVE RELIEF

153. Plaintiffs re-allege paragraphs 1 through 151 as if fully set forth herein.

154. This is an action for preliminary injunctive relief.

155. Plaintiffs will be irreparably harmed by enforcement of the Ordinance. Plaintiffs are currently unable to discern their rights and obligations under the Ordinance, will be unable to fulfill their obligations under existing rental agreements and will therefore be in breach of these agreements. Plaintiffs will also be unable to advertise property for short-term vacation rental or to enter into further rental agreements for property due to uncertainty over the vague, confusing, and contradictory provisions of the Ordinance.

156. IRE will be discouraged from or unable to contract for the use of its short-term vacation rental property upon implementation of the harsh and unreasonable restrictions and regulations in the Ordinance. If IRE rents property or any occupant uses IRE's rental property in a manner that is construed by the City to be in violation of the vague, confusing, and contradictory provisions of the Ordinance, IRE would be subject to civil and criminal penalties that cannot be cured by money damages.

157. Furthermore, upon implementation of the harsh and unreasonable restrictions and regulations in the Ordinance, the Plaintiffs would be forced to make substantial modifications to their properties or face the loss of rental income and potential sale of their property.

158. There is no adequate remedy at law for Plaintiffs injuries as a result of the Ordinance becoming effective. The Ordinance inhibits Plaintiffs use or transfer of their property, interferes with existing obligations of their contracts, and imposes numerous restrictions, many of which leave Plaintiffs guessing as to whether the property does or may ever comply with the Ordinance. Plaintiffs' injuries are difficult, if not impossible, to quantify monetarily.

159. Plaintiffs are likely to succeed on the merits of its claim, as the City seeks to regulate subject matter that is clearly and expressly preempted to the State under Florida Statutes. Further, the Ordinance is unenforceable by virtue of its impairment of contractual obligations and rights, and the Ordinance is impermissibly vague and violates principles of equal protection and privacy.

160. Granting a temporary injunction will be in the public's best interest. Plaintiffs have for some time been using their property in this manner without incident and IRE has for many years been managing short term rental properties without incident, and an injunction will preserve the status quo and protect the rights of Plaintiffs and numerous other law abiding short-term rental property owners in the City.

WHEREFORE, Plaintiffs respectfully requests that the Court enter a preliminary injunction enjoining enforcement of the Ordinance while this case is pending.

COUNT VIII - PERMANENT INJUNCTIVE RELIEF

161. Plaintiffs re-allege paragraphs 1 through 151 as if fully set forth herein.

162. This is an action for permanent injunction.

163. Plaintiffs seek a permanent injunction supplemental to the declaratory relief sought in Counts I through VI above.

164. The Ordinance violates Plaintiffs' clear legal rights. Plaintiffs have a right to be free from City regulation this is expressly preempted by State regulations with which Plaintiffs are in compliance. The Ordinance also violates Plaintiffs' clear legal right to be treated equally under the law, to have their contracts protected and honored and free from intrusions on privacy, to be free from vague, contradictory, duplicative, and unenforceable laws, and to freely transfer property.

165. As set forth above, Plaintiffs will be irreparably harmed by enforcement of the Ordinance.

166. Plaintiffs have no adequate remedy at law. Plaintiffs' injuries as a result of enforcement of the Ordinance, including the Ordinances' civil and criminal penalty provisions, are not readily quantifiable or compensable in monetary damages.

WHEREFORE, Plaintiffs, request that this Court enter a permanent injunction enjoining enforcement of the Ordinance and granting any further relief that this Court may deem just and proper.

COUNT IX - DECLARATORY JUDGMENT
PERMITTED USE UNDER CITY'S ZONING CODE

167. Plaintiffs re-allege paragraphs 1 through 49 as if fully set forth herein.

168. This is an action for a declaratory judgment pursuant to Chapter 86, Fla. Stat.

169. Section 114-196 of the City's Code of Ordinances provides that "No building, structure... shall be used for any purpose except those specifically identified as permitted ...uses.

170. Section 114-221 of the City's Code of Ordinances provides that specific permitted uses allowable in the R-1, R-2 District are single-family detached dwellings and two-family dwellings existing prior to April 1, 2009.

171. Section 114-281 of the City's Code of Ordinances provides that specific permitted uses allowable in the ROR District are single family detached dwellings, one residential unit above the ground floor over a permitted retail/service or office use.

172. R-1 is a single family dwelling district intended to provide single-family detached homes, and R-2 is a two-family dwelling district intended to provide for single-family detached homes, duplex dwellings and mobile homes.

173. The ROR District is intended to provide "an opportunity for flexible development of mixed commercial and low density residential uses consistent with the overall residential character of the community." Section 14-193, Code of Ordinances.

174. Historically, many property owners in the R-1, R-2, and ROR districts have rented their residential properties out for long-term or short-term residential uses.

175. The City is aware that short-term rentals exist in R-1, R-2 and ROR districts and have been in existence for decades.

176. The City has never taken the position that short-term rentals were an impermissible use in R-1, R-2, and ROR districts.

177. The Plaintiffs have relied on the City's position that short-term rentals are a permitted use in R-1, R-2, and ROR districts in renting out their residential properties.

178. Section 141-221 of the City's Code of Ordinance, states that all uses not specifically permitted are prohibited.

179. The City previously hired an attorney to review whether short-term rentals is a permitted use in R-1, R-2, and ROR districts and he has opined that short-term rentals are a prohibited use in R-1, R-2, and ROR districts.

180. The City's Zoning Code does not specifically speak about short-term rentals of residential property.

181. There exists a current dispute and controversy between Plaintiffs and the City as to whether short-term rentals are a permitted use in R-1, R-2, and ROR districts in accordance with the City's Zoning Code.

182. Plaintiffs and the City have antagonistic interests in the subject matter of this dispute.

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. issue an order declaring that short-term residential rentals are a permitted use in R-1, R-2, and ROR districts of the City's zoning code;
- b. award Plaintiffs their costs; and
- c. provide such other relief as this Court deems just and proper.

RESERVATION OF FEDERAL RIGHTS

183. Plaintiffs, by pursuing the claims herein in the Courts of the State of Florida, reserve their right to the disposition of the entire case by the State Court, and preserves its access to a federal forum to assert its Federal Constitutional rights and rights under 42 U.S. Code §1983.

RESERVATION OF RIGHTS TO PURSUE CLAIMS UNDER THE BERT HARRIS, SR. PRIVATE PROPERTY RIGHTS PROTECTION ACT

184. Plaintiffs expressly reserve their rights to pursue claims under the Bert J. Harris, Jr. Private Property Rights Protection Act, Chapter 70 Fla. Stat.

Respectfully Submitted,

/s/ Kevin S. Hennessy

KEVIN S. HENNESSY, ESQUIRE

Florida Bar No. 0602558

JENNIFER R. COWAN, ESQUIRE

Florida Bar No. 0038081

LEWIS, LONGMAN & WALKER, P.A.

101 Riverfront Boulevard, Suite 620

Bradenton, FL 34205

Telephone: (941) 708-4040

Facsimile: (941) 708-4024

Primary Email: khennessy@llw-law.com

jcowan@llw-law.com

Secondary Email: jbissette@llw-law.com

jdavy@llw-law.com

Attorneys for Plaintiff

VERIFICATION

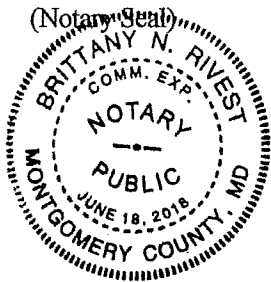
STATE OF Maryland
COUNTY OF Montgomery

I, TIMOTHY J. IAFOLLA, having been duly sworn under oath, hereby attest that the matters stated in the above Verified Complaint for Declaratory and Injunctive Relief are, to my personal knowledge, true and correct.


TIMOTHY J. IAFOLLA

Sworn to and subscribed before me this 16 of May, 2015, by TIMOTHY J. IAFOLLA, who is personally known to me or produced the following identification:

Maryland Driver's License




Brittany N. Rivest

Notary Public, State of Maryland

VERIFICATION

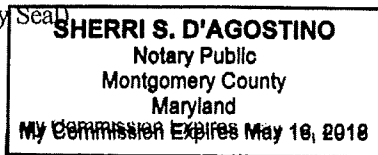
STATE OF Maryland
COUNTY OF Montgomery

I, AYNE KIMBERLY IAFOLLA, having been duly sworn under oath, hereby attest that the matters stated in the above Verified Complaint for Declaratory and Injunctive Relief are, to my personal knowledge, true and correct.

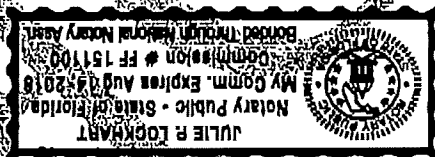
Ayne Kimberly Iafolla
AYNE KIMBERLY IAFOLLA

Sworn to and subscribed before me this 18 of May, 2015, by AYNE KIMBERLY IAFOLLA, who is personally known to me or produced the following identification: MD Drivers License

(Notary Seal)



Sherri S. D'Agostino
Notary Public, State of Maryland



(Notary Seal)

Notary Public, State of Florida

[Signature]

Sworn to and subscribed before me this 18th day of May, 2015, by CAROL A. ROALDI, individually and as Trustee of CAROL A. ROALDI REVOCABLE TRUST DATED 12/4/14, who is personally known to me or produced the following identification:

CAROL A. ROALDI, individually and as Trustee of CAROL A. ROALDI REVOCABLE TRUST DATED 12/4/14

[Signature]

I, CAROL A. ROALDI, individually and as Trustee of CAROL A. ROALDI REVOCABLE TRUST DATED 12/4/14, having been duly sworn under oath, hereby attest that the matters stated in the, above Verified Complaint for Declaratory and Injunctive Relief are, to my personal knowledge, true and correct.

STATE OF FLORIDA
COUNTY OF MANATIA


VERIFICATION

VERIFICATION

STATE OF FLORIDA
COUNTY OF MANATEE

I, RANDALL L. HOULAS as Manager of SALOUH FLORIDA, LLC, a Florida limited liability company, having been duly sworn under oath, hereby attest that the matters stated in the, above Verified Complaint for Declaratory and Injunctive Relief are, to my personal knowledge, true and correct.

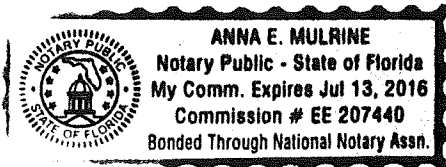
SALOUH FLORIDA, LLC,
a Florida limited liability company

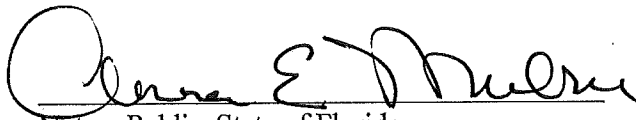
By: 
RANDALL L. HOULAS, Manager

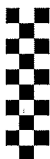
Sworn to and subscribed before me this 15th day of May, 2015, by RANDALL L. HOULAS as Manager of SALOUH FLORIDA, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me or produced the following identification: _

Randy L. Houlas

(Notary Seal)




Notary Public, State of Florida



VERIFICATION

STATE OF FLORIDA
COUNTY OF MANATEE

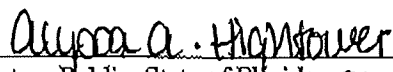
I, LYN C. PUSKAS as Manager of RYSAL ENTERPRISES, LLC, a Delaware limited liability company, having been duly sworn under oath, hereby attest that the matters stated in the, above Verified Complaint for Declaratory and Injunctive Relief are, to my personal knowledge, true and correct.

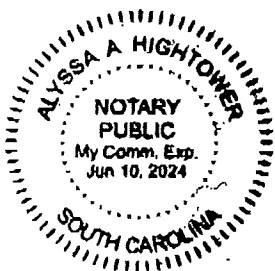
RYSAL ENTERPRISES, LLC,
a Delaware limited liability company

By: 
LYN C. PUSKAS, Manager

Sworn to and subscribed before me this 20th day of May, 2015, by LYN C. PUSKAS as Manager of RYSAL ENTERPRISES, LLC, a Delaware limited liability company, on behalf of the company, who is personally known to me or produced the following identification: _____

(Notary Seal)


Notary Public, State of ~~Florida~~ SC



VERIFICATION

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF ERIE

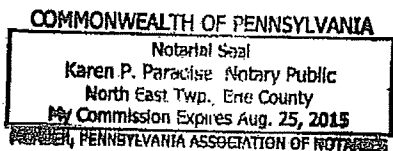
I, Janet L. Miller, Trustee of the Miller Family 1998 Trust as Managing Member of SEVEN EMERALDS, LLC, a Florida limited liability company, having been duly sworn under oath, hereby attest that the matters stated in the, above Verified Complaint for Declaratory and Injunctive Relief are, to my personal knowledge, true and correct.

SEVEN EMERALDS, LLC,
a Florida limited liability company

By Janet L. Miller, Trustee
Janet L. Miller, Trustee, Managing Member

Sworn to and subscribed before me this 19th day of May, 2015, by Janet L. Miller, as Managing Member of SEVEN EMERALDS, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me.

(Notary Seal)



Karen P Paradise
Notary Public

VERIFICATION

STATE OF FLORIDA
COUNTY OF MANATEE

I, LAWRENCE D. CHATT as Vice President of ISLAND REAL ESTATE OF ANNA MARIA ISLAND, INC., a Florida corporation, having been duly sworn under oath, hereby attest that the matters stated in the, above Verified Complaint for Declaratory and Injunctive Relief are, to my personal knowledge, true and correct.

ISLAND REAL ESTATE OF ANNA MARIA ISLAND, INC.,
a Florida corporation

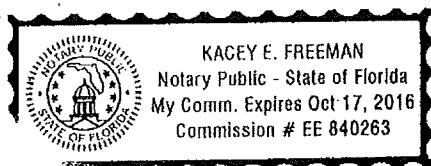
By: _____

LAWRENCE D. CHATT, Vice President

5/10/15

Sworn to and subscribed before me this 18th day of May, 2015, by LAWRENCE D. CHATT as Vice President of ISLAND REAL ESTATE OF ANNA MARIA ISLAND, INC. a Florida corporation, on behalf of the corporation, ~~who is personally known to me~~ or produced the following identification: _____

(Notary Seal)



W. E. Freeman
Notary Public, State of Florida

VERIFICATION

STATE OF FLORIDA
COUNTY OF MANATEE

I, LAWRENCE D. CHATT as President of ANNA MARIA ISLAND VACATION PROPERTY ASSOCIATION, INC., a Florida not for profit corporation, having been duly sworn under oath, hereby attest that the matters stated in the, above Verified Complaint for Declaratory and Injunctive Relief are, to my personal knowledge, true and correct.

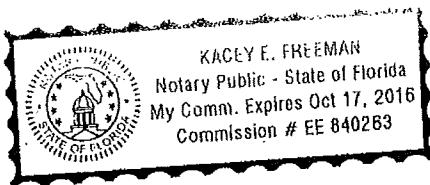
ANNA MARIA ISLAND VACATION
PROPERTY ASSOCIATION, INC.,
a Florida not for profit corporation

5/10/15

By: [Signature]
LAWRENCE D. CHATT, President

Sworn to and subscribed before me this 18th day of May, 2015, by LAWRENCE D. CHATT as President of ANNA MARIA ISLAND VACATION PROPERTY ASSOCIATION, INC., a Florida corporation, on behalf of the corporation, who is personally known to me or produced the following identification: _____

(Notary Seal)



[Signature]
Notary Public, State of Florida

This is to certify this is a true and exact copy of the original.

Diana L. Percyver Clerk

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.

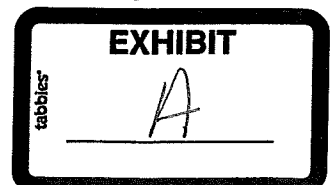
This chapter is enacted under the home rule power of the City of Anna Maria in the interest of the health, peace, safety and general welfare.

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

sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue. 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) 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. Pursuant to Section 166.033, Florida Statutes, the City may process and issue a Vacation Rental License before the establishment of such account; provided, however, that the Vacation Rental may not operate prior to the establishment of such account.
- (6) 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.
- (7) *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.
- (8) *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 8:00 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 8:00 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; Manatee County Tax Collector account.

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 sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue. A Vacation Rental shall at all times maintain a 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.

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 8:00 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.

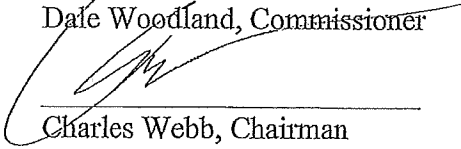
SECTION 2. Severability. In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, or application thereof, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, 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.

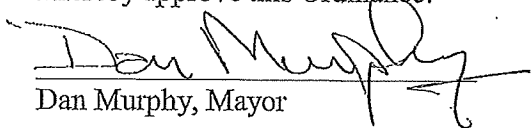
SECTION 4. Effective Date. This Ordinance shall be effective upon adoption by the City Commission and approval by the Mayor in accordance with the Charter of the City of Anna Maria.

PASSED AND ADOPTED, by the City Commission of the City of Anna Maria, Florida, in regular session assembled, this 9 day of April, 2015.

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

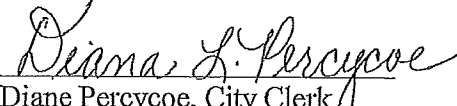

Charles Webb, Chairman

I hereby approve this Ordinance:

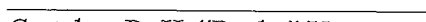

Dan Murphy, Mayor

04-16, 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