



TOWN OF MELBOURNE BEACH

TOWN COMMISSION WORKSHOP

AUGUST 29, 2024

AGENDA PACKET

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Town of Melbourne Beach

PUBLIC NOTICE

AGENDA

TOWN COMMISSION WORKSHOP

THURSDAY, AUGUST 29, 2024 at 6:00 p.m.

COMMUNITY CENTER – 509 OCEAN AVENUE

Commission Members:

Mayor Alison Dennington
Vice Mayor Sherri Quarrie
Commissioner Corey Runte
Commissioner Marivi Walker
Commissioner Adam Meyer

Staff Members:

Town Manager Elizabeth Mascaro
Town Clerk Amber Brown

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, THE TOWN HEREBY ADVISES THE PUBLIC THAT: In order to appeal any decision made at this meeting, you will need a verbatim transcript of the proceedings. It will be your responsibility to ensure such a record is made. Such person must provide a method for recording the proceedings verbatim as the Town does not do so. In accordance with the Americans with Disability Act and Section 286.26, Florida Statutes, persons needing special accommodations for this meeting shall, at least 5 days prior to the meeting, contact the Office of the Town Clerk at (321) 724-5860 or Florida Relay System at 711.

I. Call to Order

II. Roll Call

III. Pledge of Allegiance and Moment of Silence

IV. New Business

- A. Discussion on short term rentals

V. Public Comment

After being acknowledged by the Mayor, members of the public should state their name and address for the record. The Commission encourages citizens to prepare their comments in advance. Each individual will have three (3) minutes to address the Commission on any topic(s) related to Town business, not on the Agenda. Please remember to sign the sign-in sheet provided if you will be speaking at the meeting.

VI. Adjournment

SHORT TERM RENTAL WORKSHOP DISCUSSION ITEMS

Chapter 48 – Noise Control

The current code provisions for noise control are antiquated, do not address the actual sound levels, provides for subjective standards, and is open to interpretation. In most jurisdictions, noise enforcement is not a high priority due to the difficulty in prosecuting a case and the mostly antiquated provisions contained in the respective code. The Town’s Code is currently based on a simple nuisance statement as opposed to having a performance based ordinance. A performance based ordinance has specific sound level guidelines which, after taking a sound level reading, can clearly state what is, and what is not, a violation of the ordinance.¹

It is recommended the Town adopt a new sound ordinance to provide for objective standards for what would constitute a violation under the ordinance and one that would also be applicable to short-term rentals. This would require the Town to invest in sound level measurement devices to measure the sound and would provide evidence in a subsequent enforcement proceeding of a violation. Currently, the Town Code does not differentiate the two components of sound waves, intensity and frequency. Intensity is determined by the amount of energy in a sound wave and contributes to the loudness as perceived by the human ear.² Frequency is measured by how fast the sound waves are moving and determines the pitch of the sound.³

There are two main scales wherein sound levels can be detected – A scale and C scale – and most sound level measurement devices will allow for the measurement of both A and C scales. The A scale is designed to mimic that of human hearing and provides for a measurement that would be closest to the way the human ear would perceive that particular source.⁴ The C scale allows the sound meter to pick up low frequencies typically associated with the sub-woofer type of bass sounds that can penetrate structures.⁵

An example of the sound threshold restrictions would be as follows:

| Use Occupancy Category | Time | Maximum Sound Level Limit – dBA | Maximum Sound Level Limit = dBC |
|------------------------|------------------------|---------------------------------|---------------------------------|
| Residential | 7:00 a.m. – 10:00 p.m. | 60 | 65 |
| | 10:00 p.m. – 7:00 a.m. | 55 | 60 |
| Commercial | 7:00 a.m. – 10:00 p.m. | 70 | 75 |
| | 10:00 p.m. – 7:00 a.m. | 65 | 70 |

Exceptions to the above sound levels would also need to be considered for air conditioners, lawn mowers, construction operations, etc., as well as for special permits issued by the Town.⁶ Any proposed ordinance should contain an enforcement procedure whereby noise violations may

¹ See <https://www.fdle.state.fl.us/FCJEI/Programs/SLP/Documents/Full-Text/Dooley-pat-paper.aspx>

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ See *Flagler Beach Code, Section 13-22 through 13-33.*

be enforced utilizing any legal means, including, but not limited to, citations issued by code officers, police officers, or any other person designated by the Town Manager. Moreover, upon the issuance of three (3) noise violations, the property should be deemed as repeat violations subject to code enforcement proceedings before the special magistrate and provide for the suspension of a vacation rental certificate.⁷ It should be noted that § 74.39(4), Town Code, requires the posting of noise regulations in a prominent location on the inside of the vacation rental unit. It is also a recommendation that the Town develop procedures for handling a noise complaint

Other Discussion Items:

- Noise Level Detection Devices for STRs
- Pool, Spa, Jacuzzi, Sport Courts Use (Quiet Hours)

Parking Requirements

§ 74-38, Town Code, provides “All vehicles associated with the vacation rental, including visitors not residing at the vacation rental, must be parked in compliance with §§ 30-41 through 30-48 of the Town of Melbourne Beach Code of Ordinances. All vehicles utilized by the occupants of the vacation rental must be parked within a driveway located on the subject property. There shall be no sidewalk, on street, right-of-way, or grass parking.”

The above underlined section could be amended to “All vehicles associated with the vacation rental, including visitors not residing at the vacation rental, must be parked within a driveway located on the subject property and in compliance with this Code.” This would clarify that occupants, as well as visitors, must be parked within the driveway and not on the street. Additionally, the Town may consider limiting the total number of vehicles associated with the vacation rental.

Maximum Occupancy

§ 74-37, Town Code, provides the maximum occupancy shall be limited to two occupants per bedroom plus two occupants in one common living area, with a maximum capacity of 12 persons in any vacation rental. The maximum occupancy is mostly in line with what other municipalities have, however, there are municipalities that have limited the maximum occupancy to two occupants per bedroom, but with a maximum capacity of eight persons (See Cocoa Beach).

One provision the current Code lacks is a provision governing the maximum number of persons allowed to gather at the vacation rental. For example, Ft. Lauderdale’s ordinances provides:

The maximum number of persons allowed to gather at or occupy a vacation rental shall not exceed one and one-half (1 ½) times the maximum occupants authorized to stay overnight at that side, as shown on the certificate of compliance, and in no event shall a gathering exceed twenty (20) persons. This subsection b. shall not

⁷ See Ft. Lauderdale Ordinance No. C-23-34

apply to owner-occupied vacation rentals when the property owner is physically present on the site during the gathering.

Sexual Offenders and Sexual Predators

§ 74-25(C) and (D) provides that the vacation rental owner or responsible party is responsible for ensuring sexual offenders/predators register with Brevard County and the Town 48 hours prior to arrival at a vacation rental, and requires the vacation rental owner or responsible party to inquire prior to check-in the status of any guest at the vacation rental. While this provision requires the compliance of the vacation rental owner or responsible party, this section does not refer to § 73-52, Town Code, that prohibits a sexual violator to establish a permanent residence or temporary residence within 2,000 feet from any public school, public park, or public library. It is suggested the Town amend § 74-25(C) to provide an additional provision such as:

It is unlawful for any vacation rental owner or responsible party to allow another person to occupy any residential property as a vacation rental within the Town, as a transient occupant, if such vacation rental owner or responsible party knew or should have known that the vacation rental will be occupied by a person prohibited from establishing a permanent residence or temporary residence at said residential property pursuant to Section 73-52 of this Code, if such residence is located within 2,000 feet from any public school, public park, or public library, regardless of whether the public school, public park, or public library lies within the town limits of the Town, unincorporated Brevard County, or any adjacent municipality. Failure to comply with this section shall, in addition to the institution of a code violation action, result in the revocation of the vacation rental's business tax receipt and vacation rental registration.

Remedies/Enforcement

While § 74-4, Town Code, provides that violations of the vacation rental code shall be enforced as code violations in accordance with Fla. Stat. Chapter 162 and §§ 11-15 through 11-22, Town Code, the current code does not provide any criteria to the special magistrate for the suspension of short term rental registration. The Town may consider adding an additional section to the Code to provide that the special magistrate, in addition to any fines and other remedies described in the Code or provided by law, may suspend the vacation rental owner's registration and authorization to operate a short term rental based on specified criteria and amount of violations occurring within a specified time period. A sample provision is:

In addition to any fines and any other remedies described herein or provided for by law, a special magistrate may order and/or suspend a vacation rental registration for the following reasons and for up to the corresponding suspension periods:

- (a) Upon a third violation of this Article the vacation rental registration shall be suspended for a period of up to one hundred eight (180) calendar days;
- (b) Upon a fourth violation of this Article the vacation rental registration shall be suspended for a period of up to three hundred sixty-five (365) calendar days;

- (c) Allowing a vacation rental to be rented by, and actually used by occupants, during a suspension in accordance with this section, for a period of up to three hundred sixty-five (365) days.
- a. In addition, if the special magistrate finds the violation to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000 per violation.
 - b. An application for renewal may be submitted during the period of suspension; however, no approval of the application may be issued for the vacation rental until the period of suspension has expired.

Other Discussion Items

- Current Fee Schedule
- Outside Company Monitoring
- Short-Term Rental Map on Website
- 24/7 Hotline
- Code Enforcement

/s/ Ryan G. Knight

CHAPTER 74: VACATION RENTALS

Section

Article I. General Provisions

- 74-1 Authority, scope, and purpose
- 74-2 Findings of facts
- 74-3 Definitions
- 74-4 Enforcement
- 74-5 Appeals
- 74-6 Construction of chapter
- 74-7 – 74-14 Reserved

Article II. Vacation Rental Registration

- 74-15 Registration required
- 74-16 Vacation rental registration
- 74-17 Modification/change of ownership of vacation rental registration
- 74-18 Duration of vacation rental registration
- 74-19 Renewal of vacation rental registration
- 74-20 Inspection of vacation rentals
- 74-21 Sale of vacation rental property
- 74-22 Vested rights/waiver/estoppel
- 74-23 False information
- 74-24 Effective date for existing vacation rentals
- 74-25 Duties of vacation rental owner or responsible party
- 74-26 – 74-34 Reserved

Article III. Standards and Requirements for Vacation Rentals

- 74-35 Generally
- 74-36 Minimum life/safety and operational requirements
- 74-37 Maximum occupancy based on site capacity/limitations/grandfathering
- 74-38 Parking, solid waste disposal, legal compliance, evacuations, miscellaneous provisions
- 74-39 Required posting of local information in a vacation rental and in agreement
- 74-40 – 74-49 Reserved

Article IV. Exemptions

- 74-50 Exemption for pre-existing rental agreements
- 74-51 Exemption for owner-occupied vacation rentals

ARTICLE I. GENERAL PROVISIONS

§ 74-1. AUTHORITY, SCOPE, AND PURPOSE.

(A) This chapter is enacted under the home rule authority and power of the Town of Melbourne Beach in the interest of the health, peace, safety and general welfare of the citizens of the Town of Melbourne Beach.

(B) Section 509.013, Florida Statutes, provides a distinction between "transient public lodging establishments," defined as dwelling units which are rented, advertised or held out for rental to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, and "nontransient public lodging establishments," defined as dwelling units which are rented, advertised or held out for rental to guests for periods of at least 30 days or one calendar month, whichever is less.

(C) Section 509.242(1)(c), Florida Statutes, further provides for a subset of transient public lodging establishments,

classified as "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.

(D) It is the intent of this chapter to regulate vacation rental transient public lodging establishments as defined by Florida Statutes, which are located in the 1-RS, 2-RS, 3-RS, 4-RM, 5-RMO, and 8-B zoning districts of the Town of Melbourne Beach.

(E) In 2011, the Florida Legislature passed House Bill 883 (Chapter 2011-119, Laws of Florida) amending Florida Statutes, § 509.032(7)(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."

(F) In 2014, the Florida Legislature passed Senate Bill 356 (Chapter 2014-71, Laws of Florida) amending Florida Statutes, § 509.032(7)(b) 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."

(G) 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:

(1) 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.

(2) 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.

(3) 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.

(H) This chapter does not prohibit vacation rentals, or the duration or frequency of vacation rentals, nor is it the intention of the Town of Melbourne Beach 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 of the citizens and visitors to the Town of Melbourne Beach.

(Ord. 2020-02, adopted 5-20-20)

§ 74-2. FINDINGS OF FACTS.

Based on information presented to the Town Commission Members by residents of Melbourne Beach and managers, owners, and operators of vacation rentals, the practical first-hand experience and observations of Town Commission Members, common sense deductions of Town Commission Members based on long-term experiences in Melbourne Beach and familiarity with the character of the town's residential zoning districts, information learned by Town of Melbourne Beach staff, information from the U.S. Census as well as evidence and testimony presented at public hearings before the Town Commission, and after consideration of 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 Town Commission finds:

(A) Residents residing within their residential dwelling units 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.

(B) 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.

(C) Certain vacation rentals may be presently located within the 1-RS, 2-RS, 3-RS, 4-RM, 5-RMO, and 8-B zoning districts of the Town of Melbourne Beach.

(D) Vacation rentals, left unregulated, can create negative impacts within residential neighborhoods due to excessive noise, parking and traffic problems, excessive use and impact on public services and public works, extreme size, and/or greater occupancy.

(E) Vacation rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods and the quiet enjoyment of residents of such neighborhoods.

(F) Vacation rentals located within established residential neighborhoods can create negative compatibility impacts relating to extreme noise levels, late night activities, on-street parking issues, and traffic congestion.

(G) 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.

(H) According to the U.S. Census, (2010), the Town of Melbourne Beach has an average household size of 2.30 persons.

(I) According to the U.S. Census, (2010), the Town of Melbourne Beach has an average household size of owner-occupied units of 2.36 persons.

(J) According to the U.S. Census, (2010) the Town of Melbourne Beach has an average household size of renter-occupied units of 2.02 persons.

(K) Vacation rentals situated in the 1-RS, 2-RS, 3-RS, 4-RM, 5-RMO, and 8-B zoning districts can and do create a great disparity in occupancy.

(L) The town finds that such rentals increase the demands upon code enforcement, police, fire, and emergency services beyond those created by non- vacation rental residential dwelling units.

(M) Vacation rental use and longer-term residential use and ownership can be generally incompatible, due to rapid turnover associated with short-term vacation residential use and its potentially disruptive effect on the peaceful use and enjoyment of residential areas.

(N) The primary reasonable investment-backed expectation of owners of residential dwelling units in the town is that adjacent and surrounding residential dwelling units will be used as family occupied residential units and not vacation rentals.

(O) Vacation rentals are a use that is more similar to the character of the use of hotels, motels, and timeshares than to that of family-occupied residential units.

(P) The regulation of vacation rentals will contribute to the stability of existing residential neighborhoods.

(Q) The regulation of vacation rentals will protect visitors to the town by assuring that fire and safety inspections are periodically conducted, that they receive necessary information about the dwelling which they have rented, and notifying them of the owner of the dwelling's obligation to provide for their safety and welfare.

(R) The regulation of vacation rentals is necessary in order to protect the public health, safety and welfare of the town, its residents and its visitors.

(Ord. 2020-02, adopted 5-20-20)

§ 74-3. DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BEDROOM. Any room in a vacation rental which has a bed or other place for sleeping and a separate closet that is an integral part of the permanent construction within the bedroom or an ensuite bathroom, and complies with the Florida Fire Code and Florida Life Safety Code as a bedroom, but shall not include a bathroom, a kitchen, a dining room, or any main living area. If a room has been added, altered, or converted without any required building permit having been granted, such room shall not be deemed a bedroom. If a previously approved bedroom exists as of the effective date of this chapter and does not have a separate closet that is an integral part of the permanent construction of the structure, but rather utilizes an armoire or other furniture piece for clothing storage, the requirement for a closet to qualify as a bedroom is waived.

FAMILY. Shall be defined as provided in §1A-3, Appendix A, Land Development Code.

LIVING AREA. The minimum floor area of a residential dwelling as measured by its outside dimensions exclusive of carports, porches, sheds and attached garages. As used in this chapter, the total living area shall be computed as follows: the exterior dimensions of all enclosed spaces within the framework of the dwelling unit (length and width) multiplied and totaled, as follows:

- (1) Any room or area accessible from any other room or area within the framework shall constitute living area.
- (2) A room or area must be totally enclosed by walls and covered by roofing.
- (3) A room or area must be protected from the elements.
- (4) A utility room within the framework of the residential dwelling and accessible within the main living area constitutes living area.

OCCUPANT. Any person who occupies a vacation rental overnight.

OWNER-OCCUPIED. The vacation rental is then occupied by person(s), at the vacation rental owner's consent, who do not pay rent for the occupancy of the vacation rental, when such persons are members of the family of the vacation rental owner.

PEER-TO-PEER PLATFORM/ENTITY. Any person, service, business, company, marketplace, or other entity that, for a fee or other consideration, provides property owners and responsible parties a platform or means to offer vacation rentals to transient occupant whether through the internet or other means.

RESPONSIBLE PARTY. The owner, or the person designated by the owner of a vacation rental to be called upon to answer for the maintenance of the vacation rental and the conduct and acts of the occupants of the vacation rental.

TOWN CODE. The Town of Melbourne Beach Code of Ordinances and Land Development Code, Appendix "A" to the Code of Ordinances, including, but not limited to, the Zoning Code of the Town of Melbourne Beach, Florida, the Comprehensive Plan, the Future Land Use Map, and any items incorporated by reference.

TRANSIENT PUBLIC LODGING ESTABLISHMENTS. Any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or one calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

VACATION RENTAL. Collectively a vacation rental as defined under Florida Statutes, and any transient public lodging establishment, which is operated in a dwelling unit or living unit as defined under § 1A-3, Appendix A, Land Development Code in the 1-RS, 2-RS, 3-RS, 4-RM, 5-RMO, and 8-B zoning districts of the Town of Melbourne Beach.

VACATION RENTAL OWNER. The fee simple owner of the Vacation rental property, whether an individual, partnership, corporation, limited liability company, trust, or other entity. In the event the vacation rental owner is not an individual, the vacation rental owner shall designate a responsible natural person to perform the functions and duties of a vacation rental owner as provided in this chapter. The duties and functions of a vacation rental owner may, at the option of the vacation rental owner, be performed by an agent of the vacation rental owner, so long as the vacation rental owner notifies the town in writing, on a form provided by the town, of the identity and contact information of such agent, and the specific duties that the agent will be performing for the vacation rental owner. The vacation rental owner may change the designation of agent at any time through the filing of a new form and the payment of an administrative fee in an amount as set by the Town Commission. The vacation rental owner shall be held responsible for all actions of such designated agent with respect to the applicable vacation rental.

(Ord. 2020-02, adopted 5-20-20)

§ 74-4. ENFORCEMENT.

Violations of this chapter shall be enforced as code violations in accordance with the provisions of Florida Statutes, Chapter 162, and §§ 11-15 through 11-22 of the Town of Melbourne Beach Code of Ordinances.

(Ord. 2020-02, adopted 5-20-20)

§ 74-5. APPEALS.

Any decision of the Town Manager or his or her authorized designee relating to implementation of this chapter shall be rendered in writing in appealable form, and reviewed by the Town Attorney if a notice by the vacation rental owner or agent is filed with the Town Clerk within ten days after the action to be reviewed. The Town Clerk or designee shall place the matter on the agenda of the next available meeting of the Town Commission, but no later than 35 days after the notice by the vacation rental owner or agent is filed, at which the matter will be reviewed. The decision of the Town Commission shall be final and shall be rendered in writing in appealable form. Such final decision may be reviewed as permitted under Florida law.

(Ord. 2020-02, adopted 5-20-20)

§ 74-6. CONSTRUCTION OF CHAPTER.

This chapter shall be liberally construed to accomplish its purpose of regulating vacation rentals, protecting the residential character of the 1-RS, 2-RS, 3-RS, 4-RM, 5-RMO, and 8-B zoning districts of the Town of Melbourne Beach, the health, safety, and general welfare of its residents and visitors, and the quiet enjoyment by Melbourne Beach residents of their residential property located in the 1-RS, 2-RS, 3-RS, 4-RM, 5-RMO, and 8-B zoning districts.

(Ord. 2020-02, adopted 5-20-20)

§§ 74-7. – 74-14. RESERVED.

ARTICLE II. VACATION RENTAL REGISTRATION

§ 74-15. REGISTRATION REQUIRED.

As of August 1, 2020, a vacation rental registration shall be required to operate a vacation rental within the Town of Melbourne Beach in the 1-RS, 2-RS, 3-RS, 4-RM, 5-RMO, and 8-B zoning districts, utilizing forms promulgated by the town, electronically or in hard copy. The town may extend the date that such registration is required by notice on the town's website should the town not publish forms and fees for registration by July 1, 2020. Prior to the issuance of a vacation rental registration, the responsible party has the affirmative duty to ensure that the residential dwelling unit and property in or on which the vacation rental is or will be located, is in full compliance with the appropriate portions of Town of Melbourne Beach Code of Ordinances, the Florida Building Code, the Florida Administrative Code, and the Florida Fire Prevention Codes. A separate vacation rental registration shall be required for each separate residential dwelling unit constituting a vacation rental. The operation of a vacation rental without registration after the date registration is required shall be a violation of this chapter, except in the instance of providing accommodations to fulfill a pre-existing contract.

(Ord. 2020-02, adopted 5-20-20)

§ 74-16. VACATION RENTAL REGISTRATION.

(A) A vacation rental owner, agent, or responsible party, as applicable, registering a vacation rental with the town shall submit to the town a completed registration form, utilizing a form promulgated by the town, together with all applicable registration and inspection fees in the amount set by resolution of the Town Commission.

(B) A registration application shall include the following:

- (1) Full address of the vacation rental property being registered, along with proof of ownership;
- (2) Name, physical address, phone number, and e-mail, of the vacation rental owner;
- (3) Name, physical address, e-mail, and emergency contact phone number of responsible party for the vacation rental, which shall be a 24-hour, seven days a week contact number;
- (4) The vacation rental's current and active license number as a transient public lodging establishment issued by the Florida Department of Business and Professional Regulation (DBPR), if the registrant has such license;
- (5) A copy of the vacation rental's current and active certificate of registration with the Florida Department of Revenue and Brevard County for sales and tourist development tax collection, respectively, if the registrant has such certificates or accounts; unless a peer-to-peer platform entity through which the vacation rental is booked will be remitting all such taxes associated with the vacation rental on the responsible party's behalf;
- (6) Business tax receipt from the Town of Melbourne Beach, if applicable, in accordance with Chapter 65, Town of Melbourne Beach Code of Ordinances;
- (7) Statement attesting to the number of bedrooms and paved off-street parking spaces available on the property demonstrating compliance with § 7A-50, Land Development Code regarding off-street parking and affirming that, "parking serving the vacation rental shall be in compliance with all town parking requirements;"
- (8) Exterior site sketch. An exterior sketch of the vacation rental facility shall be provided. The sketch shall show and identify all structures, pools, spas, hot tubs, fencing, and uses, including areas provided for off-street parking. For purposes of the sketch, off-street parking spaces shall be delineated so as to enable a fixed count of the number of spaces provided. At the option of the vacation rental owner, such sketch may be hand drawn and need not be professionally prepared, but must be scaled, must show dimensions, and must show scale;
- (9) Interior building sketch by floor. A building sketch by floor shall be provided, showing a floor layout identifying all bedrooms, other rooms, exits, hallways, stairways, and safety equipment as applicable. At The option of the vacation rental owner, such sketch may be hand drawn, and need not be professionally prepared, but must be scaled, must show dimensions, and must show scale;
- (10) Acknowledgment signed by the vacation rental owner, agent, or designated responsible party, understanding and agreeing to initial and ongoing compliance with this chapter and all other applicable local, state, and federal laws, regulations, and standards; and
- (11) The landline telephone number on the main level and in the common area at the vacation rental with the ability to call 911 as required by §§ 74-35 through 74-39.

(C) If a registration form is incomplete, the registrant will be notified of the deficiency, and be allowed 15 days to provide any missing information.

(Ord. 2020-02, adopted 5-20-20)

§ 74-17. MODIFICATION/CHANGE OF OWNERSHIP OF VACATION RENTAL REGISTRATION.

(A) An amendment of a vacation rental registration application and affidavit of compliance shall be required, with payment of the appropriate fee set by resolution, in the event that any of the following changes to the vacation rental are proposed:

- (1) An increase in the number of bedrooms in the vacation rental.
- (2) An increase or decrease in the number of parking spaces or a change in the location of parking spaces for the vacation rental.
- (3) A change in the designated responsible party,

(B) A change of ownership shall require a new application and all required documents including appropriate fees set by resolution.

(Ord. 2020-02, adopted 5-20-20)

§ 74-18. DURATION OF VACATION RENTAL REGISTRATION.

A vacation rental registration shall be valid for one year after the date of registration.

(Ord. 2020-02, adopted 5-20-20)

§ 74-19. RENEWAL OF VACATION RENTAL REGISTRATION.

A vacation rental owner must renew its registration annually prior to the expiration date of the previous vacation rental registration. At the time of said renewal, the vacation rental shall be subject to an annual inspection and applicable renewal fees shall apply.

(Ord. 2020-02, adopted 5-20-20)

§ 74-20. INSPECTION OF VACATION RENTALS.

(A) Inspection of a vacation rental to verify compliance with the Florida Building Code and the Florida Fire and Life Safety Codes, which governed at the time of completion of the construction of the subject residential dwelling unit, shall be required subsequent to the initial registration of the vacation rental and annually after each renewal. If instances of noncompliance are found, all such instances of noncompliance shall be handled as other violations of the Florida Building Code and Florida Fire and Life Safety Codes are otherwise handled in the town. Enforcement of violations of the Florida Building Code and Florida Fire and Life Safety Codes by the town shall not affect rental contracts that preexist the effective date of this chapter unless such violations present a heightened threat the public, health, safety, and welfare of the occupants of a vacation rental. This inspection fee shall be set by Resolution of the Town Commission.

(B) Annual inspections to verify compliance with the Florida Building Code and the Florida Fire and Life Safety Codes, and the posting of notice requirements required herein shall be made by the town or designated contractor through appointment with the vacation rental owner, agent, or responsible party, as applicable. The annual inspection fee shall be set by Resolution of the Town Commission. If a Town Inspector or designated contractor has made an appointment with vacation rental owner or agent, as applicable, for an inspection, and the Town Inspector or designated contractor is unable to complete the inspection as a result of an action or inaction of the vacation rental owner, agent, responsible party, or an occupant of the vacation rental, the vacation rental owner shall be charged a "re-inspection" fee in an amount set by resolution of the Town Commission to cover the inspection expense incurred. The re-inspection fee shall be paid prior to scheduling the re-inspection. In addition, failure of a vacation rental owner agent, or responsible party, as applicable, to make the vacation rental available for an inspection within 20 days after notification by the town in writing that the town is ready to conduct an annual inspection, shall be a violation of this chapter punishable by a fine as set by resolution by the Town Commission. Such violation shall continue until the inspection is accomplished. Each day that such violation continues shall be a separate violation. Such violation may be enforced in accordance with § 74-4, Town of Melbourne Beach Code of Ordinances.

(Ord. 2020-02, adopted 5-20-20)

§ 74-21. SALE OF VACATION RENTAL PROPERTY.

When the ownership of the vacation rental is sold or otherwise transferred, the new owner shall file a new registration with the town within 30 days from the date of the sale or transfer. Failing such application for registration, any Certificate of Compliance as to that Vacation Rental Property shall be null and void on the thirty-first day after such sale or transfer.

(Ord. 2020-02, adopted 5-20-20)

§ 74-22. VESTED RIGHTS/WAIVER/ESTOPPEL.

A vacation rental registration shall not be construed to establish any vested rights or entitle the registered vacation rental to any rights under the theory of estoppel. A vacation rental registration shall not be construed as a waiver of any other requirements contained within the Town of Melbourne Beach Code of Ordinances and is not an approval of any other Town Code requirement outside this chapter. The registration of a vacation rental is not an approval of a use or activity that would otherwise be illegal under Florida law, the Florida Building Code, the Florida Fire Code or Life Safety Code, or in violation of the Town of Melbourne Beach Code of Ordinances.

(Ord. 2020-02, adopted 5-20-20)

§ 74-23. FALSE INFORMATION.

It shall be unlawful for any person to give any false or misleading information in connection with any application for registration, modification, or renewal of a vacation rental as required by this chapter. Vacation rental applications shall be sworn to under penalty of perjury. Any false statements made in an application shall be a basis for the revocation of any license issued pursuant to such application. In addition, such violations shall be enforced as provided in § 74-4, Town of Melbourne Beach Code of Ordinances.

(Ord. 2020-02, adopted 5-20-20)

§ 74-24. EFFECTIVE DATE FOR EXISTING VACATION RENTALS.

The provisions of § 74-15 through § 74-23 will not become effective for existing vacation rental properties until August 1, 2020. If the registration forms to implement the required registration provisions of this chapter are not available on July 1, 2020, the town may extend the requirement to register vacation rental properties by notice on the town's website.

(Ord. 2020-02, adopted 5-20-20)

§ 74-25. DUTIES OF VACATION RENTAL OWNER OR RESPONSIBLE PARTY.

(A) Every vacation rental owner or responsible party, as applicable, shall be available by phone at the listed phone number 24-hours a day, seven days a week to respond to police, fire, or other emergency personnel requests. Otherwise, response to attempted contact by the town's vacation rental regulatory personnel shall be required only Monday through Friday, except holidays, from 9 a.m. to 5 p.m. Failure of the vacation rental owner or responsible party, as applicable, to fulfill this duty, shall constitute a violation of this chapter which shall be punished by fine in accordance with § 74-4, Town of Melbourne Beach Code of Ordinances.

(B) Responsible party. All vacation rental units, if not managed by the vacation rental owner, shall have a designated responsible party.

(1) The responsible party shall be available 24 hours per day, seven days a week, for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of these regulations. The responsible party must have authority to immediately address and take affirmative action, within one hour of notice from the town, on violations concerning life-safety, noise, and parking violations. A record shall be kept by the town of the complaint and the responsible party's response, as applicable.

(2) A vacation rental owner may change his or her designation of a responsible party temporarily, up to 30 cumulative days during any consecutive 12-month period, or permanently; however, there shall only be one designated responsible party for each vacation rental property at any given time. To change the designated agent or responsible party, the vacation rental owner shall notify the town in writing including all information required by § 74-16(B)(3) Town of Melbourne Beach Code of Ordinances, along with a signed affidavit from the new responsible party acknowledging and agreeing to serve in this capacity and perform the duties of this chapter. Any notice of violation or legal process which has been delivered or served upon the previous responsible party, prior to the town's receipt of notice of change of the responsible party, shall be deemed effective service.

(3) It shall be the sole responsibility of the vacation rental owner to appoint a reliable responsible party and to inform the town of his or her correct mailing address, telephone number, and email address. Failure to do so shall not be a defense to a violation of this section. Service of notice on the responsible party shall be deemed service of notice on the vacation rental owner, occupant, or violator.

(C) (1) A vacation rental owner or responsible party is responsible for ensuring sexual offenders/predators as defined in Florida Statutes § 775.21, § 943.0435, § 944.607, or § 985.4815 register at the Brevard County Sheriff's office and the Town of Melbourne Beach Police Department following the process set forth in § 775.21, 48 hours prior to arrival at a vacation rental, regardless of the length of stay.

(2) A vacation rental owner and/or responsible party shall comply with Florida Law, § 775.215, as amended from time to time, pertaining to the distance separation of homes with a sexual offender/predator residing within the vacation rental and any business, school, child care facility, park, playground, or other places where children regularly congregate.

(3) Failure to comply with this section shall constitute a violation of this chapter and shall result in the revocation of the business tax receipt, if applicable, and vacation rental registration for the vacation rental and other enforcement provisions outlined in § 74-4, Town of Melbourne Beach Code of Ordinances.

(D) The vacation rental owner or responsible party shall inquire prior to check-in if any guest of at the vacation rental is a sexual offender/predator as defined in § 775.21, § 943.0435, § 944.607, or § 985.4815. If any guest of a Vacation Rental is a sexual offender/predator as defined in § 775.21, § 943.0435, § 944.607, or § 985.4815, the operator shall immediately notify the Melbourne Beach Police Department.

(E) The owner or responsible party shall provide the town, and post in a conspicuous place in the living area of the vacation rental, the name, address, and day/evening telephone numbers of the responsible party who shall be available 24 hours per day, seven days a week for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of these regulations. Any change in the responsible party shall require written notification to the town on forms provided by the town and in a manner promulgated by the town upon payment of the applicable fees.

(F) complaints made to the responsible party concerning violations of this chapter by occupants of vacation rental shall be responded to within a reasonable time but in no instance greater than three hours. A record of the complaint and of the responsible party's response shall be maintained in the file for the registration of the vacation rental and shall be available for inspection of the public during business hours of the town in accordance with Florida's public record law.

(G) It shall be the sole responsibility of the vacation rental owner to appoint a reliable responsible party and to inform the responsible party of his or her correct contact information. Failure to do so shall not be a defense to the town's claim of delivery of notice of a violation of this chapter to the responsible party. No vacation rental owner shall designate as a responsible party any person who does not expressly comply with the provisions of this section. The vacation rental owner or the responsible party shall be deemed to be the "violator" of this chapter as the term is used in Florida Statutes § 162.06. Service of notice on the responsible party shall be deemed service of notice on the vacation rental owner, occupant, or violator.

(Ord. 2020-02, adopted 5-20-20)

§§ 74-26. – 74-34. RESERVED.

ARTICLE III. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

§ 74-35. GENERALLY.

The standards and requirements set forth in this Article shall apply to the rental, use, and occupancy of vacation rentals in the Town of Melbourne Beach.

(Ord. 2020-02, adopted 5-20-20)

§ 74-36. MINIMUM LIFE/SAFETY AND OPERATIONAL REQUIREMENTS.

Vacation rentals in the Town of Melbourne Beach shall meet all applicable standards under the Florida Statutes, the Florida Building Code, the Florida Administrative Code, the Florida Swimming Pool Safety Act, and the Florida Fire Code and Life Safety Code. Each vacation rental shall also have the following:

(A) At least one landline telephone on the main level and in a common living area with the ability to call 911. The landline telephone number shall be registered at all times with Brevard County Emergency Management for the purpose of receiving emergency alerts for items including, but not limited to, mandatory evacuations for hurricanes and requests to limit utility usage. Additionally, the landline telephone number shall be registered at all times with the City of Melbourne, the water provider within the Town of Melbourne Beach, for the purposes of receiving boil water alerts and rescinding alerts.

(B) A swimming pool, spa, or hot tub shall comply with the current standards of Florida Statutes, Chapter 515, Residential Swimming Pool Safety Act.

(C) Smoke and carbon monoxide (CO) detection and notification system. There shall be a smoke and carbon monoxide detection system, installed and maintained in compliance with the requirements of Florida Building Code Residential, Sections R314 Smoke Alarms R315 Carbon Monoxide Alarms. Smoke and carbon monoxide detection systems shall have both audio and visual warning function capabilities.

(D) Fire extinguisher. On each floor there shall be available a portable, multi-purpose dry chemical 2A: 1 0B:C fire extinguisher, which shall be installed and maintained in compliance with NFPA 10.

(E) Battery powered emergency lighting. Battery powered emergency lighting, which illuminates automatically for at least one hour when electricity is interrupted, is required at each building exit.

(Ord. 2020-02, adopted 5-20-20)

§ 74-37. MAXIMUM OCCUPANCY BASED ON SITE CAPACITY/LIMITATIONS/GRANDFATHERING.

(A) The maximum occupancy of a vacation rental shall be stated in the vacation rental registration form and shall be limited to two occupants per bedroom plus two occupants in one common living area, with a maximum capacity of 12 persons in any vacation rental.

(B) The maximum occupancy restriction as set forth above shall not apply when the property serves as the primary residence of, and is occupied by, the vacation rental owner.

(C) Notwithstanding the above, residential dwelling unit that is being used as a vacation rental on of the effective date of this chapter, may apply for grandfathered status, which, if granted, allows operation of the grandfathered vacation rental at a capped occupancy rate higher than 12 occupants for a period not to exceed ten years. Vacation rentals that have an occupancy of 12 occupants or less do not require grandfathering to maintain that occupancy.

(1) A grandfathered vacation rental shall have its maximum occupancy based upon two persons per bedroom and two additional persons per one common living area being utilized for the occupants of the vacation rental at the time of application for grandfathered status. A change in the number of bedrooms at the vacation rental shall cause such vacation rental to lose its grandfathered status.

(2) The vacation rental owner, agent, or responsible party, as applicable, ("grandfathering applicant"), shall complete a grandfathering application as prescribed by the town, which shall be submitted under oath and upon penalty of perjury and shall provide verifiable written proof of the number of bedrooms and living areas as herein defined in the vacation rental.

(3) The grandfathering application and supporting proof shall be submitted to the town for review by town staff which shall make a written determination as to the maximum occupancy of the grandfathered vacation rental.

(4) If the town staff denies the requested occupancy level, the Town of Melbourne Beach shall notify the grandfathering applicant of the denial and shall provide the maximum approved occupancy level for the vacation rental in writing. Within 20 days after the service of the written notice, the grandfathering applicant may appeal the denial of the grandfathering application to the Town Commission by filing a written appeal with the Town Clerk. At the hearing on said appeal, the grandfathering applicant may present evidence supporting the requested occupancy. A final determination of occupancy by the Town Commission after the hearing of said appeal shall be final. Such final determination may be reviewed as permitted under Florida law. If no written appeal is filed within the 20-day period stated herein, the occupancy determined by the town staff shall be final.

(5) An application for grandfathered status shall be submitted, no later than the time of initial registration of the vacation rental, along with fees established by the Town Commission by resolution. If the town extends the date that registration is required, the deadline for the submission of grandfathering applications shall also be extended to the same extended date. If a vacation rental has been registered, but a final determination as to the occupancy level based upon grandfathering has not

yet been made, such vacation rental may allow occupancy up to the occupancy requested in the grandfathering application until such time as a final determination as to occupancy has been made.

(6) If it is reasonably determined by the town staff that any information supplied to the Town of Melbourne Beach in support of a grandfathering application was intentionally false or fraudulent, such action shall be deemed to be a violation of this chapter and may be enforced in accordance with § 74-4, Town of Melbourne Beach Code of Ordinances.

(7) If a vacation rental registration remains expired period in excess of 13 months, any grandfathering determination shall be deemed abandoned and shall no longer be applicable to the previously registered vacation rental.

(Ord. 2020-02, adopted 5-20-20)

§ 74-38. PARKING, SOLID WASTE DISPOSAL, LEGAL COMPLIANCE, EVACUATIONS, MISCELLANEOUS PROVISIONS.

(A) All vehicles associated with the vacation rental, including visitors not residing at the vacation rental, must be parked in compliance with §§ 30-41 through 30-48 of the Town of Melbourne Beach Code of Ordinances. All vehicles utilized by the occupants of the vacation rental must be parked within a driveway located on the subject property. There shall be no sidewalk, on street, right-of-way, or grass parking.

(B) Parking of trailers, boats, and recreational vehicles at vacation rentals shall be in accordance with §7A-57, Appendix "A," Land Development Code.

(C) Solid waste disposal (household garbage, recycling, and yard trash) at vacation rentals shall be in compliance with the solid waste franchise agreement adopted by the town.

(D) Vacation rental occupants are required to comply with all local, state, and federal laws at all times, including those related to illegal activities, local nuisance ordinances, and emergency management.

(E) Vacation rental occupants are required to participate in all mandatory evacuations due to hurricanes, tropical storms, or other threats to resident safety, as required by state and local laws,

(F) A vacation rental shall not be eligible for a special event permit under Chapter 52, Town of Melbourne Beach Code of Ordinances.

(G) No temporary storage containers may be stored on the vacation rental premises. The term "temporary storage container" shall mean any container, structure, box, cylinder, or crate made of any material not permanently affixed to real property, that is enclosed or capable of being enclosed on all sides, top and bottom, that is stored, placed, located or put on any real property within the town for the purpose of storing personal property, construction material, trash, refuse, garbage, debris, or other material or matter. Provided, however, with prior authorization from the Building Department a temporary storage container may be authorized during valid construction permit activity for this location.

(H) Except for dwelling and living unit structures that constitute nonconforming structures pursuant to §7A-83, Appendix A, Land Development Code, no accessory structure, vehicle, recreational vehicle, trailer, camper, or similar apparatus shall be utilized, rented, or registered as a Vacation Rental,

(Ord. 2020-02, adopted 5-20-20)

§ 74-39. REQUIRED POSTING OF LOCAL INFORMATION IN A VACATION RENTAL AND IN AGREEMENT.

(A) In each vacation rental, there shall be posted, in a prominent location on the inside of the vacation rental, the following written information:

- (1) The official street address and landline telephone phone number of the vacation rental.
- (2) The name, address, and phone number of the vacation rental owner or responsible party as applicable.
- (3) The maximum occupancy of the vacation rental.

(4) A copy of a document to be supplied by the town which includes excerpts from Town of Melbourne Beach Code of Ordinances of general application relevant to vacation rentals, including, but not limited to, solid waste and recycling pick-up regulations and days/times, regulations related to sea turtles and sea turtle lighting, parking, and noise regulations. Said document shall also be included as an addendum to each vacation rental agreement. The town will make available to vacation rental owners and agents a copy of such document in digital format upon request and the town will post such document on its website.

(5) The maximum number of vehicles that will be allowed to park at the vacation rental, along with a sketch of the location of the paved off-street parking and a notice that visitors to the vacation rental, must comply with §§ 30-41 through 30-48, Town of Melbourne Beach Code of Ordinances.

(6) Phone number and address of Holmes Regional Medical Center Melbourne and Health First Viera Hospital and directions from the vacation rental to the hospital.

(7) Emergency and nonemergency phone numbers for Melbourne Beach Police and Fire Departments.

(8) Emergency evacuation instructions.

(9) Rip currents are prevalent in the Atlantic Ocean here in Brevard County. Information from the National Weather Service, available via from <http://weather.gov/mlb> shall be provided to occupants on the dangers of rip currents that occur in the Atlantic Ocean shall be prominently displayed.

(10) Notice of the need for respect for the peace and quiet of neighborhood residents in compliance with Chapter 48, Town of Melbourne Beach Code of Ordinances. A statement shall specifically provide that occupants shall be prohibited from making excessive or boisterous noise in or about any residential dwelling unit at all times.

(11) In addition, there shall be posted, next to the interior door of each bedroom, and the exterior doors exiting the vacation rental a legible copy of a building evacuation map - minimum eight and one-half inches by 11 inches.

(12) A vacation rental agreement must include a list of occupant names and a record of the license plate numbers of vehicles used by occupants during any rental term or such information shall be provided in writing to the vacation rental owner prior to, or at the time of, the commencement of the rental term. This information shall be maintained by a vacation rental owner for no less than one year from the commencement of the rental term.

(Ord. 2020-02, adopted 5-20-20)

§§ 74-40. – 74-49. RESERVED.

ARTICLE IV. EXEMPTIONS

§ 74-50. EXEMPTION FOR PRE- EXISTING RENTAL AGREEMENTS.

(A) Notwithstanding any other provision of this chapter, rental agreements with prospective occupants for vacation rentals that were pre-existing as of the effective date of this chapter (hereinafter "Pre-existing Agreements") are exempt from the provisions of this chapter.

(B) If a vacation rental owner is cited for a violation of noncompliance with this chapter, when the vacation rental is occupied under the terms of a pre-existing agreement, the vacation rental owner may defend such violation based on the fact that the vacation rental was exempt from this chapter due to it being occupied pursuant to a pre-existing agreement. Such defense shall be determined based upon the following information, and upon any additional information supplied by the vacation rental owner:

- (1) Copy of deposit or payment information evidencing a pre-existing agreement;
- (2) Copy of e-mail or other communication evidencing a binding pre-existing agreement;
- (3) Information from the occupant confirming that there was a binding preexisting agreement; or
- (4) Written vacation rental agreement dated prior to April 15, 2020.

(C) Any person who supplies false or fraudulent information supporting a pre-existing agreement shall be in violation of this chapter and shall be subject to enforcement in accordance with § 74-4, Town of Melbourne Beach Code of Ordinances.

(D) Determination of exemption of a pre-existing agreement for a vacation rental from the requirements of this chapter under this section shall not exempt the occupants of the vacation rental from compliance with all other Town of Melbourne Beach Code of Ordinances requirements, including those related to noise, parking, nuisances.

(Ord. 2020-02, adopted 5-20-20)

§ 74-51. EXEMPTION FOR OWNER-OCCUPIED VACATION RENTALS.

The provisions of this chapter shall not apply to owner occupied vacation rentals or property which qualifies as homestead under the Florida Constitution and Florida law. Any person desiring to qualify for the exemption herein shall file an affidavit in substantially the following form:

"Affidavit of Exemption"

State of _____

County _____

Before me the undersigned authority personally appeared (hereinafter the "Owner") who upon oath deposes and states:

1. I am over the age of 18 and competent to make this Affidavit.
2. I own the following real property in the Town of Melbourne Beach, Brevard County, State of Florida:

(Legal description and Street Address)

3. Check one or both as applicable:

() I currently occupy the property described in Paragraph 2 above and have resided on this property continuously and uninterruptedly from (date) to the date of this Affidavit.

Or

() I have applied for and received the homestead tax exemption as to the above-described property, that is the tax identification parcel number of this property, and that the undersigned has resided on this property continuously and uninterruptedly from (date) to the date of this Affidavit.

4. The purpose of this Affidavit is to qualify for exemption from the Chapter 74 of the Town of Melbourne Beach Code of Ordinances regulating Vacation Rentals.

Sworn to (or affirmed) and subscribed before me by means of or online notarization, this day of (year) by "Notary".
(Ord. 2020-02, adopted 5-20-20)



Vacation Rental Registration Process

Vacation Rental Registration Forms can be obtained in person at Town Hall, 507 Ocean Avenue, or on the Town website at www.melbournebeachfl.org. Once complete, the forms should be submitted to the Town Clerk at Town Hall for review. Please ensure the items listed below are submitted with the registration. Failure to provide these items, including the registration and inspection fee, will result in a delay of the review process.

Vacation Rental Address: _____

Application Date: _____

Owner/Agent/Responsible Party Name: _____

| REQUIRED DOCUMENTS | |
|--|--|
| Vacation Rental Registration and Affidavit of Compliance. | |
| Payment of Vacation Rental Registration or Renewal Fee and Inspection Fee | |
| Agent Authorization, if applicable. | |
| Proof of Property Ownership (BCPA or Sunbiz) | |
| An exterior sketch of the Vacation Rental facility. The sketch shall show and identify all structures, pools, spas, hot tubs, fencing, and uses (water feature, fire pit, propane tanks), including areas provided for off-street parking. For purposes of the sketch, off-street parking spaces (10X20 ft. ea.) shall be delineated so as to enable a fixed count of the number of spaces provided. At the option of the Vacation Rental Owner, such sketch may be hand drawn (vs. computer generated) and need not be professionally prepared, but must be scaled , must show dimensions , and must show scale size used . | |
| Interior building sketch by floor. A building sketch by floor shall be provided, showing a floor layout identifying all bedrooms, other rooms, exits, hallways, stairways, and safety equipment (smoke detectors, carbon monoxide detectors, fire extinguishers, etc.) as applicable. Such sketch may be hand drawn (vs. computer generated), and need not be professionally prepared, but must be scaled , must show dimensions and must show scale size used . | |
| Licensure with the Florida Department of Business and Professional Regulation for a Transient Public Lodging Establishment. | |
| License with the Florida Department of Revenue for sales and development tax collection. If no such certificate or account, provide name of entity through which taxes will be remitted. | |
| Brevard County for Tourist Development Tax Number. | |

RESOLUTION NO. 2022-06

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, ESTABLISHING FEES FOR REGISTERING, RENEWING A REGISTRATION, AMENDING THE NAMED RESPONSIBLE PARTY, INITIAL AND ANNUAL INSPECTION FEES, AND PENALTIES FOR VACATION RENTALS; PROVIDING AN EFFECTIVE DATE

WHEREAS, the Town Commission of the Town of Melbourne Beach has determined the need to establish regulations and an inspection and registration process for Vacation Rental Properties within the Town with the adoption of Ordinance No. 2020-02; and

WHEREAS, Ordinance No. 2020-02 provides that the Town Commission may adopt fees for registering, renewing the registration annually, amending the named responsible party, the initial and annual inspection fees, and penalties for non-compliance; and

WHEREAS, the Town Commission of the Town of Melbourne Beach desires to amend the imposed the fees and services adopted by resolution No 2020-06;

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. The Town Commission adopts the following fees associated with Vacation Rentals:

| Vacation Rental Fee Schedule (Non-Refundable Fees) | |
|--|-------|
| Vacation Rental Application and Registration Fee | \$500 |
| Annual Renewal Vacation Rental Registration Fee | \$350 |
| Initial and Annual Safety Inspection Fee | \$150 |
| First Re-Inspection | \$85 |
| Second and Each Subsequent Inspection | \$150 |
| Change of Ownership Vacation Rental Application and Registration Fee (within 30 days) | \$500 |
| Modification of Existing Vacation Rental Registration: | \$250 |
| Permanent Transfer of Responsible Party Fee | \$100 |
| Temporary Transfer of Responsible Party Fee, Each Occurrence (30 days in any 12 month period) | \$25 |
| Late Fee for Annual Registration Renewal | \$200 |
| Penalty for Operating Without Registration, in Addition to Applicable Penalties Imposed Pursuant to Article II, Chapter 11 of the Town of Melbourne Beach Code of Ordinances | \$250 |

Town of Melbourne Beach Vacation Rental Registration

New Registration
 Renewal Registration
 Modification to Property

| PROPERTY INFORMATION | | | | | |
|---|--|--|--|----------|--|
| Vacation Rental Address: | | | | | |
| Landline Phone #: | | | | | |
| Zoning District: | | Swimming Pool: | | Hot Tub: | |
| # of Paved On Property Parking Spaces: (10X20ft/space) | | Square Footage of Living Area Under Air, Excluding Garage: | | | |
| # of Bedrooms: (sleeping room with a built-in closet) | | Maximum Occupancy Requested: (2/BR; 2 in common area; up to 12 max) | | | |

| OWNER INFORMATION | | | |
|--------------------|-----|------------------|--|
| Name: | | | |
| Mailing Address: | | | |
| Primary Phone: | | Secondary Phone: | |
| Email: | | | |
| Responsible Party: | Yes | No | |

| AGENT INFORMATION | | | |
|--------------------|-----|------------------|--|
| Name: | | | |
| Mailing Address: | | | |
| Primary Phone: | | Secondary Phone: | |
| Email: | | | |
| Responsible Party: | Yes | No | |

The Responsible party must be available 24/7 and be able to immediately address and take affirmative action within 1 hour of being contacted. A responsible party must be assigned below if the property owner is unable to meet this requirement.

| RESPONSIBLE PARTY CONTACT INFORMATION (If Other than Owner or Agent) | | | |
|---|--|------------------|--|
| Name: | | | |
| Mailing Address: | | | |
| Primary Phone: | | Secondary Phone: | |
| Email: | | | |

Signature of the applicant (owner/agent or responsible party) grants authorization to the Town of Melbourne Beach staff to inspect the premises of the vacation rental unit prior to the issuance of the Certificate of Compliance and at any other time after issuance of certificate concerning compliance with Chapter 74, Town of Melbourne Beach Code of Ordinances. Signature also certifies that the owner/responsible party has read and examined this application and knows that same is true and correct.

Applicant Name (Please Print): _____

Applicant Signature: _____

Date: _____

Town of Melbourne Beach
Vacation Rental Affidavit of Compliance

Before me, _____ personally appeared after being
Owner/Agent Responsible Party
 duly sworn state he/she personally knows the facts stated herein.

1. As of the date this affidavit is signed, I am the known owner/agent, a person who is a principal of an entity, and/or the responsible party of the residence located at, Melbourne Beach, Florida.
2. On this date _____, I submitted or authorized an application for the ____ registration, ____ renewal registration, ____ property change, ____ responsible party change, of a residence as a vacation rental and request for a Certificate of Compliance to the Town of Melbourne Beach.
3. I hereby certify that the Vacation Rental is in compliance with the provisions of Chapter 74 of the Town of Melbourne Beach Code of Ordinances and other applicable local, state, and federal laws, regulation, and standards to include, but not be limited to Chapter 509, Florida Statutes, and Rules, Chapter 61C and 69A, Florida Administrative Code, and will continue to operate within those guidelines including but not limited to the following:

Vacation Rental Compliance Requirements and Standards

1. **Licensing:** Obtain and maintain Brevard County Business Tax Receipt (if applicable), Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes and transient rental taxes, Brevard County for Tourist Development Tax; and Department of Business and Professional Regulation license as a transient public lodging establishment.
2. **Local Telephone 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. The number must be registered with Brevard County Emergency Management to receive emergency notifications and the City of Melbourne for the purpose of receiving boil water alerts.
3. **Fees:** Fees are non-refundable.
4. **Pre-Inspection Guide:** I have reviewed the Pre-Inspection Guide and to the best of my ability believe the structure is in full compliance with the noted requirements.
5. **Interior Posting:** In each Vacation Rental, there shall be provided, in a prominent location on the inside of the Vacation Rental, the following written information:
 - The official street address and landline telephone phone number of the Vacation Rental.
 - The name, address, and phone number of the Vacation Rental Owner or Responsible Party as applicable.
 - The maximum occupancy of the Vacation Rental.

- A copy of a document to be supplied by the Town which includes excerpts from Town of Melbourne Beach Code of Ordinances of general application relevant to Vacation Rentals, including, but not limited to, solid waste and recycling pick-up regulations and days/times, regulations related to sea turtles and sea turtle lighting, parking, and noise regulations. Said document shall also be included as an addendum to each Vacation Rental Agreement. The Town will make available to Vacation Rental Owners and agents a copy of such document in digital format upon request and the Town will post such document on its website.
 - The maximum number of vehicles that will be allowed to park at the Vacation Rental, along with a sketch of the location of the paved off-street parking and a notice that visitors to the Vacation Rental, must comply with Article III, Section 30, Town of Melbourne Beach Code of Ordinances.
 - The days and times of trash and recycling pickup.
 - Phone number and address of Holmes Regional Medical Center Melbourne and Health First Viera Hospital and directions from the Vacation Rental to the hospital.
 - Emergency and nonemergency phone numbers for Melbourne Beach Police and Fire Departments.
 - Emergency evacuation instructions.
 - Information from the National Weather Service, available via from weather.gov/mlb regarding the dangers of Rip Currents that occur in the Atlantic Ocean.
 - Notice of the need for respect for the peace and quiet of neighborhood residents in compliance with Chapter 48, Town of Melbourne Beach Code of Ordinances. A statement shall specifically provide that occupants shall be prohibited from making excessive or boisterous noise in or about any residential dwelling unit at all times
 - Next to the interior door of each bedroom, and the exterior doors exiting the Vacation Rental a legible copy of a building evacuation map - Minimum 8-1/2" by 11".
6. **Parking:** All vehicles associated with the Vacation Rental must be parked in compliance with the Town of Melbourne Beach Code of Ordinances. All vehicles associated with the vacation rental must be parked within a designated paved parking space or driveway located on the subject property. There shall be no sidewalk, on street, right-of-way, or grass parking.

Parking of trailers, boats, and recreational vehicles at Vacation Rentals shall be in accordance with § 7A67, Appendix "A," Land Development Code.

7. **Property Owner/Agent/Responsible Party:**

- Availability. Every Vacation Rental Owner, or Agent or Responsible Party, as applicable, shall be available by phone at the listed phone number 24-hours a day, seven days a week to respond to police, fire, or other emergency personnel requests. Otherwise, response to attempted contact by the Town's Vacation Rental regulatory personnel shall be required only Monday through Friday except holidays, from 9 a.m. to 5 p.m. The Responsible Party shall promptly respond to complaints regarding conduct or behavior of Vacation Rental occupants or alleged violations of these regulations. The Responsible Party must have authority to immediately address and take affirmative action, within one (1) hour of notice from the Town, on violations concerning life safety, noise, and parking violations.

- Responsible Party Changes. A Vacation Rental Owner may change his or her designation of a Responsible Party temporarily, up to thirty (30) cumulative days during any consecutive twelve (12) month period, or permanently; however, there shall only be one designated Responsible Party for each vacation rental property at any given time. To change the designated Agent or Responsible Party, the Vacation Rental Owner shall notify the Town in writing including all information

required by § 74-16 (b)(3) Town of Melbourne Beach Code of Ordinances, along with a signed affidavit from the new Responsible Party acknowledging and agreeing to serve in this capacity and perform the duties required by Chapter 74 of the Town Code of Ordinances.

8. Sexual Offenders:

A Vacation Rental Owner or Responsible Party is responsible for ensuring sexual offenders/predators as defined in § 775.21, § 943.0435, § 944.607, or § 985.4815 register at the Brevard County Sheriff's office and the Town of Melbourne Beach Police Department following the process set forth in § 775.21, 48 hours prior to arrival at a vacation rental, regardless of the length of stay.

A Vacation Rental Owner and/or Responsible Party shall comply with Florida Law, Chapter 775.215, as amended from time to time, pertaining to the distance separation of homes with a sexual offender/predator residing within the Vacation Rental and any business, school, child care facility, park, playground, or other places where children regularly congregate.

The Vacation Rental Owner or Responsible Party shall inquire prior to check-in if any guest of at the Vacation Rental is a sexual offender/predator as defined in §775.21, §943.0435, §944.607, or §985.4815. If any guest of a Vacation Rental is a sexual offender/predator as defined in §775.21, §943.0435, §944.607, or §985.4815, the operator shall immediately notify the Melbourne Beach Police Department.

Failure to comply with this section shall result in the revocation of the Vacation Rental Registration for the Vacation Rental and other enforcement provisions outlined in Chapter 74, Town Code of Ordinances.

9. Changes or Alteration to the Property or Operation:

An amendment of a Vacation Rental Registration Application and Affidavit of Compliance shall be required, with payment of the appropriate fee set by resolution, in the event that any of the following changes to the Vacation Rental are proposed:

- (1) An increase in the number of bedrooms in the Vacation Rental.
- (2) An increase or decrease in the number of parking spaces or a change in the location of parking spaces for the Vacation Rental.
- (3) A change in the designated Responsible Party.

A change of ownership shall require a new application and all required documents including appropriate fees set by resolution

I hereby also acknowledge that the approval of this Certificate of Compliance shall in no way permit any activity contrary to the Town of Melbourne Beach Code, or any activity that would constitute a nuisance under state or local law. I understand and acknowledge that the approval for use of this residence as a vacation rental is based on my representations to Town Staff, and does not in any way constitute an evaluation or determination of legal or legal non-conforming status of the improvements on this site. I further acknowledge that it is my responsibility, as property owner and/or responsible party, to ensure that the conduct of this vacation rental is not contrary to any ordinance, code, or restriction which may govern the property on which the vacation rental will be conducted, which property address is referenced above. I acknowledge that any misrepresentation made by me or by my agent in applying for this certificate may render the certificate invalid.

I hereby certify that the information contained herein and included with this application is accurate.

Property Owner/Agent Name (Please Print): _____

Signature: _____ Date: _____

OR

Responsible Party Name (Please Print): _____

Signature: _____ Date: _____

State of Florida
County of Brevard

THIS AFFIDAVIT OF COMPLIANCE was sworn to (or affirmed) and subscribed before me by means of _____ physical presence or _____ online notarization, this _____ day of _____ 20____ by

(name of person acknowledging)

(NOTARY SEAL)

Signature of Notary

Name of Notary Typed, Printed, or Stamped

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

Town of Melbourne Beach Vacation Rental Agent Authorization

| PROPERTY OWNER INFORMATION | | | |
|----------------------------|--|------------------|--|
| Name: | | | |
| Mailing Address: | | | |
| Primary Phone: | | Secondary Phone: | |
| Email: | | | |

| AGENT INFORMATION | | | |
|-------------------|--|------------------|--|
| Name: | | | |
| Mailing Address: | | | |
| Primary Phone: | | Secondary Phone: | |
| Email: | | | |

The undersigned, an owner or officer for the Vacation Rental Owner of the property located in the Town of Melbourne Beach, Florida at _____ hereby authorizes the above named agent to perform the duties and functions of a Vacation Rental Owner on behalf of the above named Property Owner.

Property Owner Name (Please Print): _____

Signature: _____ Date: _____

State of Florida
County of Brevard

THIS AGENT AUTHORIZATION was sworn to (or affirmed) and subscribed before me by means of _____ physical presence or _____ online notarization, this _____ day of _____ 20____ by

(name of person acknowledging)

(NOTARY SEAL)

Signature of Notary

Name of Notary Typed, Printed, or Stamped

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

PART II - CODE OF ORDINANCES
Chapter 13 - NUISANCES
ARTICLE II. NOISE

ARTICLE II. NOISE¹

Sec. 13-22. Findings of fact.

The City Commission of the City of Flagler Beach, Florida hereby finds:

- (1) The persistence of sound generated by some sources constitutes a public nuisance that adversely affects the public health, safety and welfare of the citizens of Flagler Beach.
- (2) Existing enforcement mechanisms have not been fully effective at assuring compliance with the city's sound control standards.
- (3) The city commission finds and determines that this situation necessitates action to provide the additional enforcement mechanism authorized in this article in order to help assure full compliance with city sound control standards.

(Ord. No. 2007-13, § 1(Exh. A), 5-24-07; Ord. No. 2013-02, § 1, 3-14-13; Ord. No. 2019-09, § 1, 8-8-19)

Sec. 13-23. Definitions.

- (a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All terminology used in this article which is not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

A-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dBA.

Ambient noise means the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources.

Building line means an imaginary line extending at a ninety-degree angle from the right-of-way to the nearest corner of a building.

City manager means the city manager of the City of Flagler Beach or the manager's designee.

C-weighted sound level means the sound pressure level in decibels as measured on a sound level meter using the C-weighted network. The level so read is designated dBC.

Decibel means a unit for describing the amplitude of sound, equal to twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micrometers per square meter.

Emergency work means any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or eminent peril.

¹Editor's note(s)—Ord. No. 2007-13, § 1, adopted May 24, 2007, amended Art. II in its entirety to read as herein set out. Former Art. II, §§ 13-22—13-29, pertained to similar subject matter and derived from Ord. No. 2000-17, § 1(Exh. A), adopted August 24, 2000.

Noise disturbance means any sound which:

- (1) Endangers or injures the safety or health of humans or animals; or
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property.

For purposes of this definition, any sound that exceeds the maximum permissible sound levels set forth in section 13-26 of this article shall constitute a noise disturbance per se. It is the intent and purpose of this definition that sounds that either meet the aforesaid criteria or exceed the sound levels in section 13-26 shall constitute a violation of this article.

Originating property means the property from which any sound originates.

Receiving property means property into which any sound is projected other than the originating property.

Sound level means the weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B, or C as specified in American National Standards Institute specifications for sound level meters, ANSI S1.4-1983, or in successor publications. If the weighting employed is not indicated, the A-weighting shall apply.

Sound level meter means an instrument, which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighing networks used to measure sound pressure levels. The output meter reads sound pressure levels when properly calibrated, and the instrument is to type 2 or better, as specified in the American National Standards Institute Publications, S1.4-1983, or its successor publications.

Sound pressure level means twenty (20) times the logarithm to the base ten (10) of the ratio of the RMS sound pressure level to the reference of twenty (20) micronewtons per square meter.

Testing protocol shall be at least two (2) fifteen (15) second readings taken from a receiving property as provided herein. In cases where the city has received a complaint regarding sound levels, the readings shall be taken from the property from which the complaint is made, if known. In cases where the city has received no complaint or where the location of the complainant is not known, the readings shall be taken from the right-of-way adjacent to the nearest developed receiving property to the originating property from approximately the point at which the building line nearest to the originating property intersects the right-of-way.

(Ord. No. 2007-13, § 1(Exh. A), 5-24-07; Ord. No. 2013-02, § 1, 3-14-13; Ord. No. 2019-09, § 1, 8-8-19)

Sec. 13-24. Compliance.

It shall be unlawful, except as expressly permitted in this article, to make, cause or allow the making of any noise or sound in such a manner as to create a noise disturbance.

(Ord. No. 2007-13, § 1(Exh. A), 5-24-07; Ord. No. 2013-02, § 1, 3-14-13)

Sec. 13-25. Measurement of sound.

Standards, instrumentation, measurement procedures, and instrumentation maintenance used in the measurement of sound shall be in accordance with ANSI S1.4-1983 or its successor publications. City personnel that will be taking sound level measurements shall be trained to use sound testing devices.

(Ord. No. 2007-13, § 1(Exh. A), 5-24-07; Ord. No. 2013-02, § 1, 3-14-13)

Sec. 13-26. Maximum permissible sound levels by use occupancy category.

No person shall cause, suffer, allow or permit the operation of any source of sound in such a manner as to create a sound level that exceeds the sound level limits listed in table 1 when measured beyond the originating property's property line. Sound or noise projecting from one zoning district into another zoning district with a different decibel level limit shall not exceed the limits of the zoning district into which the noise is projected when measured from within such receiving zoning district. Sound pressure levels in excess of those established in table 1 shall constitute prima facie evidence that such sound is in violation of this article. The sound shall be measured using the "A" and "C" scale in slow time constant. In circumstances where the ambient noise level is equal to or exceeds the sound pressure levels established in table 1, the ambient noise level shall represent the maximum sound pressure level for purposes of performing the measurement provided for herein.

TABLE 1
MAXIMUM SOUND LEVELS FOR
USE OCCUPANCY CATEGORY
RECEIVING LAND USE

| Use Occupancy Category ¹ | Time | Maximum Sound Level Limit—dBA | Maximum Sound Level Limit—dBC |
|-------------------------------------|----------------------|-------------------------------|-------------------------------|
| Residential ² | 7:00 a.m.—10:00 p.m. | 60 | 65 |
| | 10:00 p.m.—7:00 a.m. | 55 | 60 |
| Commercial or Tourist | 7:00 a.m.—10:00 p.m. | 70 | 75 |
| | 10:00 p.m.—7:00 a.m. | 65 | 70 |
| Light Industrial | At all times | 75 | 80 |

¹The city's zoning map shall be relied upon for purposes of defining the "use occupancy category". In cases of multiple uses, with the exception of multiple uses as described in footnote 2 below, the more restrictive use category shall prevail. Hospitals, nursing homes, schools, libraries, and church uses shall be considered residential uses. Any area not otherwise classified shall conform to commercial standards.

²The commercial or tourist use occupancy category's maximum sound levels shall apply to residential uses located within the GC-General Commercial and the TC-Tourist Commercial zoning districts.

(Ord. No. 2007-13, § 1(Exh. A), 5-24-07; Ord. No. 2013-02, § 1, 3-14-13; Ord. No. 2019-09, § 1, 8-8-19)

Sec. 13-27. Noise level exemptions.

The following uses and activities shall be exempt from this article's noise level regulations except as listed in table 1.

- (1) Air conditioners when functioning in accord with the manufacturers' [specifications], standard mufflers and noise-reducing equipment in use and in proper operating condition according to standards promulgated by the American Refrigeration Institute. The same exception shall apply to lawn mowers and agricultural equipment during daylight hours.
- (2) Non-amplified crowd noises resulting from activities such as those planned by student, governmental or community groups.
- (3) Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government; providing all

equipment is operated in accord with the manufacturers' specifications and with all standard equipment, mufflers and noise-reducing equipment in use and in proper operating condition.

- (4) Noises of safety signals, warning devices, emergency pressure relief valves and bells and chimes of churches.
- (5) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
- (6) Noises resulting from emergency work.
- (7) Any other noise resulting from activities of a temporary duration permitted by law and for which a permit therefor has been granted by the city in accordance with this article. Regulation of noises emanating from operations under permit shall be according to the conditions and limits stated on the permit and contained in this article.
- (8) Noises made by persons having obtained a permit to use the streets.
- (9) All noises coming from the normal operations of aircraft (not including scale model aircraft).
- (10) Motor vehicles defined in F.S. Ch. 316.
- (11) All noises generated by the city and its agents and/or from city sponsored events.
- (12) All noises generated during the July 4th holiday.

(Ord. No. 2007-13, § 1(Exh. A), 5-24-07; Ord. No. 2013-02, § 1, 3-14-13); Ord. No. 2019-09, § 1, 8-8-19)

Sec. 13-28. Reserved.

Editor's note(s)—Ord. No. 2019-09, § 1, adopted August 8, 2019, repealed § 13-28 in its entirety. Former § 13-28 pertained to ambient noise and derived from Ord. No. 2007-13, § 1(Exh. A), adopted May 24, 2007.

Sec. 13-29. Other noise.

- (a) Some sounds may be such that they are not measurable or may not exceed the limits but they may be excessive, unnatural, prolonged, and unusual and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the city.
- (b) With the exception of those exemptions provided by state law, noises prohibited by this section are unlawful, notwithstanding the fact that no violation of section 13-26 is involved, and notwithstanding the fact that the activity complained about is exempted in section 13-27.
- (c) Thus, the following acts are declared to be loud, disturbing and unnecessary noises in violation of this article:
 - (1) The sounding of any horn or signaling device on any automobile or other vehicle, except as a danger warning;
 - (2) The creation by means of any signaling device of any unreasonably loud or harsh sound;
 - (3) The sounding of any signaling device for any unnecessary or unreasonable period of time; and the unreasonable use of any signaling device.

(Ord. No. 2007-13, § 1(Exh. A), 5-24-07; Ord. No. 2013-02, § 1, 3-14-13; Ord. No. 2014-02, § 1, 2-13-14; Ord. No. 2019-09, § 1, 8-8-19)

Sec. 13-30. Special permits for relief of maximum allowable noise levels.

- (a) Applications for a special permit for relief from the maximum allowable noise level limits designated in this article may be made in writing to the city manager. Any special permit granted by the city manager hereunder must be in writing and shall contain all conditions upon which said special permit shall be effective.
- (b) The city manager may grant the relief as applied for under the following conditions:
 - (1) The city manager may require the applicant to exhaust all technically reasonable abatement measures before a special permit is issued. These abatement measures shall be selected and installed by the applicant at his/her own risk.
 - (2) Special permits may be granted for the purpose of entertainment that exceeds the maximum allowable noise levels established in this article under the following conditions:
 - a. The function must be open to the public (admission may be charged).
 - b. The function must take place on public property.
 - c. The special permit will be given for only four (4) hours in one (1) twenty-four-hour day.
 - d. The function shall be staged between the hours of 9:00 a.m. and 10:00 p.m.
 - (3) Special permits for non-entertainment special purposes may be issued under any of the following conditions:
 - a. If the special purpose relates to the operation of a trade or business, that the special purpose not be in the ordinary course of that trade or business; or if the special purpose does not relate to the operation of a trade or business, that the special purpose not be an ordinary event in the affairs of the applicant.
 - b. If the special purpose is a recurring purpose, that it not recur more often than four (4) times each calendar year.
 - c. That the special purpose be absolutely necessary to the operation of the applicant's trade or business; or if the special purpose does not relate to the operation of the trade or business, that the special purpose be compatible with the ordinary activities of the neighborhood in which the special purpose is to occur.
 - d. Except in emergency situations, as determined by the city manager, the special permit may be issued only four (4) hours between 7:00 a.m. and 10:00 p.m. on weekdays.
 - e. Special permits may be issued for no longer than fifteen (15) consecutive days, renewable by further application to the city manager.
 - (4) No special permit shall be issued to permit the use of any loudspeaker or sound-amplifying device on the exterior of any building, which at any time exceeds the sound level limits in table 1, except those used for emergency warnings.

(Ord. No. 2007-13, § 1, 5-24-07; Ord. No. 2013-02, § 1, 3-14-13)

Sec. 13-31. License for use of loudspeakers or public address systems.

- (a) Loudspeakers or public address systems used to produce sound signals from any source for either advertising or other purposes shall not be operated on or over public property and public rights-of-way, unless a license has been issued by the city manager. Such systems may be used Monday through Saturday during daylight

hours only. No such systems shall be used, except systems used by police officers and/or city employees acting in an official capacity, systems approved in conjunction with special permits and special events approved by the city manager and special uses approved by the city commission.

- (b) Favorable recommendation of the police chief is required before issuance of a license. Such a recommendation must be given if the proposed activity will not violate any ordinance and will not endanger the public health and safety.
- (c) No loudspeakers or sound-amplifying devices shall be operated pursuant to this section within the hours of 10:00 p.m. and 9:00 a.m.
- (d) No loudspeakers or sound-amplifying devices shall be allowed to operate pursuant to this section during any hour of the day or night that exceeds the maximum permissible sound levels as described in section 13-26 unless a special permit for relief from the maximum allowable noise level limits established in this article has been approved by the city manager.

(Ord. No. 2007-13, § 1(Exh. A), 5-24-07; Ord. No. 2013-02, § 1, 3-14-13)

Sec. 13-33. Penalties.

- (a) Each violation of this article shall carry the following civil penalties:
 - (1) First violation within a one hundred eighty-day period, a written warning and notice to cure.
 - (2) Second violation within a one hundred eighty-day period, a citation in the amount of two hundred fifty dollars (\$250.00).
 - (3) Third and subsequent violations within a one hundred eighty-day period, a citation in the amount of five hundred dollars (\$500.00).

In the event that a person contests the citation issued him or her, or if he or she is convicted of the above charge, the court will set the fine in an amount not exceeding the statutory limits plus any costs the court may impose. The city may also seek payment of outstanding expenses as restitution.

(Ord. No. 2007-13, § 1, 5-24-07; Ord. No. 2009-13, § 8, 8-6-09; Ord. No. 2013-02, § 1, 3-14-13)

Secs. 13-34, 13-35. Reserved.

Chapter 26.5 VACATION RENTALS

ARTICLE I. IN GENERAL

Sec. 26.5-1. Authority, scope and purpose.

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

F.S. § 509.013, provides a distinction between "transient public lodging establishments," which are rented, or advertised or held out for rental 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; and "nontransient public lodging establishments," which are rented, or advertised or held out for rental to guests for periods of at least thirty (30) days or one (1) calendar month, whichever is less.

F.S. § 509.242(1)(c), further provides for a subset of transient public lodging establishments, called "vacation rental" which is any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family or four-family house or dwelling unit that is also a transient public lodging establishment, but that is not a timeshare project.

It is the intent of this chapter to regulate vacation rentals as defined by Florida Statutes, as well as other transient public lodging establishments which are located in the RS-1 single family residential zoning district of the City of Cocoa Beach, which collectively are referred to herein as "vacation rentals".

In 2011, the Florida Legislature passed House Bill 883, (Chapter 2011-119, Laws of Florida), amending F.S. § 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 of 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 Cocoa Beach 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.

(Ord. No. 1621, § 1, 6-7-2018)

Sec. 26.5-2. Findings of facts.

Based on information presented at various city commission meetings by residents of Cocoa Beach and owners and operators of vacation rentals, the practical first-hand experience and observations of city commissioners, common sense deductions of city commissioners based on long term experiences in Cocoa Beach, information learned by city commissioners from various residents, information from the U.S. Census, as well as evidence and testimony presented at public hearings before the city commission, and on the Short-Term Rental Housing Restrictions White Paper, prepared by Robinson & Cole, Attorneys at Law, in 2011, prepared for the National Association of Realtors®, the city commission finds:

- (1) Residents residing within their residential dwellings are inherently familiar with the local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from their residential dwellings, thereby minimizing potential risks to themselves and their families.
- (2) In contrast, transient occupants of vacation rentals, due to their transient nature, are typically not familiar with local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from the vacation rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation.
- (3) Certain vacation rentals are presently located within the RS-1 single family residential zoning district of the City of Cocoa Beach.
- (4) Vacation rentals, left unregulated, can create negative impacts within residential neighborhoods due to excessive noise, parking and traffic problems, excessive use and impact on public services and public works, extreme size and/or greater occupancy.
- (5) Vacation rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods, and the quiet enjoyment of its residents.
- (6) Vacation rentals located within established residential neighborhoods can create negative compatibility impacts relating to extreme noise levels, late night activities, on-street parking issues and traffic congestion.
- (7) A residential dwelling is typically the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of vacation rentals.
- (8) People who live in homesteaded/long-term rental properties generally know their neighbors and if there is an issue regarding noise, neighbors can typically work things out with their neighbors without the involvement of the city. People who live in homesteaded properties or are long-term renters generally have limited parties and noisy get-togethers; whereas people who temporarily in a neighborhood are typically there on vacation and are much more likely to have parties and loud get-togethers and generally can be the source of much more noise. There is typically much more accountability between neighbors who are homesteaded or long-term renters, as opposed to people who are at a property for a short period of time.
- (9) According to the 2017 U.S. Census estimates, the City of Cocoa Beach has an average household size of 1.97 persons.
- (10) Vacation rentals situated in the RS-1 single family residential zoning district neighborhoods can and do create a great disparity in occupancy.

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(Supp. No. 38)

(Ord. No. 1621, § 1, 6-7-2018; Ord. No. 1673, § 2, 1-19-2023)

Sec. 26.5-3. Definitions.

The following terms as used in this chapter are defined as set forth hereinafter:

Bedroom means any room in a vacation rental which has a bed or other place for sleeping and a separate closet that is an integral part of the permanent construction within the bedroom or an ensuite bathroom, and complies with the Florida Fire Code and Florida Life Safety Code as a bedroom, but shall not include a bathroom, a kitchen, a dining room, any main living area, or any exterior area or vessel. If a previously approved bedroom exists as of the effective date of this code, and does not have a separate closet that is an integral part of the permanent construction of the structure, but rather utilizes an armoire or other furniture piece for clothing storage, the requirement for a closet to qualify as a bedroom is waived. If there is more than one (1) living room, such additional living room can count as a bedroom as long as it has emergency egress as required for a bedroom.

Occupant means any person who occupies a vacation rental overnight. The term "occupant" includes the owner, agent, or other person staying overnight at the vacation rental whether or not they are paying for the rental, so long as at least one (1) person at the vacation rental is paying for the rental.

Owner occupied means the vacation rental is then occupied by person(s), at the vacation rental owner's consent, who do not pay rent for the occupancy of the vacation rental, when such persons are members of the family of the vacation rental owner, at a time when there are no person(s) occupying the vacation rental who are paying for such occupancy.

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 (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.

Vacation rental is collectively a vacation rental as defined under Florida Statutes, and any transient public lodging establishment which is located in the RS-1 single family residential zoning district of the City of Cocoa Beach.

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 twenty (20) percent or more of the equitable interest in the vacation rental shall also be deemed a vacation rental owner. The duties and functions of a vacation rental owner may, at the option of the vacation rental owner, be performed by an agent of the vacation rental owner, so long as the vacation rental owner notifies the city in writing, on a form provided by the city, of the identity and contact information of such agent, and the specific duties that the agent will be performing for the vacation rental owner. The vacation rental owner may change the designation of agent at any time through the filing of a new form and the payment of an administrative fee in an amount as set by resolution by the city commission. The vacation rental owner shall be held responsible for all actions of such designated agent with respect to the applicable vacation rental.

(Ord. No. 1621, § 1, 6-7-2018)

Sec. 26.5-4. Enforcement.

Violations of this ordinance shall be enforced in accordance with the provisions of section 1-8 of this Code of Ordinances, and through fines in accordance with ordinances and resolutions adopted by the city commission and most currently revised.

(Ord. No. 1621, § 1, 6-7-2018; Ord. No. 1673, § 2, 1-19-2023)

Sec. 26.5-5. Appeals.

Any decision of the city manager or his or her authorized designee relating to this ordinance shall be rendered in writing in appealable form, and reviewed by the city special magistrate if a notice by the vacation rental owner or agent is filed with the city clerk within ten (10) days after the action to be reviewed. The city clerk shall place the matter on the agenda of the next available meeting of the special magistrate, but no later than thirty-five (35) days after the notice by the vacation rental owner or agent is filed, at which the matter will be reviewed. The decision of the special magistrate shall be final and shall be rendered in writing in appealable form. Such final decision may be reviewed as permitted under Florida law.

(Ord. No. 1621, § 1, 6-7-2018)

Sec. 26.5-6. Construction of chapter.

This chapter shall be liberally construed to accomplish its purpose of regulating vacation rentals, protecting the residential character of the RS-1 single family residential zoning district of Cocoa Beach, the health, safety, and general welfare of its residents and visitors, and the quiet enjoyment by Cocoa Beach's residents of their residential property.

(Ord. No. 1621, § 1, 6-7-2018)

Sec. 26.5-7. Severability.

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

(Ord. No. 1621, § 1, 6-7-2018)

Sec. 26.5-8. Fees related to vacation rentals.

| Cost | Per | Vacation Rentals |
|----------|------|---|
| \$525.00 | Each | Vacation Rental Application and Registration Fee |
| \$325.00 | Each | Annual Renewal Vacation Rental Registration Fee |
| \$35.00 | Each | Business Tax Receipt (BTR) |
| \$95.00 | Each | Annual Safety (Fire) Inspection Fee |
| \$85.00 | Each | Annual Building Department Inspection Fee |
| \$50.00 | Each | No Show or Re-Inspection fee for initial and/or Annual Inspection Fee |
| \$525.00 | Each | Change of Ownership Vacation Rental Application and Registration Fee |

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|----------|---------------------------|---|
| \$250.00 | Each | Modification of existing vacation rental registration: (change in number of bedrooms or parking or change in location of parking spaces) |
| \$250.00 | Each | Permanent Transfer of Responsible Party Fee (Site Manager) |
| \$50.00 | Each | Temporary Transfer of Responsible Party Fee, each occurrence (max 30 days in a 12-month period) |
| \$250.00 | Each | Late Fee for Annual Registration |
| \$500.00 | Day (First Day) | Penalty for Operating without Registration in Addition to Applicable Penalties Imposed by the Special Magistrate. |
| \$250.00 | Day (Starting Second Day) | Penalty for Operating without Registration beyond the first day, if unpaid. This fine is in Addition to Applicable Penalties Imposed by the Special Magistrate. |
| \$500.00 | Each | Operating at over occupancy greater than permitted (Billed to Owner) |
| \$250.00 | Each | Parking not in compliance with the approved parking plan (Billed to Owner) |

(Res. No. 2022-20, Exh. B, 1-19-2023)

Secs. 26.5-9—26.5-20. Reserved.

ARTICLE II. VACATION RENTAL REGISTRATION

Sec. 26.5-21. Registration required.

Every vacation rental owner, either personally or through an agent, shall register with the City of Cocoa Beach utilizing forms promulgated by the city and/or the city's third-party vendor responsible for such registrations. A separate registration shall be required for each vacation rental. The operation of a vacation rental without registration after the date registration is required shall be a violation of this ordinance, except in the instance of providing accommodations to fulfil a pre-existing contract as provided hereinafter. Every day of such operation without registration shall constitute a separate violation.

(Ord. No. 1621, § 1, 6-7-2018; Ord. No. 1673, § 2, 1-19-2023)

Sec. 26.5-22. Vacation rental registration.

- (a) A vacation rental owner or agent, as applicable, registering a vacation rental with the city shall register said vacation rental through the city's third-party vendor, utilizing the online process stipulated by said vendor.
- (b) A registration form shall include the following submittals:
 - (1) A completed vacation rental registration form.
 - (2) Payment of applicable fee.

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- (3) A copy of the vacation rental's current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation, if the registrant has such license.
 - (4) A copy of the vacation rental's current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue, if the registrant has such certificate of registration.
 - (5) Evidence of the vacation rental's current and active account with the Brevard 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 Brevard County Tax Collector, if the registrant has such account.
 - (6) Exterior site sketch. An exterior sketch of the vacation rental facility shall be provided. The sketch shall show and identify all structures, pools, spas, hot tubs, fencing, and uses, including areas provided for off-street parking. For purposes of the sketch, off-street parking spaces shall be delineated so as to enable a fixed count of the number of spaces provided. At the option of the vacation rental owner, such sketch may be hand drawn, and need not be professionally prepared.
 - (7) Interior building sketch by floor. A building sketch by floor shall be provided, showing a floor layout identifying all bedrooms, other rooms, exits, hallways, stairways, as applicable. At the option of the vacation rental owner, such sketch may be hand drawn, and need not be professionally prepared.
 - (8) Identity of non-paying occupants and vehicles. A statement as to the names of any non-paying occupants who will occupy the vacation rental overnight when there will be one (1) or more paying occupants at the vacation rental, such as vacation rental owner(s) and family, as well as the number of vehicles to be present as a result of the presence of the non-paying occupants.
- (c) If a registration form is incomplete, the registrant will be notified of the deficiency.
- (Ord. No. 1621, § 1, 6-7-2018; Ord. No. 1673, § 2, 1-19-2023)

Sec. 26.5-23. Modification of vacation rental registration.

An amendment of a vacation rental registration shall be required in the event that any of the following changes to the vacation rental are proposed:

- (1) An increase or decrease in the number of bedrooms in the vacation rental.
- (2) An increase in the maximum occupancy of the vacation rental.
- (3) An increase or decrease in the number of parking spaces, or a change in the location of parking spaces for the vacation rental.
- (4) A change in ownership of the vacation rental.
- (5) A change in the identity or vehicle(s) of non-paying occupant(s).

Modification of a vacation rental registration may be subject to additional fees as stipulated in the most recently revised version of the city's master fee listing.

(Ord. No. 1621, § 1, 6-7-2018; Ord. No. 1673, § 2, 1-19-2023)

Sec. 26.5-24. Duration of vacation rental registration.

A vacation rental registration shall be valid for one (1) year after the date of registration.

(Ord. No. 1621, § 1, 6-7-2018)

Sec. 26.5-25. Renewal of vacation rental registration.

A vacation rental owner must renew its registration annually prior to the expiration date of the previous vacation rental registration.

(Ord. No. 1621, § 1, 6-7-2018)

Sec. 26.5-26. Inspection of vacation rentals.

- (a) Inspection of a vacation rental to verify compliance with the Florida Building Code, and the Florida Fire and Life Safety Codes, which governed at the time of completion of the subject construction, shall be required subsequent to the initial registration of the vacation rental, and annually after each renewal. If instances of noncompliance are found, all such instances of noncompliance shall be handled as other violations of the Florida Building Code and Florida Fire and Life Safety Codes are otherwise handled in the city. These requirements will not be imposed so as to affect contracts that pre-exist the effective date of this ordinance (October 1, 2018).
- (b) Annual inspections shall be made by the city through appointment with the vacation rental owner or agent, as applicable. If a city inspector has made an appointment with vacation rental owner or agent, as applicable, for an inspection, and the city inspector is unable to complete the inspection as a result of an action or inaction of the vacation rental owner or agent, or an occupant of the vacation rental, the vacation rental owner shall be charged a "re-inspection" fee in an amount set by resolution of the city commission to cover the inspection expense incurred. The re-inspection fee shall be paid prior to scheduling the re-inspection. In addition, failure of a vacation rental owner or agent, as applicable, to make the vacation rental available for an inspection within twenty (20) days after notification by the city in writing that the city is ready to conduct the annual inspection, shall be a violation of this chapter punishable by a fine as set by resolution by the city commission. Such violation shall continue until the inspection is accomplished. Each day that such violation continues shall be a separate violation.

(Ord. No. 1621, § 1, 6-7-2018)

Sec. 26.5-27. Transfer of vacation rental registration.

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

A change in ownership of the vacation rental will be subject to a new registration fee as stipulated in the most recently revised master fee listing.

(Ord. No. 1621, § 1, 6-7-2018; Ord. No. 1673, § 2, 1-19-2023)

Sec. 26.5-28. Vested rights/waiver/estoppel.

A vacation rental registration shall not be construed to establish any vested rights or entitle the registered vacation rental to any rights under the theory of estoppel. A vacation rental registration shall not be construed as a waiver of any other requirements contained within the City of Cocoa Beach City Code or Comprehensive Plan, and is not an approval of any other code requirement outside this chapter. The registration of a vacation rental is not

an approval of a use or activity that would otherwise be illegal under Florida law, the Florida Building Code, the Florida Fire Code or Life Safety Code, or in violation of the Cocoa Beach City Code or Comprehensive Plan.

(Ord. No. 1621, § 1, 6-7-2018)

Secs. 26.5-29—26.5-42. Reserved.

Sec. 26.5-43. Duties of vacation rental owner.

Every vacation rental owner or agent, as applicable, shall be available by landline or mobile telephone answered by the vacation rental owner or agent at the listed phone number twenty-four (24) hours a day, seven (7) days a week to respond to police, fire or other emergency personnel requests. Otherwise, response to contact by the city's regulatory personnel shall be required only Monday through Saturday, 9:00 a.m. to 6:00 p.m. Failure of the vacation rental owner or agent, as applicable, to fulfil this duty, shall be a violation of this ordinance which shall be punished by fine as set by resolution of the city commission.

(Ord. No. 1621, § 1, 6-7-2018)

Secs. 26.5-44—26.5-50. Reserved.

ARTICLE III. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

Sec. 26.5-51. Generally.

The standards and requirements set forth in this article shall apply to the rental, use, and occupancy of vacation rentals in the City of Cocoa Beach.

(Ord. No. 1621, § 1, 6-7-2018)

Sec. 26.5-52. Minimum safety and operational requirements.

Vacation rentals in the City of Cocoa Beach shall meet the applicable standards under the Florida Statutes, Florida Building Code and the Florida Fire Code and Life Safety Code, and each vacation rental shall have at least one (1) telephone with the ability to call 911.

(Ord. No. 1621, § 1, 6-7-2018)

Sec. 26.5-53. Maximum occupancy based on site capacity/limitations/grandfathering/previous rentals.

- (a) The maximum occupancy of a vacation rental shall be stated in the vacation rental registration form, and shall be limited to the lesser of:
 - (1) Two (2) occupants (as defined herein) per bedroom (as defined herein), plus two (2) occupants.
 - (2) A total of eight (8) occupants per vacation rental.
- (b) The maximum occupancy restriction as set forth above shall not apply when the property is owner occupied by the vacation rental owner.

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- (c) Notwithstanding the above, a registered vacation rental that was used as a vacation rental as of the effective date of the original adoption of this ordinance, (March 5, 2020), may apply for grandfathered status to last for a period of ten (10) years, as to occupancy limitations, and may set its maximum occupancy based upon the following criteria and procedures. Vacation rentals that have an occupancy of eight (8) or less as determined according to section 26.5-53 above will not require grandfathering to maintain that occupancy.
- (1) A grandfathered vacation rental shall have its maximum occupancy based upon two (2) occupants (as defined herein) per bedroom (as defined herein), plus two (2) occupants, unless through a previously existing arrangement with the city the occupancy had been capped at a lower number of occupants as of the time of application for grandfather status. A change in the number of bedrooms at the vacation rental shall cause such vacation rental to lose its grandfathered status.
 - (2) The vacation rental owner, or agent, as applicable, ("grandfathering applicant"), shall complete a grandfathering application as prescribed by the city, which shall be submitted under oath and upon penalty of perjury, and provide verifiable written proof of the number of bedrooms as herein defined in the vacation rental.
 - (3) The grandfathering application and supporting proof shall be submitted to the city, if at all, by no later than June 5, 2020, for review by city staff, and such staff shall make a written determination as to the maximum occupancy of such grandfathered vacation rental.
 - (4) If the city staff fails to confirm the requested occupancy level, the city shall notify the grandfathering applicant of that fact, and the occupancy level that can be approved, in writing. Within twenty (20) days after such notice, an evidentiary hearing may be requested by the grandfathering applicant before the city's special magistrate to provide the grandfathering applicant an opportunity to provide evidence and/or testimony in support of the occupancy requested. A determination by the special magistrate after such evidentiary hearing shall be final. If no hearing is requested during that time period, the occupancy level shall be set at the level determined by the city staff upon initial review.
 - (5) If a vacation rental has been registered, but a final determination as to the occupancy level based upon grandfathering has not yet been made, such vacation rental may allow occupancy up to the occupancy requested in the grandfathering application until such time as a final determination as to occupancy has been made.
 - (6) If it is reasonably determined by the city staff that any information supplied to the city in support of an application for grandfathering was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine as set by the city commission by resolution. If there is such a determination by city staff, the city shall notify the grandfathering applicant of that fact, and within twenty (20) days after such notice, an evidentiary hearing may be requested by the grandfathering applicant before the special magistrate to provide the grandfathering applicant an opportunity to provide evidence and/or testimony to show that the information supplied in support of the application for grandfathering was not intentionally false or fraudulent. The determination by the special magistrate after such evidentiary hearing shall be final. If no hearing is requested during that time period, the initial determination by the city staff shall be final.
 - (7) If a vacation rental registration does not exist as to a vacation rental for a period in excess of thirteen (13) months, any grandfathering determination shall be deemed abandoned, and shall no longer be applicable to that vacation rental.
- (d) Notwithstanding any other provision of this section, rental agreements with prospective occupants for vacation rentals that were entered into before the original enactment of this chapter shall be exempt from the provisions of this chapter as more fully set forth in section 26.5-64. Notwithstanding any other provision of this section, rental agreements with prospective occupants for vacation rentals that were in compliance with the city's chapter 26.5 as of the date of entering into such rental agreement, (hereinafter "pre-occupancy cap agreements"), are exempt from the restrictions on occupancy enacted in this ordinance. If a

vacation rental is cited for a violation of the occupancy cap of eight (8) occupants as provided in this section, (that would not be a violation if it were not for this occupancy cap of eight (8) occupants), when the vacation rental is occupied under the terms of a pre-occupancy cap agreement, the vacation rental owner may defend such violation based on the fact that the vacation rental was exempt from the occupancy cap of eight (8) occupants due to it being occupied pursuant to a pre-occupancy cap agreement. Such defense shall be determined based upon the following information, and upon any additional information supplied by the vacation rental owner or otherwise determined by the fact finder:

- (1) Copy of deposit or payment information evidencing that the agreement was a pre-occupancy cap agreement.
- (2) Copy of e-mail or other communication evidencing a binding pre-occupancy cap agreement.
- (3) Information from the occupant confirming that there was a binding agreement in a time-frame to make the agreement as a pre-occupancy cap agreement under this section.

If it is reasonably determined by the city staff, and confirmed by the city's special magistrate that any information supplied to the city in support of an application for exemption, or in support of a defense based upon pre-occupancy cap agreement, was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine as set by the city commission by resolution.

(Ord. No. 1645, § 2, 3-5-2020; Ord. No. 1673, § 2, 1-19-2023)

Editor's note(s)—Ord. No. 1645, § 2, adopted March 5, 2020, amended § 26.5-53 in its entirety to read as herein set out. Former § 26.5-53 pertained to maximum occupancy based on site capacity/limitations/grandfathering and derived from Ord. No. 1621, § 1, adopted June 7, 2018.

Sec. 26.5-54. Vacation rental agreements—minimum provisions.

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

- (1) Maximum occupancy of the vacation rental that is consistent with the vacation rental registration.
- (2) The maximum number of vehicles that will be allowed to park at the vacation rental. Such number of vehicles shall not exceed the number of parking spaces located at the vacation rental as shown in the sketch submitted with the vacation rental registration, plus any other legal parking spaces that the vacation rental owner can show are available to the vacation rental.
- (3) A statement that a sketch of the permitted off-street parking locations where occupants may park according to the vacation rental registration sketch and any other legal parking spaces available to the vacation rental will be posted at the vacation rental.
- (4) A statement that all occupants must promptly evacuate from the vacation rental upon posting of any evacuation order issued by state or local authorities.
- (5) A copy of a document to be supplied by the city which includes excerpts from City of Cocoa Beach ordinance provisions of general application relevant to vacation rentals to include solid waste pick-up regulations, regulations related to sea turtles and sea turtle lighting, and City of Cocoa Beach Noise Ordinance, as specified by resolution of the city, as a lease addendum. The city will make available to vacation rental owners and agents a copy of such document in digital format upon request, and the city will post such document on its website.

(Ord. No. 1621, § 1, 6-7-2018)

Sec. 26.5-55. Parking regulations; penalties.

No parking shall cross or block any sidewalk, and no parking shall be permitted on any grassed area, dirt or sand area, or any area covered by stones or shell unless such area is part of an approved parking plan. No vacation rental parking shall be on any lot or parcel other than on the specifically registered vacation rental property. The maximum collective number of automobiles, trucks, boats, motorcycles, and trailers shall be limited to a total of four (4) at any vacation rental. Any on-street parking shall not interfere with convenient vehicle access to and through the neighborhood and shall meet the requirements of sections 3-01 and 3-03 of the city's land development code. Violations of this section may be punished through city parking citations in accordance with section 26-30 of this code of ordinances, and vehicles parked in violation of the approved parking plan or which otherwise interfere with convenient vehicle access to and through the neighborhood are subject to being towed at the vehicle owner's expense.

(Ord. No. 1646, § 2, 3-19-2020; Ord. No. 1673, § 2, 1-19-2023)

Sec. 26.5-56. Noise regulations; exceptions.

No person located in or around a vacation rental at any time shall create, or cause to be created any noise or sound which is clearly audible within any other residence in the RS-1 single family residential district when the residence in which the noise or sound is clearly audible has its windows and doors closed. This shall not include cries for emergency assistance or warning calls, properly functioning HVAC systems, pool pumps, lawn mowers, leaf blowers, or fire alarms or burglar alarms prior to the giving of notice and a reasonable opportunity for the owner or tenant in possession of the vacation rental served by any such alarm to turn off the alarm. The provisions of this section are in addition to other noise regulations generally applicable in the city.

(Ord. No. 1673, § 2, 1-19-2023)

Sec. 26.5-57. Noise regulations; penalties.

- (a) Noise violations may be enforced utilizing any legal means, including, but not limited to, citations issued by code officers, police officers, or any other person designated by the city manager, arrest, actions before the special magistrate, or injunctive relief. Citations issued to renters shall be in amounts as set by resolution of the city commission.
- (b) If there are 3 noise violations with citations (whether such violations are paid, or if they are challenged and the special magistrate upholds such citation), issued over a rolling period of twelve (12) months, the special magistrate, at the request of the city, may deem the property a "noise nuisance property" to be effective for a period of twelve (12) months from the later of the special magistrate order deeming the property a "noise nuisance property" or any citation for a noise violation as to such property, and may impose one (1) or more of the following orders:
 - (1) Require that whenever in the twelve (12) months following the special magistrate order there is a change of occupancy of the property (i.e. new people staying in the noise nuisance property) the property manager must provide proof to the city that the property manager has visited the property during the first day of the stay of the new tenants (or as soon thereafter as is practicable) and delivered a copy of the city's noise ordinances to the new occupants of the property and explained the seriousness of the violations of such ordinance and the fines and penalties which are applicable. Failure to provide said notice shall constitute operating without registration and the vacation rental owner shall be subject to the applicable fine for operating without a registration.

- (2) Require that the owner of the noise nuisance property shall be required to impose for all future rentals of the noise nuisance property over the next twelve (12) months, an additional deposit (whether paid, or secured by a credit card) in an amount no less than five hundred dollars (\$500.00), with the condition of the deposit being that it will be forfeited to the city if the renter receives a noise violation during the term of the rental agreement. All such tenants shall be warned, by the owner or property manager, of such additional deposit and what would cause the forfeiture of such deposit prior to a rental agreement being finalized. A prominent notice of the conditions of such deposit and the potential forfeiture of such deposit shall be posted in each and every noise nuisance property. Failure to require the additional deposit shall constitute a violation of city regulations and the owner shall be subject to a penalty in the amount charged for operating without registration. Proof of the additional deposit must be provided to the city by the property manager for each and every rental of the property as long as the property is designated a noise nuisance property.

(Ord. No. 1673, § 2, 1-19-2023)

Secs. 26.5-58—26.5-62. Reserved.

Sec. 26.5-63. Required providing of vacation rental and local information—Posting.

- (a) In each vacation rental, there shall be provided, in a prominent location, the following written information:
- (1) The name, address and phone number of the vacation rental owner or agent, as applicable.
 - (2) The maximum occupancy of the vacation rental.
 - (3) A copy of a document to be supplied by the city which includes excerpts from City of Cocoa Beach ordinance provisions of general application relevant to vacation rentals to include solid waste pick-up regulations, regulations related to sea turtles and sea turtle lighting, City of Cocoa Beach Noise Ordinance, notifications as to speed limits and driving information, and other relevant information, as specified by resolution of the City, as a lease addendum. The city will make available to vacation rental owners and agents a copy of such document in digital format upon request, and the city will post such document on its website.
 - (4) The maximum number of vehicles that can be parked at the vacation rental, along with a sketch of the location of the off-street parking spaces.
 - (5) The days and times of trash pickup.
 - (6) The location of the nearest hospital.
- (b) There shall be posted, next to the interior door of each bedroom a legible copy of a building evacuation map— Minimum eight and one-half (8½) inches by eleven (11) inches.

(Ord. No. 1621, § 1, 6-7-2018)

ARTICLE IV. EXEMPTIONS

Sec. 26.5-64. Exemption for pre-existing rental agreements.

Notwithstanding any other provision of this ordinance, rental agreements with prospective occupants for vacations rentals that were pre-existing as of the original enactment of chapter 26.5, (hereinafter "pre-existing agreements") are exempt from the provisions of this ordinance.

If a vacation rental is cited for a violation of this chapter, (that would not be a violation if it were not for this chapter), when the vacation rental is occupied under the terms of a pre-existing agreement, the vacation rental owner may defend such violation based on the fact that the vacation rental was exempt from this chapter due to it being occupied pursuant to a pre-existing agreement. Such defense shall be determined based upon the following information, and upon any additional information supplied by the vacation rental owner or otherwise determined by the fact finder:

1. Copy of deposit or payment information evidencing that the agreement was a pre-existing agreement.
2. Copy of e-mail or other communication evidencing a binding Pre-existing agreement.
3. Information from the occupant confirming that there was a binding agreement in a time-frame to make the agreement as pre-existing agreement under this chapter.

If it is reasonably determined by the city staff, and confirmed by the city's special magistrate that any information supplied to the City of Cocoa Beach in support of an application for exemption, or in support of a defense based upon pre-existing agreement, was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine as set by the city commission by resolution.

(Ord. No. 1621, § 1, 6-7-2018; Ord. No. 1673, § 2, 1-19-2023)

ORDINANCE NO. C-23-34

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING ARTICLE X. – VACATION RENTAL OF CHAPTER 15 – BUSINESS TAX RECEIPTS AND MISCELLANEOUS BUSINESS REGULATIONS, OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO CLARIFY DEFINED TERMS; TO REVISE CONDITIONS REQUIRING VACATION RENTAL REGISTRATION AND APPLICATION REQUIREMENTS; TO MODIFY VACATION RENTAL REGISTRATION PROCESS; TO REVISE THE QUALIFICATION OF A RESPONSIBLE PARTY, VACATION RENTAL STANDARDS, THE PROCESS FOR RENEWAL OF REGISTRATION AND SUSPENSION OF THE CERTIFICATE OF COMPLIANCE; AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

WHEREAS, on August 18, 2015, the City Commission of the City of Fort Lauderdale ("City Commission") adopted Ordinance C-15-29 to provide for the regulation of vacation rentals; and

WHEREAS, the ordinance created a program requiring the annual registration and inspection of properties operating as vacation rentals in the City; and

WHEREAS, on December 6, 2016, the City Commission adopted Ordinance C-16-25 which amended vacation rental regulations by modifying requirements for responsible parties to respond to the City, streamlining the registration renewal process and updating penalties for properties in violation of registration and operational requirements; and

WHEREAS, on February 7, 2023, the City Commission directed staff to review the registration fees, strengthen enforcement fines, and to require a noise measuring device be installed at vacation rentals;

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

SECTION 1. That Article X. - Vacation Rental, of Chapter 15 – Business Tax Receipts and Miscellaneous Business Regulations, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended as follows:

CODING: Words, symbols, and letters stricken are deletions; words, symbols, and letters underlined are additions.

ARTICLE X. - VACATION RENTAL

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Sec. 15-271. Definitions.

For the purpose of this Article, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words not defined shall be given their meaning as provided in Section 1-2, Rules of construction, of this Code.

Certificate of Compliance means the document that is issued by the City that bears the words "vacation rental certificate of compliance" and shows that the person or entity, in whose name the document is issued, has complied with the provisions of this article relating to vacation rentals.

Garbage as defined in Section 24-1 of this Code.

Owner-occupied shall mean a Vacation Rental that is the primary and permanent residence of the owner of the property.

Permanent residence means that place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning. A person may have only one (1) permanent residence at a time; and, once a permanent residence is established in a foreign state or country, it is presumed to continue until the person shows that a change has occurred. The establishment a permanent residence in the City is a factual determination to be made by the Broward County Property Appraiser and evidence of the granting of homestead exemption by the property appraiser shall be prima facie evidence of the establishment of a permanent residence.

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

CODING: Words, symbols, and letters stricken are deletions; words, symbols, and letters underlined are additions.

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

Sleeping Room shall mean a room or space within a dwelling unit, as defined in Section 9-236, of this Code, primarily designed and used or intended to be used for sleeping purposes, excluding living rooms, kitchens, bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets and storage space.

Transient Occupants means any person, or guest or invitee of such person, who occupies or is in actual or apparent control or possession of residential property registered as or required pursuant to this Article to be registered as a vacation rental. It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of the vacation rental is a transient occupant.

Vacation Rental shall mean any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is rented to transient occupants more than three (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to transient occupants, and also a transient public lodging establishment as defined in F.S. §509.013, but that is not a timeshare project.

Sec. 15-272. - Registration Required.

- (a) It is unlawful for any person to allow another person to occupy any residential property that is a single-family, two-family, three-family, or four-family house or dwelling unit as a vacation rental within the City, or offer such property for rent as a vacation rental within the City, unless the owner of the property in fee simple title or his or her authorized representative has registered the property as a vacation rental property with the City and the vacation rental property has been issued a certificate of compliance in accordance with the provisions of this Article.

- (b) An application for registration as a vacation rental is deemed pending when the application has been filed, all applicable fees have been paid to the City pursuant to Section 15-274, of this Code, a certificate of compliance has not been issued for the property and the application has not been rejected. A registration application rejected as incomplete is not pending. Notwithstanding subsection (a) above, a person may allow another person to occupy residential property, for which a certificate of compliance has not been issued, as a vacation rental, when an application is pending if:
- (1) The residential property has an effective and valid license as a Vacation Rental classification of public lodging establishment issued by the Florida Department of Business and Professional Regulations prior to August 18, 2015; and
 - (2) The residential property is not in violation of any section of this Code; and
 - (3) An application for registration of the residential property as a vacation rental has been filed pursuant to Section 15-273 and all applicable fees have been paid; and
 - (4) ~~That said occupancy of the vacation rental was scheduled prior to August 18, 2015, as evidenced by a written and validly executed rental agreement or contract provided to the City Manager no later than November 2, 2015.~~
- (c) A vacation rental shall be registered annually on or before the thirtieth (30th) day of September.
- (d) The advertising or advertisement for the rental of a single-family, two-family, three-family, or four-family house or dwelling unit for periods of time less than thirty (30) days or one (1) calendar month is direct evidence of offering a property for rent as a vacation rental in violation of subsection 15-272(a) and the advertising or advertisement is admissible in any enforcement proceeding. The advertising or advertisement evidence raises rebuttable presumption that the residential property named in the notice of violation or any other report or as identified in the advertising or advertisement was used in violation of subsection 15-272(a).

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Sec. 15-273. - Application for registration.

- (a) A separate application for registration of a vacation rental shall be made to the City Manager or his or her designee for each building, proposed for use as a Vacation Rental, containing four (4) or less single family dwellings as the term is defined in Section 47-35.1 of the City's Unified Land Development Regulations, contained entirely under one (1) roof and shall set forth at a minimum:
- (1) The legal description of the property offered for rental (i.e., address, lot, block and subdivision name); and
 - (2) Name, address, electronic mail address, and telephone number of owner of said property; and
 - (3) Name, address, electronic mail address, and emergency contact telephone number of responsible party for said property; which shall be a twenty-four (24) hour, seven (7) days a week contact number; and
 - (4) That the telephone number for the responsible party will be answered twenty-four (24) hours a day, seven (7) days a week by the responsible party; and
 - (5) Acknowledgements by owner of the following:
 - a. That all vehicles associated with the Vacation Rental must be parked within the subject property in compliance with the Code of Ordinances of the City of Fort Lauderdale; and
 - b. That it shall be unlawful to allow or make any noise or sound that exceeds the limits set forth in Chapter 17, Noise Control; and
 - c. That the owner shall comply with all applicable city, county, state and federal laws, rules, regulations, ordinances and statutes; and
 - d. That no solid waste container shall be located at the curb for pickup before 6:00 p.m. of the day prior to pick up, and solid waste

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container shall be removed before midnight of the day of pickup;
and

- e. That whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance of a property, or, having been authorized, licensed, or invited, is warned by the owner or lessee, to depart the property and refuses to do so, commits the offense of trespass in a structure or conveyance; and
 - f. That other properties are not jointly shared commodities and should not be considered available for use by transient occupants of the property subject of the application; and.
 - g. The vacation rental shall be equipped with a noise level detection device alerting the property owner/responsible party and transient occupants to noise emanating from the vacation rental, and all data produced by this device will be retained for a period of one hundred eighty (180) days and made available to the City upon request.
- (6) Proof of owner's current ownership of the property; and
 - (7) Proof of registration with the Florida Department of Revenue for sales tax collection and Broward County for Tourist Development Tax; and
 - (8) Proof of licensure with the Florida Department of Business and Professional Regulation for a transient public lodging establishment; and
 - (9) Proof of compliance with subsection 15-275; and
 - (10) Authorization letter if the application is being submitted on behalf of the owner of the property by his or her authorized representative.
- (b) Submission of an incomplete registration application form shall result in rejection of the application.
 - (c) An application for the modification of a vacation rental registration is

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required when any of the following changes to the vacation rental are proposed:

- (1) A change in the gross square footage.
- (2) A change in the number of bedrooms.
- (3) A change in the maximum occupancy.
- (4) A change in the number of parking spaces, or a change in the location of parking spaces.

Upon completion of the changes or alterations to the vacation rental property, or the vacation rental operation the owner shall notify the City within ten (10) days of completion. A new certificate of compliance may be issued if the conditions of Section 15-277 have been met and all required permits have been issued for the changes or alterations.

Sec. 15-274. - Fees for registration.

The City charges reasonable fees for registration to compensate for administrative expenses. The fees for registration shall be provided for, from time to time, by resolution adopted by the City Commission of the City. Fees are non-refundable.

Sec. 15-275. - Responsible party required.

Whenever any property is required to be registered under this Article, the owner shall appoint a natural person to serve as the responsible party for service of notices as are specified herein, and notices given to the responsible party shall be sufficient to satisfy any requirement of notice to the owner. An initial Responsible party shall be designated and name submitted with the application for registration, and the city manager or his or her designee shall thereafter be notified of any change of responsible party within ten (10) days of such change. Further, it is the affirmative duty of the responsible party to:

- (1) Provide all guests prior to occupancy of the property with a written summary, printed in the English language, of applicable city

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ordinances concerning noise, vehicle parking, garbage, and common area usage. The summary shall include citations to the applicable city ordinances and instructions on how to access the complete written text. The summary shall be posted in the interior of the structure prominently near the main entrance of the establishment; and

- (2) Maintain all properties under their control in compliance with this Code; and
- (3) See that the provisions of this article are complied with and promptly address any violations of this article or any violations of law which may come to the attention of the responsible party; and
- (4) Be available with authority to address and coordinate solutions to problems with the rental of the property twenty-four (24) hours a day, seven (7) days a week; and
- (5) Be situated close enough to the property as to be able to respond in person within one (1) hour of being notified by a vacation rental occupant, law enforcement officer, emergency personnel, or the city of issues related to the vacation rental. Responsible party shall respond when requested; and
- (6) Keep available a register of all guests, which shall be open to inspection by authorized personnel of the City at all times; and
- (7) Maintain the entire property free of garbage and litter, provided however, that this subsection shall not prohibit the storage of garbage and litter in authorized receptacles for collection; and
- (8) Conduct an on-site inspection of the vacation rental at the end of each rental period to ensure continued compliance with the requirements of this chapter.

Sec. 15-276. - False information.

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

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this Article. Vacation rental applications shall be sworn to under penalty of perjury. Any false statements made in an application shall be a basis for the revocation of any license issued pursuant to such application.

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

- (a) The City Manager or his or her designee may issue a certificate of compliance to the applicant upon proof of the following:
- (1) The owner or responsible party completes the City registration application form; and
 - (2) The non-refundable registration fee has been paid to the City; and
 - (3) A business tax receipt from the City pursuant to Chapter 15 of the Code of Ordinances; and
 - (4) A business tax receipt from Broward County; and
 - (5) A Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes and transient rental taxes; and
 - (6) A Florida Department of Business and Professional Regulation license as a transient public lodging establishment; and
 - (7) An affidavit, demonstrating maintaining initial and ongoing compliance with vacation rental standards contained herein, plus any other applicable local, state and federal laws, regulations and standards to include, but not be limited to F.S. Chapter 509, and F.A.C. 61C and 69A; and
 - (8) A copy of the form vacation rental/lease agreement to be used when contracting with transient occupants and guests; and
 - (9) That the vacation rental has satisfied the inspection requirements as provided in Section 15-279, of this Code; and

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- (10) That the vacation rental is not subject to a suspension pursuant to Section 15-282.

Sec. 15-278. - Vacation Rental Standards.

The following standards shall govern the use of any vacation rental required to be registered under Section 15-272, of this Code, as a permitted use:

- (1) Minimum life/safety requirements:
- a. *Swimming pool, spa and hot tub safety.* A swimming pool, spa or hot tub shall comply with the current standards of the Residential Swimming Pool Safety Act, F.S. Chapter 515.
 - b. *Dwelling Units.* All dwelling units shall meet the minimum requirements of Article VI, Minimum Housing Code, Chapter 9, Buildings and Construction of this Code.
 - c. *Smoke and carbon monoxide (CO) detection and notification system.* A smoke and carbon monoxide (CO) detection and notification system within the vacation rental unit, shall be interconnected, hard-wired, and receive primary power from the building wiring. The smoke and carbon monoxide (CO) detection and notification system shall be installed and continually maintained consistent with the requirements of Section R314, Smoke Alarms, and Section R315, Carbon Monoxide Alarms, of the Florida Building Code – Residential.
 - d. *Fire extinguisher.* A portable, multi-purpose dry chemical 2A:10B:C fire extinguisher shall be installed, inspected and maintained in accordance with NFPA 10 on each floor/level of the unit. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location.
 - e. That all vehicles associated with the vacation rental must be parked within a driveway located on the subject property and in compliance with this Code.

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- f. *Local telephone service.* At least one (1) landline telephone with the ability to call 911 shall be available in the main level common area in the vacation rental.
- (2) *Maximum occupancy.*
- a. The maximum number of transient occupants authorized to stay overnight at any vacation rental shall be limited to two (2) persons per sleeping room. The number of sleeping rooms shall be confirmed by on-site inspection by a representative of the City, and
- b. The maximum number of persons allowed to gather at or occupy a vacation rental shall not exceed one and one-half (1 ½) times the maximum occupants authorized to stay overnight at that site, as shown on the certificate of compliance, and in no event shall a gathering exceed twenty (20) persons. This subsection b. shall not apply to owner-occupied vacation rentals when the property owner is physically present on the site during the gathering.
- c. Up to four (4) persons under thirteen (13) years of age are exempt from and shall not count towards the occupancy limits set in subsections a. and b. above.
- (3) *Solid waste handling and containment.* City solid waste containers shall be provided as required in Chapter 24 of this Code. Appropriate screening and storage requirements for solid waste containers shall apply per any development approval. For purposes of this section, a solid waste container shall not be placed at curbside before 6:00 p.m. of the day prior to solid waste pickup, and the solid waste container shall be removed from curbside before midnight of the day of pickup.
- (4) *Minimum vacation rental/lease agreement wording.* The vacation rental/lease agreement shall contain the minimum information as provided for in this subsection 15-278.
- (5) *Minimum vacation rental lessee information.* The vacation rental lessee shall be provided with a summary of the information required in subsection 15-278 with instructions on how to access the full text

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and shall post the following conspicuously within the establishment:

- a. A statement advising the Occupant that any sound shall not be plainly audible for a period of one (1) minute or longer at a distance of twenty-five (25) feet or more when measured from the source property line between the hours of 10:00 p.m. and 7:00 a.m. daily and at a distance of fifty (50) feet or more when measured from the source property line between the hours of 7:00 a.m. and 10:00 p.m. daily;
 - b. A sketch or photograph of the location of the off-street parking spaces;
 - c. The days and times of trash pickup;
 - d. The notice of sea turtle nesting season and sea turtle lighting regulations, if applicable;
 - e. The location of the nearest hospital; and
 - f. The City's non-emergency police telephone number;
 - g. There shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map – Minimum eight and one-half (8½) inches by eleven (11) inches.
- (6) Designation of a vacation rental responsible party capable of meeting the duties provided in subsection 15-276.
- (7) *Advertising.* Any advertising of the vacation rental unit shall conform to information included in the vacation rental certificate of compliance and the property's approval, particularly as this pertains to maximum occupancy. A statement stating "it is unlawful for a sexual offender or sexual predator to occupy this residence" if so determined pursuant to subsection 15-278(8) of this Code and the certificate of compliance number shall be included in all advertising.

- (8) *Sexual offenders and sexual predators.* It is unlawful for any property owner or designated representative to allow another person to occupy any residential property as a vacation rental within the City, as a transient occupant if such property owner or designated representative knew or should have known that the vacation rental will be occupied by a person prohibited from establishing a permanent residence or temporary residence at said residential property pursuant to Section 16-127 of this Code, if such place, structure, or part thereof, trailer or other conveyance, is located within one thousand four hundred (1,400) feet of any school, designated public school bus stop, child day care facility, park or playground or other place where children regularly congregate as described in Article VI, Chapter 16 of this Code. Property owner or designated representative shall determine, prior to submission of an application for a certificate of compliance, whether the vacation rental property is located in an area in which it is unlawful for sexual offenders or sexual predators to establish residence pursuant to Section 16-127.
- (9) *Posting of Certificate of Compliance.* The certificate of compliance shall be posted on the back of or next to the interior of the main entrance door and shall include at a minimum the name, address and telephone number of the responsible party, the maximum occupancy of the vacation rental and a statement stating "it is unlawful for a sexual offender or sexual predator to occupy this residence" if so determined pursuant to subsection 15-278(8) of this Code.
- (10) That all vehicles associated with the vacation rental must be parked within a driveway in compliance with this Code.
- (11) *Other standards.* Any other standards contained within this Code and the Unified Land Development Regulations of the City to include, but not be limited to: noise, setbacks, stormwater and similar provisions.
- (12) The vacation rental shall be equipped with a noise level detection device alerting the property owner/responsible party and transient occupants to noise emanating from the vacation rental, and all data produced by this device will be retained for a period of one hundred eighty (180) days and made available to the City upon request.

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

- (a) An inspection of the dwelling unit for compliance with this section is required prior to issuance of an initial vacation rental certificate of compliance. If violations are found, all violations must be corrected and the dwelling unit must be re-inspected prior to issuance of the initial vacation rental certificate of compliance as provided herein.
- (b) Once issued, a vacation rental unit must be properly maintained in accordance with the vacation rental standards herein and will be re-inspected annually. For an inspection, all violations must be corrected and re-inspected within thirty (30) calendar days. Failure to correct such inspection deficiencies in the timeframes provided shall result in the suspension of the vacation rental certificate of compliance until such time as the violations are corrected and re-inspected.
- (c) The inspections shall be made by appointment with the vacation rental responsible party. If the inspector has made an appointment with the responsible party to complete an inspection, and the responsible party fails to admit the officer at the scheduled time, the owner shall be charged a "no show" fee in an amount to be determined by resolution of the City Commission to cover the inspection expense incurred by the City.
- (d) If the inspector(s) is denied admittance by the vacation rental responsible party or if the inspector fails in at least three (3) attempts to complete an initial or subsequent inspection of the rental unit, the inspector(s) shall provide notice of failure of inspection to the owner to the address shown on the existing vacation rental certificate of compliance or the application for vacation rental.
 - (1) For an initial inspection, the notice of failure of inspection results in the certificate of compliance not being issued; the vacation rental is not permitted to operate without a valid certificate of compliance.
 - (2) For a subsequent inspection, the notice of failure of inspection

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is considered a violation and is subject to enforcement remedies as provided herein.

- (e) The City Commission may, by resolution, prescribe the circumstances under which the inspections required by this section may be waived.

Sec. 15-280. - Registration not transferable.

No registration issued under this Article shall be transferred or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued.

Sec. 15-281. - Expiration of registration and certificates of compliance.

- (a) All registrations for which a certificate of compliance has been issued under the provisions of this Article shall be valid for no more than one (1) year, and all registrations and certificates of compliance shall expire on September 30th of each year. The application for renewal must be submitted no later than sixty (60) days prior to the September 30th expiration date. Late renewal fees shall be established by resolution of the City Commission and shall be charged to an application for renewal submitted prior to the expiration date but after the sixty (60) days required by this section. All applications for renewal received after September 30th shall be processed as a new application and subject to all applicable fees. All registrations for which certificates of compliance were issued within one hundred eighty (180) days prior to September 30th shall remain valid and shall not expire until September 30th of the following year.

Sec. 15-282. - Penalties, Offenses, and Revocation.

- (a) Any certificate of compliance issued pursuant to this Article may be denied, revoked, or suspended by the City Manager or his or her designee upon the adjudication of a violation of this Article, any City ordinance, or state law by the responsible party, property owner or transient occupant attributable to the property for which the certificate of compliance is issued. Such denial, revocation or

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suspension is in addition to any penalty provided herein.

(b) Offenses/violations.

- (1) Non-compliance with any provisions of this article shall constitute a violation of this article.
- (2) Separate violations. Each day a violation exists shall constitute a separate and distinct violation, except that violations of subsection 15-278(2), regarding occupancy, shall constitute a single violation for a rental period.

(c) Remedies/enforcement.

- (1) Any person violating any of the provisions of this article shall be deemed guilty of a civil infraction. The amount of the civil penalty for each uncontested violation shall be ~~\$200.00~~ \$250.00 for the first offense, and for each contested violation the penalty shall be ~~\$275.00~~ \$325.00. Repeat violations shall be assessed consistent with Section 11-21; of this Code. Code enforcement activities will be in accordance with chapter 11 of this Code and the unified land development regulations of the City. Notwithstanding, a law enforcement officer is authorized to issue a citation under this section and a code inspector or law enforcement officer may issue a citation pursuant to this section without issuing a written warning notice as provided in subsection 11-18.b.
 - (2) *Additional remedies.* Nothing contained herein shall prevent the city from seeking all other available remedies which may include, but not be limited to, suspension or revocation of a vacation rental certificate of compliance, injunctive relief, liens and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.
- (d) Suspension of vacation rental certificate of compliance. In addition to any fines and any other remedies described herein or provided for by law, a special magistrate may suspend a vacation rental

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certificate of compliance in accordance with the following:

(1) *Suspension time frames.*

- a. Upon a third violation of this Article the vacation rental certificate shall be suspended for a period of one hundred eighty(180) calendar days.
- b. Upon a fourth violation of this Article the vacation rental certificate shall be suspended for a period of three hundred sixty-five (365) calendar days.
- c. For each additional violation of this Article the vacation rental certificate shall be suspended for an additional thirty (30) calendar days up to a maximum period of twelve (12) months. For example, the fifth violation shall be for three hundred ninety-five (395) calendar days; the sixth violation shall be for four hundred fifteen (415) calendar days, and so on.
- d. A vacation rental certificate of compliance shall be subject to temporary suspension beginning five (5) working days after a citation is issued for a violation of the Florida Building Code, or Florida Fire Prevention Code. Such suspension shall remain in place until the vacation rental is reinspected and it is determined that the violation no longer exists by the City.

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

- a. The suspension shall begin immediately following notice, commencing either:
 - i. at the end of the current vacation rental lease period; or

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- ii. within thirty (30) calendar days, whichever date commences earlier, or as otherwise determined by the special magistrate.
- b. Operation during any period of suspension shall be deemed a violation pursuant to this article and shall be subject to daily fine, up to One thousand dollars (\$1,000.00) ~~or to the maximum amount as otherwise provided in Florida Statutes for repeat violations, for each day that the vacation rental operates during a period of violation.~~ per day per violation for a first violation, \$5,000 per day per violation for a repeat violation and up to \$15,000 per violation if the special magistrate finds the violation to be irreparable or irreversible in nature.
- c. An application for a renewal may be submitted during the period of suspension; however, no Certificate of Compliance may be issued for the vacation rental until the period of suspension has expired.

Sec. 15-283. - Complaints.

Whenever a violation of this Article occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the City Manager or his or her designee. The City Manager or his or her designee shall promptly record such complaint, investigate, and take action thereon in accordance with this Article and Chapter 11 of this Code.

Sec. 15-284. - Enforcement.

The provisions of this Article shall be enforced as provided in Chapter 11 – Code Enforcement, of this Code.

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

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ORDINANCE NO. C-23-34

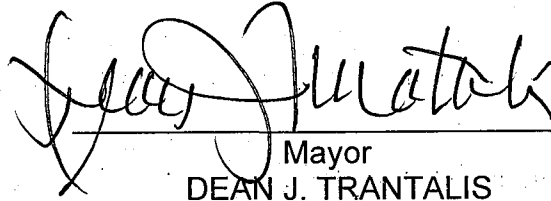
PAGE 19

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

SECTION 4. That this Ordinance shall be in full force and effect on October 1, 2023.

PASSED FIRST READING this 5th day of September, 2023.

PASSED SECOND READING this 19th day of September, 2023.



Mayor
DEAN J. TRANTALIS

ATTEST:



City Clerk
DAVID R. SOLOMAN

City Clerk
DAVID R. SOLOMAN

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PART II - CODE OF ORDINANCES
 Chapter 12 - NUISANCES
 ARTICLE VIII. - SHORT TERM RENTAL REGULATIONS
 DIVISION 2. VACATION RENTAL REGISTRATION

DIVISION 2. VACATION RENTAL REGISTRATION

Sec. 12-160. Registration required.

As of February 1, 2023, a vacation rental registration shall be required to operate a vacation rental within the town, utilizing forms promulgated by the town. The town clerk may extend the date that such registration is required by notice on the town's website should the town not publish forms and fees for registration by January 20, 2023. Prior to the issuance of a vacation rental registration, the responsible person has the affirmative duty to ensure that the dwelling unit and property in or on which the vacation rental is or will be located, is in full compliance with the town code. F.S. Chapter 509, the Florida Building Code, the Florida Administrative Code, and the Florida Fire Prevention Code. A separate vacation rental registration shall be required for each vacation rental. The operation of a vacation rental without registration after the date registration is required shall be a violation of this article, except in the instance of providing accommodations to fulfill a rental contract existing as of December 21, 2022.

(Ord. No. 2022-15, § 1, 12-21-22)

Sec. 12-161. Vacation rental registration.

- (a) A vacation rental registration application must be filed and signed by the vacation rental owner. An owner may apply through an agent, but in such case, the owner must execute a separate affidavit attesting that the agent is authorized by the owner to complete and submit the application on the owner's behalf. Such affidavit must be submitted along with the application.
- (b) A registration application must be submitted by using the forms promulgated by the town for such purpose. Application forms shall be submitted to the town clerk for processing. All applicable registration and inspection fees established by the town shall be submitted at the same time as the application form.
- (c) A registration application shall at a minimum, include the following:
 - (1) Address of the vacation rental property being registered, along with proof of ownership, which may be in the form of a deed or copy of the property appraiser's website information on the property;
 - (2) Name, address, phone number, and e-mail of the property owner and the date upon which the owner took title to the property;
 - (3) Name, address, e-mail, and emergency contact phone number of responsible person for the vacation rental, which shall be a 24 hour, seven days a week contact number;
 - (4) The vacation rental's current and active license number as a transient public lodging establishment with the Florida Department of Business and Professional Regulation (DBPR);
 - (5) A copy of the vacation rental's current and active certificate of registration with the Florida Department of Revenue and Pinellas County for sales and tourist development tax collection, respectively, if the registrant has such certificates or accounts; unless a peer-to-peer platform entity through which the vacation rental is booked will be remitting all such taxes associated with the vacation rental on the responsible person's behalf;
 - (6) Business tax receipt from the town, in accordance with article III of chapter 20 of the code;

-
- (7) Statement attesting to the number of bedrooms and paved off-street parking spaces available on the property with affirmation that "no on-street parking" will be allowed and that the parking plan submitted by the owner will be followed by the owner's guests;
 - (8) Exterior site plan. An exterior plan of the vacation rental property produced by an architect, engineer or professional draftsman shall be provided. The plan shall depict and identify the outer boundaries of the property, and all structures, docks, sheds, paved parking areas, pools, spas, hot tubs, and fencing. For purposes of the plan, off-street parking spaces allowed by the code to be used for parking shall be delineated so as to enable a fixed count of the number of spaces provided;
 - (9) Interior structural plan by floor. An interior structural plan of the vacation rental structure by floor, produced by an architect, engineer or professional draftsman, shall be provided. The interior structural plan shall depict a floor layout identifying all spaces on each floor, and shall label each space as a bedroom (as defined by this article), bathroom, kitchen, office, den, dining room, family room, sunroom, closet, utility room, laundry room, hallway, stairway, or any other spatial element of the structure;
 - (10) Acknowledgement signed by the owner, or owner's authorized agent, acknowledging and agreeing to initial and ongoing compliance with this article and all other town codes and federal, state and county laws which are applicable to the owner's ownership, maintenance, repair, modification, and use of the vacation rental property;
 - (11) An application must provide the phone number associated with the landline telephone required by section 12-176;
 - (12) A listing of the occupancy limit established by this article, calculated in the manner set forth in this article, and an acknowledgement that the owner will ensure compliance with the occupancy limit;
 - (13) A narrative parking plan acknowledging that no more than three passenger vehicles (cars, pickup trucks, wagons, suvs) may park on the vacation rental property at any one time, and outlining where vehicles will be parked and how guests will be made aware of the parking rules, including the prohibition against guests parking off-site;
 - (14) A copy of the conduct rules adopted by the owner which will apply to the conduct of the owner's guests, and a narrative statement setting forth how the owner will ensure each guest are provided a copy of, and made to acknowledge, these rules;
 - (15) A statement attesting that the owner has made all structural revisions to the vacation rental property, and all operational policies have been adopted to ensure compliance with the Americans with Disabilities Act's requirements for places of public accommodation; and
 - (16) A narrative statement setting forth how the owner will ensure each guest is provided a copy of, and made to acknowledge, the town rules which must be disclosed to each guest, including the town's rules related to solid waste storage, setting out solid waste on correct collection days, the noise restrictions associated with the vacation rental's use, the parking restrictions, and the quiet hour rules, all as are set forth in this article and as otherwise set forth in the code.
- (d) Forms must be fully completed, incomplete applications will not be processed. The town clerk does not have discretion to deny a registration application which is found to be complete, and which is found to satisfy the requirements of this article. If a registration application is found by the town clerk to be incomplete, or that the information submitted (such as the parking plan) does not satisfy a requirement of this article, the clerk will notify the applicant in writing setting forth the deficiencies to be addressed. The applicant will then be allowed 15 days to provide any missing information or to otherwise revise the application to make it compliant with this article. If an applicant disagrees with a determination of the clerk as to the completeness of an application, or an application's compliance with this article, the applicant may, within 15 days of the

date of the clerk's determination, file a written appeal to the town commission. The appeal must set forth the specific factual and legal reasons supporting the applicant's appeal.

(Ord. No. 2022-15, § 1, 12-21-22)

Sec. 12-162. Modification/change of ownership of vacation rental registration.

- (a) An amendment of a vacation rental registration application and affidavit of compliance shall be required, with payment of the appropriate fee, in the event that any of the following changes to the vacation rental are proposed:
- (1) An amendment to the owner's safety or parking plans;
 - (2) An amendment to the owner's conduct rules to be followed by guests;
 - (3) A change in the designated responsible person.

Such amendments will be approved by the town upon a finding by the town clerk that the changed plans, rules or designation otherwise continue to comply with the requirements of this article.

- (b) A change of ownership, including transfers between legal entities under common control, shall require a new application, and shall be accompanied by the applicable application fee.

(Ord. No. 2022-15, § 1, 12-21-22)

Sec. 12-163. Duration of vacation rental registration.

A vacation rental registration shall be valid for one year from the date the application is approved. An approved registration shall constitute permission to operate the vacation rental.

(Ord. No. 2022-15, § 1, 12-21-22)

Sec. 12-164. Renewal of vacation rental registration.

A vacation rental owner must renew its registration annually prior to the expiration date of the previous vacation rental registration and is subject to an annual inspection and applicable fees.

(Ord. No. 2022-15, § 1, 12-21-22)

Sec. 12-165. Inspection of vacation rentals.

- (a) To verify compliance with the Florida Building, Fire, and Life Safety Codes applicable to the vacation rental property, and to verify the interior and exterior plans submitted with the application accurately depict the conditions on and in the property, and to ensure all required safety equipment such as phone line and fire extinguishers are properly installed, and to verify the guest conduct information is properly displayed, each vacation rental shall, in conjunction with its initial or annual renewal application, be inspected by the town building official. The town will endeavor to coordinate an inspection date with the owner and complete the inspection process prior to the expiration of an existing registration period. However, only as to renewing applicants, if the availability of the building official causes a delay in that process, the town clerk is authorized to allow the vacation rental to continue operating on an interim basis for up to 30 days. Newly-registering vacation rentals may not begin operating until the application process, including the associated inspection, is completed.

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- (b) If instances of noncompliance are found, all such instances of noncompliance shall be handled either as violations of the Florida Building, Fire, or Life Safety Codes are otherwise handled by the building official under state law and Town Code or, if the violation is not related to a code under the jurisdiction of the building official, it shall be referred to code enforcement and handled as a code violation.
- (c) Initial and annual inspections required under this section shall be made by the building official through coordinating an appointment with the vacation rental owner or the owner's authorized agent or responsible person. If an inspection date is set but the building official is, due to an action or inaction of the owner, the responsible person, or occupant, denied or otherwise unable to make entry onto the property to conduct the inspection on the date set, the owner must re-apply for an inspection and pay an additional inspection fee. The re-inspection fee shall be paid prior to scheduling the re-inspection. Failure of a vacation rental owner agent, or responsible person, as applicable, to make the vacation rental available for an inspection within 20 days after notification by the town in writing that the town is ready to conduct the annual inspection shall constitute a violation of this article. Such violation shall continue until the inspection is accomplished.

(Ord. No. 2022-15, § 1, 12-21-22)

Sec. 12-166. Sale of vacation rental property.

When title to a registered vacation rental is transferred due to sale or otherwise, the new owner shall file a new registration application within 30 days from the date title changes to the new owner. A new owner may not continue to operate a currently-registered vacation rental if an application is not filed within the 30 day period and any existing approved registration will expire on the 31st day from the date title changes.

(Ord. No. 2022-15, § 1, 12-21-22)

Sec. 12-167. Vested rights; waiver; estoppel.

Approval of a vacation rental registration shall not be construed to establish any vested rights or entitle the registered vacation rental to any rights under the theory of estoppel, nor shall it be construed as a waiver of any other requirements contained in the town code. It is not an approval of any other code requirement outside this article. The registration of a vacation rental is not an approval of a use or activity that would otherwise be illegal under state law or the Florida Building, Fire, or Life Safety Codes, or a violation of the code. In the event the town regains, either through judicial or legislative action, the authority to enforce Ordinance No. 08-01, the town will terminate all vacation rental registrations. In that event, the town will coordinate with registered owners to develop an orderly cessation of operations.

(Ord. No. 2022-15, § 1, 12-21-22)

Sec. 12-168. False information.

It shall be unlawful for any person to give any false or misleading information in connection with any application for registration, modification, or renewal of a vacation rental as required by this article. Vacation rental applications shall be sworn to under penalty of perjury. Any false statements made in an application shall be a basis for the revocation of any license issued pursuant to such application.

(Ord. No. 2022-15, § 1, 12-21-22)

Sec. 12-169. Duties of vacation rental owner and responsible person.

- (a) Every vacation rental owner, or responsible person if one is designated, shall be available by phone at the listed phone number 24 hours a day, seven days a week, including holidays to respond to contact by the sheriff's department, fire department, or other emergency personnel, or by any other regulatory personnel of the town. Failure of the vacation rental owner or responsible person to comply with this requirement shall be a violation of this article.
- (b) Responsible person. If a vacation rental owner does not directly manage the registered vacation rental property owned by the owner, the owner shall designate a responsible person.
 - (1) The responsible person shall be available 24 hours per day, seven days a week, for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of these regulations. This person must have authority to immediately address and take affirmative action, within one hour of notice from the town or other relevant governmental agency, on violations concerning life-safety, noise, violent confrontations, trespassing, capacity limit violations, and parking violations. A record shall be kept by the town of the complaint and the responsible person's response.
 - (2) An owner may change his/her/its designation of a responsible person temporarily, up to 30 cumulative days during any consecutive 12 month period, or permanently; however, there shall only be one designated responsible person for each vacation rental property at any given time.
 - (3) It shall be the sole responsibility of the property owner to appoint a reliable responsible person and to inform the manager of his or her correct mailing address. Failure to do so shall not be a defense to a violation of this section. Service of notice on the responsible person shall be deemed service of notice on the property owner, guest, occupant and violator.
- (c) A vacation rental owner or responsible person is responsible for ensuring sexual offenders/predators as defined in F.S. §§ 775.21, 943.0435, 944.607, or 985.4815 register at the Pinellas County sheriff's office following the process set forth in F.S. § 775.21, 48 hours prior to arrival at a vacation rental, regardless of the length of stay.

A vacation rental owner and/or responsible person shall comply with F.S. § 775.215 pertaining to the distance separation of homes with a sexual offender/predator residing within the vacation rental and any business, school, child care facility, park, playground, or other places where children regularly congregate.

Failure to comply with this section shall, in addition to the institution of a code violation action, result in the revocation of the vacation rental's business tax receipt and vacation rental registration.

- (d) The vacation rental owner or responsible person shall inquire at check-in if any guest at the vacation rental is a sexual offender/predator as defined in F.S. §§ 775.21, 943.0435, 944.607, or 985.4815. If any guest of a vacation rental public lodging is a sexual offender/predator as defined in those statutes, the operator shall immediately notify the Pinellas County sheriff's office.
- (e) The vacation rental owner or responsible person shall obtain a copy of the photo identification of each vacation rental occupant who is 18 years of age or older prior to check-in, and shall maintain those records for a period of two years from the date of check-in and make such record available to the town upon request.
- (f) The owner or responsible person shall provide the town and post in a conspicuous place in the premises, the name, address and day/evening telephone numbers of the responsible person and be available 24 hours per day, seven days a week for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of these regulations. Any change in the responsible person

shall require written notification to the town on forms provided by the town and in a manner promulgated by the town upon payment of the applicable fees.

- (g) Complaints to the responsible person concerning violations by occupants of vacation rental units to this section shall be responded to within a reasonable time but in no instance greater than one hour. A record shall be kept of the complaint and the manager's response for a period of at least two years after the incident, a copy of which shall be made available to the town upon request.
- (h) An owner may change his or her designation of a responsible person; however, there shall only be one responsible person for each vacation rental property at any given time. To change the designated agent or responsible person, the owner shall notify the town in writing of the name, contact information and other information required in this subsection for the new responsible person, along with a signed affidavit from the new responsible person acknowledging receipt of a copy of this article and agreeing to serve in this capacity and perform the duties set forth in this article. Any notice of violation or legal process which has been delivered or served upon the previous responsible person, prior to the town's receipt of notice of change of the responsible person, shall be deemed effective service.
- (i) It shall be the sole responsibility of the property owner to appoint a reliable responsible person and to inform the responsible person of his or her correct mailing address. Failure to do so shall not be a defense to a violation of this section. No property owner shall designate as a responsible person any person who does not expressly comply with the provisions of this section. The property owner and the responsible person shall jointly and severally be deemed to be the "violation" of this article as the term is used in F.S. § 162.06. By designating a responsible person, a vacation rental owner is deemed to agree that service of notice on the responsible person at the address listed by the owner shall be deemed service of notice on the owner, responsible person, and violating guest. Copies of all code violation notices shall also be provided to the property owner in the manner set forth in F.S. § 162.12. If, alternatively, a citation is issued by the code deputy, the citation process set forth in F.S. § 162.21.

(Ord. No. 2022-15, § 1, 12-21-22)

Sec. 12-170. Registration suspension.

The code enforcement magistrate or court may, in addition to assessing code enforcement fines and orders requiring compliance, as provided for in article III of chapter 2 of the code and state law, may order that the vacation rental owner's registration, and accompanying authorization to operate, may be suspended for the following reasons and for up to the corresponding suspension periods:

- (a) Knowingly submitting false information in support of a registration application as prohibited by section 12-168: one year.
- (b) Three orders finding violation of any provision of this article within a 12-month period, where the orders finding violation have become final through any timely appeal: six months unless otherwise provided for in this section.
- (c) Allowing a vacation rental to be rented by, and actually used by occupants, during a period of suspension: one year.
- (d) Two separate violations of the Florida Swimming Pool Safety Act, and the Florida Fire Code and Life Safety Code within a 12-month period, where the orders finding violation have become final through any timely appeal: six months.
- (e) Two separate violations of the occupancy limits established in section 12-177 within a 12-month period, where the orders finding violation have become final through any timely appeal: six months.

(Ord. No. 2024-01, § 1, 2-7-24)

Secs. 12-171—12-174. Reserved.