

# Planning and Zoning

1769 E. Moody Blvd Bldg 2  
Suite 105  
Bunnell, FL 32110



**FLAGLER  
COUNTY**  
FLORIDA

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## FLAGLER COUNTY PLANNING AND DEVELOPMENT BOARD

Government Services Building  
Board Chambers

1769 East Moody Blvd. Bldg 2, Bunnell, Florida 32110

A G E N D A

DATE – October 29, 2014

TIME - 6:00 P.M.

1. Roll Call.
2. Pledge to the Flag.
3. **Legislative not requiring disclosure of ex parte communication:** Recommendation on an ordinance amending the Flagler County Land Development Code to provide standards for vacation rentals, titled similar to: **AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING APPENDIX C, LAND DEVELOPMENT CODE, OF THE CODE OF ORDINANCES OF FLAGLER COUNTY, FLORIDA, RELATED TO SHORT-TERM VACATION RENTALS; PROVIDING FOR FINDINGS; AMENDING ARTICLE III, ZONING DISTRICT REGULATIONS; CREATING SECTION 3.06.14., SHORT-TERM VACATION RENTALS; AMENDING SECTION 3.03.02., AC-AGRICULTURE DISTRICT, SECTION 3.03.03., AC-2-AGRICULTURE/FORESTRY DISTRICT, 3.03.04., R-1-RURAL RESIDENTIAL DISTRICT, 3.03.05., R-1B-URBAN-SINGLE-FAMILY RESIDENTIAL DISTRICT, 3.03.06., R-1C-URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT, 3.03.07., R-1D-URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT, 3.03.08., R-2-TWO-FAMILY RESIDENTIAL DISTRICT, 3.03.09.01., R-3-MULTIFAMILY RESIDENTIAL DISTRICT, 3.03.09.02., R-3B-MULTIFAMILY RESIDENTIAL DISTRICT, 3.03.10., MH-1-RURAL MOBILE HOME DISTRICT, 3.03.11., MH-2-URBAN MOBILE HOME DISTRICT, 3.03.13., R/C-RESIDENTIAL/LIMITED COMMERCIAL USE DISTRICT, 3.03.20., PUD-PLANNED UNIT DEVELOPMENT, 3.03.20.2., MUL-PUD-MIXED USE, LOW INTENSITY-PLANNED UNIT DEVELOPMENT, 3.03.20.3., MUH-PUD-MIXED USE, HIGH INTENSITY-PLANNED UNIT DEVELOPMENT, 3.03.21., FDD-FUTURE DEVELOPMENT DISTRICT, AND 3.08.02., SPECIFIC DEFINITIONS OF CERTAIN TERMS USED IN THIS ARTICLE; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.;** Applicant: Flagler County.  
(PB, BCC)
4. Staff Comments.
5. Board Comments.

District 1  
Charles Ericksen, Jr.

District 2  
Frank Meeker

District 3  
Barbara Revels

District 4  
Nate McLaughlin

District 5  
George Hanns

6. Public Comments.

7. Adjournment.

PLEASE TAKE NOTICE THAT INDIVIDUAL COMMISSIONERS OF THE BOARD OF COUNTY COMMISSIONERS MAY ATTEND THIS EVENT. THE COMMISSIONERS WHO ATTEND WILL NOT TAKE ANY ACTION OR TAKE ANY VOTE AT THIS MEETING. THIS IS NOT AN OFFICIAL MEETING OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY. THIS NOTICE IS BEING PROVIDED TO MEET THE SPIRIT OF THE SUNSHINE LAW TO INFORM THE PUBLIC THAT COMMISSIONERS MAY BE PRESENT AT THESE DISCUSSIONS.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES STATES THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY A BOARD AGENCY, OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN THIS MEETING SHOULD CONTACT THE PLANNING & ZONING DEPARTMENT AT (386) 313-4009 AT LEAST 48 HOURS PRIOR TO THE MEETING.

**Flagler County Government  
Planning and Zoning Department  
Staff Report**

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**TO: Chairperson and Planning and Development Board Members**

**FROM: Planning and Zoning Department**

**DATE: October 29, 2014**

**SUBJECT: Land Development Code amendment to Article III to provide standards for Short-Term Vacation Rentals**

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- I. **Requested Action & Purpose: LEGISLATIVE** – The request is to amend the Flagler County Land Development Code to provide standards for Short-Term Vacation Rentals (STVRs).
- II. **Location and Legal Description:** This amendment will be applicable within the unincorporated area of Flagler County within applicable zoning districts and on parcels where the standards contained in the ordinance can be met.
- III. **Applicant/Agent:** Flagler County
- IV. **Parcel Size:** N/A
- V. **Existing Zoning & Future Land Use Classification:** N/A; Florida Statutes specifies that the use of a residential dwelling house or unit as a vacation rental cannot be prohibited by a local government.
- VI. **Future Land Use Map Classification / Zoning of Surrounding Land:**  
**North / South / East / West:** N/A
- VII. **Land Development Code (LDC) Sections Affected:** Land Development Code Sections 2.02.05.3. and 2.02.05.6.; the ordinance, if adopted, will create a new Section 3.06.14.
- VIII. **Summary:** This request has resulted from an ongoing effort initiated shortly after the Florida Legislature put in place a measure in 2011 restricting the ability of a local government to regulate vacation rentals within their jurisdiction. As eventually adopted, House Bill 883 (subsequently referenced as Chapter 2011-119, Laws of Florida), identified a vacation rental as a type of transient public lodging establishment that could operate in a residential dwelling house or unit. Further, House Bill 883 sought to preempt new local regulations of vacation rentals based solely on classification, use, or occupancy, and exempted local regulations adopted prior to June 1, 2011 from the preemption.

The consequences of the 2011 legislation to Flagler County and other similar local governments lacking local vacation rental regulations was nearly immediate, as the number of homes operating as vacation rentals quickly increased. Impacts associated with vacation rentals – like increased traffic volume on residential streets, parking exceeding capacity within each lot, increased noise, increased trash accumulation and utility use, and public safety risk in the event of an emergency resulting from multiple occupants in an unfamiliar structure lacking basic life safety requirements, along with other considerations associated with a commercial operation in a residential neighborhood – were brought to the attention of County staff by local residents. By late 2013, local activism had elevated the vacation rental issue to a top priority of Flagler County’s Legislative Delegation, State Senator John Thrasher and State Representative Travis Hutson. Following extensive lobbying efforts by County staff – especially County Attorney Al Hadeed and County Administrator Craig Coffey – and local residents, the 2014 Legislative session ended with the passage of Senate Bill 356 (Chapter 2014-71, Laws of Florida), which lifted the preemption on local regulation over use of vacation rentals, but retained the preemption over duration or frequency of rental. Additionally, the County Commission members actively pressed for adoption of local home rule authority for vacation rentals, and in particular Commissioners Ericksen and Meeker who traveled regularly to Tallahassee during the legislative session to appear at hearings and speak with legislators.

The attached draft ordinance establishes a regulatory framework for local regulation of short-term vacation rentals. It is staff’s opinion that this draft ordinance as crafted balances the private property rights of land owners operating as short-term vacation rentals with the rights of residents to the quiet enjoyment of their homes and neighborhoods.

**IX. This agenda item is:**

quasi-judicial, requiring disclosure of ex-parte communication; or  
 legislative, not requiring formal disclosure of ex-parte communication.

**X. Recommendation:** The Planning Department recommends that the Planning and Development Board recommend to the Board of County Commissioners approval of the proposed Ordinance titled similar to:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING APPENDIX C, LAND DEVELOPMENT CODE, OF THE CODE OF ORDINANCES OF FLAGLER COUNTY, FLORIDA, RELATED TO SHORT-TERM VACATION RENTALS; PROVIDING FOR FINDINGS; AMENDING ARTICLE III, ZONING DISTRICT REGULATIONS; CREATING SECTION 3.06.14., SHORT-TERM VACATION RENTALS; AMENDING SECTION 3.03.02., AC-AGRICULTURE DISTRICT, SECTION 3.03.03., AC-2-AGRICULTURE/FORESTRY DISTRICT, 3.03.04., R-1-

RURAL RESIDENTIAL DISTRICT, 3.03.05., R-1B-URBAN-SINGLE-FAMILY RESIDENTIAL DISTRICT, 3.03.06., R-1C-URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT, 3.03.07., R-1D-URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT, 3.03.08., R-2-TWO-FAMILY RESIDENTIAL DISTRICT, 3.03.09.01., R-3-MULTIFAMILY RESIDENTIAL DISTRICT, 3.03.09.02., R-3B-MULTIFAMILY RESIDENTIAL DISTRICT, 3.03.10., MH-1-RURAL MOBILE HOME DISTRICT, 3.03.11., MH-2-URBAN MOBILE HOME DISTRICT, 3.03.13., R/C-RESIDENTIAL/LIMITED COMMERCIAL USE DISTRICT, 3.03.20., PUD-PLANNED UNIT DEVELOPMENT, 3.03.20.2., MUL-PUD-MIXED USE, LOW INTENSITY-PLANNED UNIT DEVELOPMENT, 3.03.20.3., MUH-PUD-MIXED USE, HIGH INTENSITY-PLANNED UNIT DEVELOPMENT, 3.03.21., FDD-FUTURE DEVELOPMENT DISTRICT, AND 3.08.02., SPECIFIC DEFINITIONS OF CERTAIN TERMS USED IN THIS ARTICLE; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**Attachments**

1. Proposed Ordinance
2. Supporting documents

## ORDINANCE NO. 2014 - \_\_

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AMENDING APPENDIX C, LAND DEVELOPMENT CODE, OF THE CODE OF ORDINANCES OF FLAGLER COUNTY, FLORIDA, RELATED TO SHORT-TERM VACATION RENTALS; PROVIDING FOR FINDINGS; AMENDING ARTICLE III, ZONING DISTRICT REGULATIONS; CREATING SECTION 3.06.14., SHORT-TERM VACATION RENTALS; AMENDING SECTION 3.03.02., AC-AGRICULTURE DISTRICT, SECTION 3.03.03., AC-2-AGRICULTURE/FORESTRY DISTRICT, 3.03.04., R-1-RURAL RESIDENTIAL DISTRICT, 3.03.05., R-1B-URBAN-SINGLE-FAMILY RESIDENTIAL DISTRICT, 3.03.06., R-1C-URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT, 3.03.07., R-1D-URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT, 3.03.08., R-2-TWO-FAMILY RESIDENTIAL DISTRICT, 3.03.09.01., R-3-MULTIFAMILY RESIDENTIAL DISTRICT, 3.03.09.02., R-3B-MULTIFAMILY RESIDENTIAL DISTRICT, 3.03.10., MH-1-RURAL MOBILE HOME DISTRICT, 3.03.11., MH-2-URBAN MOBILE HOME DISTRICT, 3.03.13., R/C-RESIDENTIAL/LIMITED COMMERCIAL USE DISTRICT, 3.03.20., PUD-PLANNED UNIT DEVELOPMENT, 3.03.20.2., MUL-PUD-MIXED USE, LOW INTENSITY-PLANNED UNIT DEVELOPMENT, 3.03.20.3., MUH-PUD-MIXED USE, HIGH INTENSITY-PLANNED UNIT DEVELOPMENT, 3.03.21., FDD-FUTURE DEVELOPMENT DISTRICT, AND 3.08.02., SPECIFIC DEFINITIONS OF CERTAIN TERMS USED IN THIS ARTICLE; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, prior to 2011 Florida's Cities and Counties regulated local land use issues and decisions under the Home Rule authority granted them within the Florida Constitution; and

**WHEREAS**, the 2011 Florida Legislature enacted House Bill 883 (Chapter 2011-119, Laws of Florida) which preempted the local regulation of a specific land use commonly called short-term vacation rentals (transient rentals less than 30 days in duration and commonly located in residential areas); and

**WHEREAS**, the preemption bill provided for very little oversight from the State for short term vacation rentals, for example, did not provide for staffing for inspection of the

1 short-term vacation rental units and relaxed standards for short-term vacation rentals  
2 when compared to hotels, motels, and bed and breakfast establishments; and

3  
4 **WHEREAS**, House Bill 883 prevented local communities from enacting  
5 regulations necessary to address any negative impacts caused by short-term vacation  
6 rentals; and

7  
8 **WHEREAS**, Chapter 720 of Florida Statutes provides for the formation and  
9 operation of homeowners' associations, independent of government authority; and

10  
11 **WHEREAS**, homeowners' associations, independent of government authority,  
12 may or may not exist in all single- and two-family residential neighborhoods; and

13  
14 **WHEREAS**, homeowners' associations may not legally be able to fully address  
15 all issues regarding short-term vacation rentals; and

16  
17 **WHEREAS**, the 2014 Florida Legislature enacted Senate Bill 356 (Chapter 2014-  
18 71, Laws of Florida) which rescinded the previous preemption on local regulation of  
19 short-term vacation rentals, but provided that a local law, ordinance, or regulation  
20 adopted after June 1, 2011 may not prohibit short-term vacation rentals or regulate the  
21 duration or frequency of rental of vacation rentals; and

22  
23 **WHEREAS**, Senate Bill 356 has returned some local control back to  
24 communities to mitigate the effects of short-term vacation rentals in an attempt to make  
25 them safer, more compatible with existing neighborhoods, and accountable for their  
26 proper operation; and

27  
28 **WHEREAS**, through Senate Bill 356 short-term vacation rentals cannot be  
29 prohibited from a community and would be permitted in all zoning districts; and

30  
31 **WHEREAS**, single family residential neighborhoods and their required  
32 infrastructure are generally designed to accommodate typical single-family residential  
33 homes with two to three persons per household on average; and

34  
35 **WHEREAS**, local governments apply design standards tailored for residential  
36 neighborhoods for their roads, driveways, emergency services planning, public shelters,  
37 emergency evacuation plans, solid waste collection, utilities, buffers, , also tailored in  
38 assessing their infrastructure impacts and their corresponding fair and proportionate  
39 impact/connection fees; and

40  
41 **WHEREAS**, permanent neighborhood residents inherently understand and know  
42 their physical surroundings, to include any safety gaps and potential risks to their  
43 families because they have daily familiarity; and

44  
45 **WHEREAS**, short-term vacation rental transient occupants, due to the transient  
46 nature of the occupants, are unfamiliar with local hurricane evacuation plans, the

1 location of fire extinguishers, residence exit routes, pool and home safety features, and  
2 other similar safety measures that would readily be provided to guests in traditional  
3 lodging establishments; and  
4

5 **WHEREAS**, short-term vacation rental owners may live elsewhere and not  
6 experience the quality of life problems and negative impacts associated with larger,  
7 unregulated short-term vacation rental units on residential neighborhoods; and  
8

9 **WHEREAS**, short-term vacation rentals with no application of mitigating  
10 standards when located in residential neighborhoods can create disproportional impacts  
11 related to their size, excessive occupancy, and the lack of proper facilities if left  
12 unregulated; and  
13

14 **WHEREAS**, some short-term vacation rentals will likely be created in single-  
15 family homes that were built before more current building codes that require minimum  
16 life/safety improvements, like hardwired or interconnected smoke detectors, carbon  
17 monoxide detectors, or pool alarms, etc.; and  
18

19 **WHEREAS**, some short-term vacation rental owners will make investments in  
20 upgrading building safety measures of their rental properties, some owners will not  
21 make such investments without local requirements and an ongoing  
22 inspection/enforcement program; and  
23

24 **WHEREAS**, short-term vacation rentals locating within established  
25 neighborhoods can disturb the quiet enjoyment of the neighborhood, lower property  
26 values, and burden the design layout of a typical neighborhood; and  
27

28 **WHEREAS**, the presence of short-term vacation rentals within single-family  
29 dwelling units in established residential neighborhoods can create negative compatibility  
30 impacts, among which include but are not limited to excessive noise, on-street parking,  
31 accumulation of trash, and diminished public safety; and  
32

33 **WHEREAS**, traditional lodging establishments (hotels, motels, and bed &  
34 breakfasts) are restricted to commercial and other non-residentially zoned areas where  
35 intensity of uses is separated from less busy and quieter residential uses; and  
36

37 **WHEREAS**, traditional lodging establishments have tougher development  
38 standards, undergo annual inspections, and have more stringent operational and  
39 business requirements; and  
40

41 **WHEREAS**, traditional lodging establishments often have to make roadway  
42 improvements and/or pay much higher transportation, water, sewer, and other impact  
43 fees to offset the infrastructure demands they create; and  
44

1           **WHEREAS**, permanent residents within residential neighborhoods often  
2 establish long-term friendships, social norms and a sense of community, which often  
3 leads to mutual respect among property owners on an ongoing basis; and  
4

5           **WHEREAS**, a single-family dwelling home is typically the largest investment a  
6 family will make in their lifetime, with the home held sacred in popular culture as the  
7 heart and the center of the family unit; and  
8

9           **WHEREAS**, permanent residents within established residential neighborhoods  
10 deserve the right to tranquility and peaceful enjoyment of their home without over  
11 intrusion by an excessive number of transient occupants; and  
12

13           **WHEREAS**, Flagler County promotes tourism, including appreciation and  
14 enjoyment of the County's preserved natural areas, historic sites, pristine beaches, and  
15 walking and bicycling paths that make Flagler County unique among Florida's coastal  
16 counties; and  
17

18           **WHEREAS**, many other local jurisdictions in Flagler County, the State of Florida,  
19 and across the nation have standards in place to minimize the negative impacts caused  
20 by short-term vacation rentals; and  
21

22           **WHEREAS**, prior to the enactment of House Bill 883, short-term vacation rentals  
23 in Flagler County seemed to be more compatible and coexisted in a fairly compatible  
24 manner within established neighborhoods with relatively few conflicts and complaints to  
25 the County; and  
26

27           **WHEREAS**, prior to the enactment of House Bill 883, the City of Flagler Beach  
28 had adopted regulations providing for the siting and approval of short-term vacation  
29 rentals within established neighborhoods, with relatively few conflicts resulting from the  
30 regulatory framework that has now been effect for several years; and  
31

32           **WHEREAS**, since the enactment of House Bill 883, Flagler County has  
33 experienced a large increase in the construction of new, oversized structures for the  
34 primary purpose of serving as mini-hotels for short-term vacation rentals for up to as  
35 many as 24 individuals; and  
36

37           **WHEREAS**, although family sizes per residence can vary widely from residence  
38 to residence, according to the recently completed 2010 U.S. Census, Flagler County's  
39 average family size is 2.82 persons; and  
40

41           **WHEREAS**, the 2010 U.S. Census also included an estimate of the average  
42 household size in Flagler County of 2.42 persons; and  
43

44           **WHEREAS**, the operation of some short-term vacation rentals in established  
45 neighborhoods create a huge disparity in short-term vacation rental impacts with up to

1 nine times the occupancy of an existing single-family residence, making the higher  
2 occupancy of these homes incompatible with established neighborhoods; and  
3

4 **WHEREAS**, utility usage by short-term vacation rentals may exceed the usage  
5 levels anticipated at the time of initial permitting as a single-family residence, creating a  
6 disparity between the impact fees paid and the system impacts caused by the increased  
7 demand; and  
8

9 **WHEREAS**, utility providers have provided user information showing that  
10 vacation rentals can utilize over ten times the capacity of a typical single-family  
11 residence; and  
12

13 **WHEREAS**, at least one utility provider has taken steps to charge additional  
14 impact fees based on the increased usage from short-term vacation rentals; and  
15

16 **WHEREAS**, the State of Florida through its existing regulatory framework  
17 provides for licensing, maintenance, and inspection of hotels and motels, however no  
18 similar regulatory framework exists for short-term vacation rentals; and  
19

20 **WHEREAS**, according to the State of Florida records, vacation rentals have  
21 flourished for decades while solely under local control; and  
22

23 **WHEREAS**, according to the State of Florida Department of Business and  
24 Professional Regulation the number of vacation rental home units has actually  
25 decreased from 10,602 units in 2010 to 10,362 units in 2013; since the State  
26 preemption into this local community land use decision; and  
27

28 **WHEREAS**, current vacation rental industry practice is to set maximum limits  
29 upon the number of transient occupants within a short-term vacation rental unit, but  
30 lacking provisions for verification and enforcement when overcrowding occurs; and  
31

32 **WHEREAS**, current vacation rental industry practice is to charge a flat rental fee  
33 for the term of the lease, regardless of the transient occupant count, which incentivizes  
34 the common practice for lessees of oversized structures used as short-term vacation  
35 rentals to increase the transient occupant count so as to spread out the cost burden for  
36 the rental term among as many payers as possible; and  
37

38 **WHEREAS**, the County desires to encourage short-term vacation rentals that are  
39 safe, fit in with the character of the neighborhood, provide positive impacts for tourism,  
40 increase property values, and achieve greater neighborhood compatibility; and  
41

42 **WHEREAS**, Flagler County seeks to balance respect for private property rights  
43 and incompatibility concerns between the investors/short-term vacation rentals and  
44 families/permanent single-family residences in established residential neighborhoods  
45 through the use of reasonable development standards; and  
46

1       **WHEREAS**, while Flagler County’s average family size is 2.82 persons, the  
2 County is desirous of providing for as many as eight transient occupants – almost three  
3 times the County’s average family size – within a short-term vacation rental subject to a  
4 reasonable regulatory framework; and

5  
6       **WHEREAS**, these regulations are deemed necessary by the Flagler County  
7 Board of County Commissioners to preserve property values and to protect the health,  
8 safety, and general welfare of permanent residents, lot/parcel owners, investors and  
9 transient occupants/visitors alike; and

10  
11       **WHEREAS**, these regulations are being promulgated by the Flagler County  
12 Board of County Commissioners to supplement, but not to replace, any existing federal  
13 or state law or regulation, or other controls within established residential neighborhoods  
14 served by a homeowners' association; and

15  
16       **WHEREAS**, through these regulations, Flagler County is seeking to regulate  
17 another type of commercial use of a single- and two-family dwelling, similar to the  
18 County’s provisions for home occupations, which permit limited commercial use of an  
19 owner-occupied dwelling subject to initial inspection requirements, ongoing compliance  
20 with specific home occupation regulations as provided in the Land Development Code,  
21 and issuance and annual renewal of a business tax receipt for the home occupation;  
22 and

23  
24       **WHEREAS**, these regulations do not regulate duration or frequency, but are  
25 intended to address the frequent change of many transient occupants housed within a  
26 single-family dwelling within an established residential neighborhood; and

27  
28       **WHEREAS**, the application of minimum life/safety requirements to short-term  
29 vacation rentals, along with other minimum standards, ensures that transient occupants  
30 are provided the same minimum level of protection as is required by the current statutes  
31 and codes for single- and two-family residences utilized as hotels, motels, and  
32 dormitories; and

33  
34       **WHEREAS**, the County has established a maximum occupancy of 16 persons  
35 within any zoning district because an occupancy exceeding 16 persons falls into a  
36 commercial-type classification as a hotel or dormitory for purposes of the National Fire  
37 Protection Association (NFPA) 101 Life Safety Code; and

38  
39       **WHEREAS**, for purposes of compliance with the National Fire Protection  
40 Association (NFPA) 101 Life Safety Code, residential occupancies of 16 or fewer  
41 persons may be provided within one- and two-family dwellings without consideration as  
42 a hotel or dormitory and provision of related life-safety requirements; and

43  
44       **WHEREAS**, the minimum residential safety standards, as adopted by the Florida  
45 Legislature as the Residential Swimming Pool Safety Act and now in place, include

1 provision of swimming pool, spa, and hot tub barriers or alarms so as to reduce the  
2 likelihood of child and elder drowning; and

3  
4 **WHEREAS**, sleeping rooms as so designated within short-term vacation rental  
5 units shall be recognized in the same manner as bedrooms within single-family  
6 residential homes, with the same requirements as are currently provided within the  
7 local, state, and federal regulations, as applicable; and

8  
9 **WHEREAS**, because of the high occupancy and transient nature of occupants  
10 within many short-term vacation rentals, fire safety becomes important; and

11  
12 **WHEREAS**, where interconnected, hard-wired smoke and carbon monoxide  
13 alarm systems are not in place, then at a minimum, these systems will be installed to  
14 provide for sufficient warning for evacuation so as to minimize loss of life within an  
15 occupied short-term vacation rental unit; and

16  
17 **WHEREAS**, where a fire sprinkler system is not in place, then at a minimum, the  
18 placement of a multi-purpose dry chemical fire extinguisher on each floor of a short-term  
19 vacation rental will provide a basic level of fire protection based on the class of fire and  
20 fire loading anticipated to be encountered in an occupied short-term vacation rental unit;  
21 and

22  
23 **WHEREAS**, in the event of an emergency, the presence of a landline local  
24 telephone within the short-term vacation rental can eliminate confusion and save  
25 valuable response time caused when an out of the area cellular telephone is used to  
26 contact emergency services or where cellular service is not available; and

27  
28 **WHEREAS**, in the event of an emergency, the presence of posted building exit  
29 routes can reduce the risk to transient occupants who are unfamiliar with the short-term  
30 vacation rental unit; and

31  
32 **WHEREAS**, Flagler County recognizes the impacts to established  
33 neighborhoods where short-term vacation rentals permit eight or more transient  
34 occupants and seeks through this ordinance to provide a minimum separation distance  
35 between these rental units so that the residential character of established  
36 neighborhoods can be preserved; and

37  
38 **WHEREAS**, site-specific short-term vacation rental standards, like minimum  
39 parking standards, solid waste handling and containment, and the establishment of  
40 quiet hours, serve to maintain the decorum that exists between owners in established  
41 neighborhoods by conveying these same standards to transient occupants through the  
42 duration of their rental; and

43  
44 **WHEREAS**, short-term vacation rentals operate as commercial enterprises,  
45 subject to additional regulatory requirements beyond those normally required of single-  
46 family and two-family residences, including licensing and inspection by the State of

1 Florida Division of Hotels and Restaurants, obtaining a local business tax receipt, and  
2 collecting and remitting various sales taxes; and

3  
4 **WHEREAS**, a vacation rental is a commercial lodging activity with some homes  
5 being used exclusively as rentals by investors/owners; and  
6

7 **WHEREAS**, the establishment of minimum business practices, such as the  
8 provision of both lease-specific and property-specific information to lessees, and the  
9 designation of a local agent, ensures that the private property rights of the short-term  
10 vacation rental owner are balanced with the needs of the County to protect visitors and  
11 tourists and to preserve the general welfare through its limited regulatory power; and  
12

13 **WHEREAS**, the County, through its existing regulatory framework, will issue  
14 certificates to short-term vacation rentals conforming to these standards, which will in  
15 turn provide a level playing field amongst all providers of short-term vacation rental  
16 units; and  
17

18 **WHEREAS**, this ordinance additionally establishes an enforcement mechanism  
19 for those short-term vacation rentals which do not adhere to the standards on an initial  
20 or continuing basis, with the overall goal of the short-term vacation rental program being  
21 compliance with the standards and not punitive in its scope; and  
22

23 **WHEREAS**, the Flagler County Planning and Development Board held a duly  
24 noticed public hearing on October 29, 2014 and recommended \_\_\_\_\_ of this  
25 ordinance; and  
26

27 **WHEREAS**, public notice of this action has been provided in accordance with  
28 Section 125.66, Florida Statutes and in accordance with the Flagler County Land  
29 Development Code.  
30

31 **NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY**  
32 **COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AS FOLLOWS:**  
33

34 **SECTION 1. FINDINGS**  
35

- 36 A. The above Recitals are incorporated herein as Findings of Fact.
- 37
- 38 B. The Board of County Commissioners further finds as follows:
  - 39
  - 40 1. The proposed amendment will provide for the orderly development of Flagler
  - 41 County and complies with applicable Comprehensive Plan goals, objectives and
  - 42 policies; and
  - 43
  - 44 2. The proposed amendment will serve to protect the health and safety of residents
  - 45 or workers in the area and will be complementary to the use of adjacent
  - 46 properties or the general neighborhood.

1  
2 **SECTION 2. LAND DEVELOPMENT CODE AMENDMENT**  
3

4 A. Appendix C, Land Development Code, Article III Zoning Districts, is hereby amended  
5 as follows:  
6

7 1. Creation of new Section 3.06.14, *Short-term vacation rentals*, to read as follows:  
8

9 \*\*\*\*

10 3.06.14. – Short-term vacation rentals.  
11

12 A. *Applicability.* This section shall apply to short-term vacation rental as a  
13 commercial business, as defined in section 3.08.02, of a single-family  
14 dwelling and a two-family dwelling. This section shall not apply to short-  
15 term vacation rentals within a multi-family residential building, or a group  
16 of multi-family residential buildings, which includes three or more  
17 individual dwelling units within such building or group of buildings.  
18

19 B. *Short-term vacation rental minimum requirements.* Short-term vacation  
20 rentals shall be permitted in all residential zoning districts provided they  
21 are in compliance with this section. No person shall rent or lease all or any  
22 portion of a dwelling unit as a short-term vacation rental as defined in  
23 section 3.08.02 without initially, then on a continuing basis:  
24

25 1. Obtaining a short-term vacation rental certificate from Flagler County  
26 pursuant to this section; and  
27

28 2. Obtaining a business tax receipt from Flagler County pursuant to  
29 chapter 19 of the Code of Ordinances; and  
30

31 3. Obtaining a Florida Department of Revenue certificate of registration  
32 for purposes of collecting and remitting tourist development taxes,  
33 sales surtaxes, and transient rental taxes; and  
34

35 4. Obtaining a Florida Department of Business and Professional  
36 Regulation license as a transient public lodging establishment; and  
37

38 5. Maintaining initial and ongoing compliance with the Short-term  
39 Vacation Rental Standards contained herein.  
40

41 C. *Short-term Vacation Rental Standards.* The following standards shall  
42 govern the use of any short-term vacation rental as a permitted use:  
43

44 1. Minimum life/safety requirements:  
45

- 1 a. Swimming pool, spa and hot tub safety – A swimming pool, spa or  
2 hot tub shall comply with the current standards of the Residential  
3 Swimming Pool Safety Act, Chapter 515, Florida Statutes.  
4
- 5 b. Sleeping rooms – All sleeping rooms shall meet the single- and  
6 two-family dwelling minimum requirements of the Florida Building  
7 Code.  
8
- 9 c. Smoke and carbon monoxide (CO) detection and notification  
10 system – If an interconnected and hard-wired smoke and carbon  
11 monoxide (CO) detection and notification system is not in place  
12 within the short-term vacation rental unit, then an interconnected,  
13 hard-wired smoke alarm and carbon monoxide (CO) alarm system  
14 shall be required to be installed and maintained on a continuing  
15 basis consistent with the requirements of Section R314, Smoke  
16 Alarms, and Section R315, Carbon Monoxide Alarms, of the Florida  
17 Building Code – Residential.  
18
- 19 d. Fire extinguisher – A portable, multi-purpose dry chemical  
20 2A:10B:C fire extinguisher shall be installed, inspected and  
21 maintained in accordance with NFPA 10 on each floor/level of the  
22 unit. The extinguisher(s) shall be installed on the wall in an open  
23 common area or in an enclosed space with appropriate markings  
24 visibly showing the location.  
25
- 26 e. Emergency egress maintenance and lighting – Halls, entrances and  
27 stairways shall be clean, ventilated and well-lighted day and night.  
28 Hall and stair runners shall be kept in good condition. Railways  
29 shall be installed on all stairways and around all porches and steps.  
30 (Rule 61C-1.004(9), F.A.C.).  
31
- 32 f. Local phone service – At least one landline telephone with the  
33 ability to call 911 shall be available in the main floor common area  
34 in the unit.  
35
- 36 2. Maximum occupancy based on site capacity/limitations. The following  
37 specific site considerations shall limit any short-term vacation rental  
38 occupancy to whichever is less:  
39
- 40 a. One person per 150 gross square feet of permitted conditioned  
41 living space, or  
42
- 43 b. The maximum number permitted shall be restricted in accordance  
44 with any septic tank permit conditions issued by the Flagler County  
45 Health Department, or  
46

1           c. Two persons per sleeping room, meeting the requirements for a  
2           sleeping room, plus two additional persons that may sleep in a  
3           common area.

4  
5           3. Maximum occupancy by zoning district/development. The following  
6           specific district/development considerations shall further limit any other  
7           local, state or federal permitted short-term vacation rental occupancy  
8           to whichever results in the lower occupancy count:

9  
10           a. In the R-1, R-1b, R-1c, R-1d, R-2, MH-1, MH-2, and R/C zoning  
11           districts and any PUD development or specific portion thereof  
12           developed as a single- or two-family neighborhood, the maximum  
13           occupancy shall be limited to eight occupants per short-term  
14           vacation rental unit including day guests.

15  
16           b. In all other zoning districts and developments predominantly  
17           developed with greater than two-family dwelling units, the maximum  
18           occupancy shall be limited to 16 transient occupants per short-term  
19           vacation rental unit including day guests.

20  
21           4. Cumulative impact location standard. Owners of short-term vacation  
22           rentals located in zoning districts and developments described in  
23           subsection 3.06.14.C.3.b. above desiring a rental certificate in excess  
24           of eight transient occupants per unit shall be 500 feet apart as  
25           measured property line to property line from other short-term vacation  
26           rental certificate holders in excess of eight transient occupants. This  
27           shall be issued on a first come first serve basis. For pre-existing short-  
28           term vacation rentals determined to be vested for separation through  
29           subsection 3.06.14.N herein, they shall be considered first and this  
30           standard shall not apply so long as the location remains an approved  
31           short-term vacation rental.

32  
33           5. Parking standard. Based on the maximum short-term transient  
34           occupancy permitted, minimum off-street parking shall be provided as  
35           one space per three transient occupants or fraction thereof, plus one  
36           extra space for day guests. Garage spaces shall count if the space is  
37           open and available and the transient occupants are given vehicular  
38           access to the garage. On-street parking shall not be permitted.

39  
40           6. Solid waste handling and containment. Based on the maximum  
41           transient occupancy permitted, one trash storage container shall be  
42           provided per three transient occupants or fraction thereof. Appropriate  
43           screening and storage requirements for trash storage containers shall  
44           apply per any development approval or local neighborhood standard,  
45           whichever is more restrictive, and be incorporated into the certificate.

- 1           7. Annual County solid waste charges. The short-term vacation rental  
2           shall be charged one annual solid waste fee for every eight transient  
3           occupants or fraction thereof, based on the maximum transient  
4           occupancy permitted. Any additional solid waste fees shall be paid at  
5           the time of permit issuance/renewal  
6
- 7           8. Quiet hours. Quiet hours for short-term vacation rentals shall be from  
8           10:00 p.m. to 8:00 a.m. daily. Law enforcement officers shall have the  
9           authority to determine if short-term vacation rentals are disturbing the  
10           peace and violating these quiet hours and issue citations appropriately.  
11
- 12           9. Minimum Short-Term Vacation Rental Lease wording. The Short-Term  
13           Vacation Rental Lease agreement shall contain the minimum  
14           information as provided for in subsection 3.06.14.H.  
15
- 16           10. Minimum short-term vacation rental information required postings. The  
17           short-term vacation rental shall be provided with posted material as  
18           required by Flagler County as prescribed in subsection 3.06.14.I.  
19
- 20           11. Minimum short-term vacation rental lessee information. The short-term  
21           vacation rental lessee shall be provided with a copy of the information  
22           required in subsection 3.06.14.H.  
23
- 24           12. Appointment of a short-term vacation rental agent. The short-term  
25           vacation rental agent shall be identified as required in subsection  
26           3.06.14.G.  
27
- 28           13. Utility service.  
29
- 30           a. If wastewater service is provided through a private septic system,  
31           then the owner shall demonstrate to Flagler County that the Flagler  
32           County Health Department has reviewed the utilization of the septic  
33           system for the short-term vacation rental and that the septic system  
34           provides adequate capacity for the anticipated short-term vacation  
35           rental occupancy applied for. For these purposes, a valid Health  
36           Department permit displaying the number of bedrooms shall satisfy  
37           this requirement.  
38
- 39           b. If central water and/or wastewater service is provided to the short-  
40           term vacation rental, then the owner shall demonstrate to Flagler  
41           County that appropriate application has been made and fees paid  
42           to reflect approval by the utility provider for the additional utility  
43           usage impacts from the short-term vacation rental use.  
44

1                   c. Nothing contained herein shall encumber or otherwise prevent the  
 2                   utility provider from regulation of their utility system, including but  
 3                   not limited to, the ability to disconnect service.

4  
 5                   14. No person shall allow occupancy or possession of all or any portion of  
 6                   a dwelling unit as a short-term vacation rental if the dwelling is in  
 7                   violation of any zoning, building, housing, density, life/safety, utility,  
 8                   public health/sanitary and fire codes or regulations.

9  
 10                   15. Any advertising of the short-term vacation rental unit shall conform to  
 11                   information included in the Short-Term Vacation Rental Certificate,  
 12                   particularly as this pertains to maximum occupancy.

13  
 14                   D. *Short-Term Vacation Rental Certificate.* To verify compliance with these  
 15                   short-term vacation rental standards, any property owner who wishes to  
 16                   use his or her dwelling unit as a short-term vacation rental must first apply  
 17                   for and receive a Short-Term Vacation Rental Certificate from Flagler  
 18                   County, and renew the certificate annually for as long as the unit is used  
 19                   as a short-term vacation rental. Each dwelling unit used as a short-term  
 20                   vacation rental requires a separate Short-Term Vacation Rental  
 21                   Certificate. An annual certificate fee shall be paid for each dwelling unit  
 22                   certified as a short-term vacation rental, in an amount to be determined by  
 23                   resolution of the Board of County Commissioners, to cover the costs of  
 24                   administration of the certificate and inspection program. Failure to comply  
 25                   with any of the requirements of this section shall be grounds for revocation  
 26                   or suspension of the certificate, in accordance with the requirements  
 27                   contained herein.

28  
 29                   E. *Application for a Short-Term Vacation Rental Certificate.* Each property  
 30                   owner seeking initial issuance of a Short-Term Vacation Rental Certificate,  
 31                   renewal, transfer, or modification of a vacation rental certificate, shall  
 32                   submit a Flagler County Short-Term Vacation Rental Application in a form  
 33                   specified by the County, along with an application fee in an amount to be  
 34                   determined by resolution of the Board of County Commissioners.

35  
 36                   1. A complete application for the initial or modification of a Short-Term  
 37                   Vacation Rental Certificate shall demonstrate compliance with the  
 38                   standards above through the following submittals:

39  
 40                   a. A completed application and applicable fees (i.e., application, solid  
 41                   waste).

42  
 43                   b. Exterior site sketch. An exterior sketch of the facility demonstrating  
 44                   compliance with the standards contained herein shall be provided.  
 45                   The sketch provided shall be drawn to scale, and showing all  
 46                   structures, pools, fencing, and uses, including areas provided for

1 off-street parking and trash collection. For purposes of the sketch,  
 2 off-street parking spaces will be delineated so as to enable a fixed  
 3 count of the number of spaces provided; however, no parking shall  
 4 be permitted within a public or private right-of-way.

5  
 6 c. Interior building sketch by floor. A building sketch(s) shall be by  
 7 floor showing a floor layout and shall demonstrate compliance with  
 8 the standards contained herein. The sketch shall be drawn to  
 9 scale, showing all bedrooms and sleeping areas, exits, smoke and  
 10 carbon monoxide detectors, fire extinguishers and exit  
 11 signage/lighting.

12  
 13 d. Required Short-Term Vacation Rental Postings. Copies of required  
 14 postings shall include evacuation drawings for each sleeping area  
 15 and other items required herein.

16  
 17 e. Draft Short-Term Vacation Rental Lease showing required terms.

18  
 19 f. Utility certification forms from Health Department or utility providers.

20  
 21 g. Any other required information to demonstrate compliance with the  
 22 Short-Term Vacation Rental Standards herein.

23  
 24 h. Modification. An application for modification of a Short-Term  
 25 Vacation Rental Certificate is necessary where any of the following  
 26 apply:

27  
 28 i. The gross square footage of the dwelling unit has increased; or

29  
 30 ii. The number of sleeping areas is increasing; or

31  
 32 iii. The occupancy is proposed to increase.

33  
 34 2. Certificate renewals or transfers - The application for renewal or  
 35 transfer of a Short-Term Vacation Rental Certificate shall demonstrate  
 36 compliance with the following:

37  
 38 a. If no changes have occurred since the issuance of the most recent  
 39 Short-Term Vacation Rental Certificate, then no additional  
 40 submittals are required to accompany the renewal/transfer Short-  
 41 Term Vacation Rental Certificate application except subsection  
 42 3.06.14.E.2.b below.

43  
 44 b. If minor changes not involving the specific modifications have  
 45 occurred since the issuance of the most recent Short-Term  
 46 Vacation Rental Certificate, then additional submittals specific to

1                   the changed areas shall be required to accompany the application  
 2                   as necessary to demonstrate compliance with the standards herein.

3  
 4                   c. A Short-Term Vacation Rental Certificate holder must apply  
 5                   annually for a renewal of the certificate by January 1 of each year.

6  
 7                   F. Initial and routine compliance inspections of short-term vacation rentals.

8  
 9                   1. An inspection of the dwelling unit for compliance with this section is  
 10                   required prior to issuance of an initial Short-Term Vacation Rental  
 11                   Certificate. If violations are found, all violations must be corrected and  
 12                   the dwelling unit must be re-inspected prior to issuance of the initial  
 13                   Short-Term Vacation Rental Certificate as provided herein.

14  
 15                   2. Once issued, a short-term vacation rental unit must be properly  
 16                   maintained in accordance with the Short-Term Vacation Rental  
 17                   Standards herein and will be re-inspected at least once every two  
 18                   years by the County. For an inspection, all violations must be corrected  
 19                   and re-inspected within 30 calendar days, except life safety violations  
 20                   which must be corrected prior to the start of the next rental period.  
 21                   Failure to correct such inspection deficiencies in the timeframes  
 22                   provided shall result in the suspension of the vacation rental certificate  
 23                   until such time as the violations is corrected and re-inspected.

24  
 25                   a. For the inspection of a modification to a vacation rental certificate,  
 26                   the modification may not occur until after a successful County  
 27                   inspection, however the current certificate will still apply.

28  
 29                   3. When possible the inspections shall be made by appointment with the  
 30                   rental agent. If the inspector(s) has made an appointment with the  
 31                   rental agent to complete an inspection, and the agent fails to admit the  
 32                   officer at the scheduled time, the applicant shall be charged a "no  
 33                   show" fee in an amount to be determined by resolution of the Board of  
 34                   County Commissioners to cover the inspection expense incurred by  
 35                   Flagler County.

36  
 37                   4. If the inspector(s) is denied admittance by the rental agent or if the  
 38                   inspector(s) fails in at least three attempts to complete an initial or  
 39                   subsequent inspection of the rental unit, the inspector(s) shall provide  
 40                   notice of failure of inspection to the rental agent to the address shown  
 41                   on the existing Short-Term Vacation Rental Certificate or the  
 42                   application for Short-Term Vacation Rental Certificate.

43  
 44                   a. For an initial inspection, the notice of failure of inspection results in  
 45                   the Certificate not being issued; the Short-Term Vacation Rental is  
 46                   not permitted to operate without a valid Certificate.

1  
2           b. For a subsequent inspection, the notice of failure of inspection is  
3           considered a violation pursuant to subsection 3.06.14.F.2. above  
4           and enforcement remedies as provided herein.

5  
6           G. Short-term vacation rental agent.

7  
8           1. The property owner shall designate a short-term vacation rental agent  
9           on its Short-Term Vacation Rental Certificate application or renewal,  
10           and provide the agent's contact information. The property owner may  
11           serve as the vacation rental agent. Alternatively, the owner may  
12           designate as his or her agent any person 18 years of age or older, who  
13           is:

14  
15           a. Customarily present at a business location within Flagler County for  
16           the purposes of transacting business; or

17  
18           b. Actually resides within Flagler County.

19  
20           In order to be designated as a short-term vacation rental agent, a  
21           person must first present the County with written certification that he or  
22           she agrees to perform the duties specified in subsection 3.06.14.G.2  
23           below.

24  
25           2. The duties of the short-term vacation rental agent are to:

26  
27           a. Be available by landline or mobile telephone answered by the rental  
28           agent at the listed phone number 24 hours a day, seven days a  
29           week to handle any problems arising from the short-term vacation  
30           rental use; and

31  
32           b. Be willing and able to come to the short-term vacation rental unit  
33           within two hours following notification from an occupant, the owner,  
34           or Flagler County of issues related to the short-term vacation rental;  
35           and

36  
37           c. Receive service of any notice of violation of this section; and

38  
39           d. Monitor the short-term vacation rental unit at least weekly to assure  
40           continued compliance with the requirements of this section.

41  
42           3. A property owner may change his or her designation of a short-term  
43           vacation rental agent temporarily or permanently; however, there shall  
44           only be one short-term vacation rental agent for each short-term  
45           vacation rental at any given time. To change the designated agent, the  
46           property owner shall notify Flagler County in writing of the name,

1 contact information and certifications required in subsection 3.06.14.G.  
 2 above for the new short-term vacation rental agent. Any notice of  
 3 violation or legal process which has been delivered or served upon the  
 4 previous short-term vacation rental agent, prior to the County's receipt  
 5 of notice of change of the short-term vacation rental agent, shall be  
 6 deemed effective service.

7  
 8 4. It shall be the sole responsibility of the property owner to appoint a  
 9 reliable short-term vacation rental agent and for the owner to inform  
 10 the agent of his or her correct mailing address. Failure to do so shall  
 11 not be a defense to a violation of this section. No property owner shall  
 12 designate as a short-term vacation rental agent any person who does  
 13 not expressly comply with the provisions of this section. The property  
 14 owner or the short-term vacation rental agent shall be deemed to be  
 15 the "violation" of this section as the term is used in § 162.06, Florida  
 16 Statutes. Service of notice on the short-term vacation rental agent shall  
 17 be deemed service of notice on the property owner, tenant and  
 18 violator.

19  
 20 5. A person may serve as a short-term vacation rental agent for one or  
 21 more short-term vacation rental property owners if:

22  
 23 a. The agent provides Flagler County with written authorization from  
 24 each property owner represented; and

25  
 26 b. Each authorization must state that the property owner has received  
 27 a copy of, has reviewed and understands this section; and

28  
 29 c. Each property owner must sign the authorization and acknowledge  
 30 the requirements of this section.

31  
 32 H. Short-term vacation rental/lease agreements minimum provisions. The  
 33 rental agreement must contain the following information at a minimum:

34  
 35 1. Maximum occupancy of the short-term vacation rental unit.

36  
 37 2. The name of all persons who will be occupying the unit;

38  
 39 3. The license tag numbers for all vehicles that the occupant(s) will be  
 40 parking at the unit, with a total number not to exceed the number of off-  
 41 street parking spaces at the unit as designated on the Short-Term  
 42 Vacation Rental Certificate;

43  
 44 4. The transient occupant(s)' agreement to abide by all the requirements  
 45 of this section, and acknowledgement that his or her rights under the  
 46

1 agreement may not be transferred or assigned in whole or in part to  
 2 anyone else without a new agreement being entered into between the  
 3 new transient occupant(s) and the owner; and

4  
 5 5. The transient occupant(s)' acknowledgement and agreement that  
 6 violation of the agreement or this section may result in immediate  
 7 termination of the agreement and eviction from the short-term vacation  
 8 rental unit by the property owner or resident agent, and potential  
 9 liability for payment of fines levied by the County.

10  
 11 6. The permitted off-street parking locations where transient occupants  
 12 may legally park according to the Short-Term Vacation Rental  
 13 Certificate sketch.

14  
 15 7. A statement that all transient occupants must evacuate from the short-  
 16 term vacation rental upon posting of any nonresident evacuation order  
 17 issued by state or local authorities.

18  
 19 8. The right of reasonable entry by Flagler County enforcement officers  
 20 into the unit.

21  
 22 9. Paper copies of the written agreement of subsection 3.06.14.H.4 and 5  
 23 above, a paper copy of this section and Flagler County's pet, noise,  
 24 and trash regulations, including regulations related to sea turtle lighting  
 25 and manatee protection, if applicable, as lease addendums.

26  
 27 I. Required posting of the following short-term vacation rental unit  
 28 information.

29  
 30 1. On the back or next to the main entrance door there shall be provided  
 31 as a single page the following information:

32  
 33 a. The name, address and phone number of the short-term vacation  
 34 rental agent;

35  
 36 b. The maximum occupancy of the unit;

37  
 38 c. Notice that quiet hours are to be observed between 10:00 p.m. and  
 39 8:00 a.m. daily and that between these hours no excessive or  
 40 boisterous noise or amplified sound extending beyond the lot or  
 41 parcel line is permitted;

42  
 43 d. The maximum number of vehicles that can be parked at the unit,  
 44 along with a sketch of the location of the off-street parking spaces;  
 45

1           e. The days of trash pickup and recycling, and a notice that trash shall  
 2           not be left or stored outside the unit except after 6:00 pm on the  
 3           day prior to pickup, and the trash container(s) shall be removed  
 4           from the curb no later than 6:00 pm on the day of pickup;

5  
 6           f. If the short-term vacation rental unit is located on the barrier island,  
 7           notice of sea turtle nesting season and sea turtle lighting; and

8  
 9           g. The location of the nearest hospital.

10  
 11          2. There shall be posted, next to the interior door of each bedroom a  
 12          legible copy of the building evacuation map – Minimum 8-1/2" by 11".

13  
 14          J. Offenses/violations.

15  
 16          1. Non-compliance with any provisions of this section shall constitute a  
 17          violation of this section, which shall include, but shall not be limited to,  
 18          the specific paragraphs within 3.06.14.B "Short-Term Vacation Rentals  
 19          Minimum Requirements".

20  
 21          2. Separate violations - Each day a violation exists shall constitute a  
 22          separate and distinct violation.

23  
 24          K. Remedies/enforcement. Violations of this section shall be subject to  
 25          penalties as part of a progressive enforcement program with the primary  
 26          focus on compliance and compatibility with adjoining properties, versus  
 27          penalties and legal actions. To accomplish a safe and effective vacation  
 28          rental program it is key that rental agents, whether they are the owner or a  
 29          third party vendor, are responsive and responsible in the management of  
 30          the property for compliance with this section. Code Enforcement activities  
 31          will be in accordance with Florida Statutes Chapter 162 and the Flagler  
 32          County Code of Ordinances.

33  
 34          1. Warnings - Warnings shall be issued for all violations of this section  
 35          except for minimum life/safety requirements. Warnings for violations  
 36          other than minimum life/safety requirements may or may not have a  
 37          correction/compliance period associated with it.

38  
 39          2. Fines per violations shall be set by resolution by the Board of County  
 40          Commissioners of Flagler County for first, second, third and further  
 41          repeat violations. The County may utilize Part 1 of Florida Chapter 162  
 42          to prosecute a code violation and in such case a special magistrate  
 43          shall be authorized to hold hearings, assess fines and order other relief  
 44          in lieu of any code enforcement board. Alternatively, the County may  
 45          utilize Part 2 of Florida Chapter 162 and pursue violations by way of a  
 46          civil citation system as provided in its Code of Ordinances.

1  
2 3. Additional remedies - Nothing contained herein shall prevent Flagler  
3 County from seeking all other available remedies which may include,  
4 but not be limited to, suspension or revocation of a Short-Term  
5 Vacation Rental Certificate, injunctive relief, liens, and other civil and  
6 criminal penalties as provided by law.  
7

8 L. Suspension of Short-Term Vacation Rental Certificate. In addition to any  
9 fines and any other remedies described herein or provided for by law, the  
10 County may suspend a Short-Term Vacation Rental Certificate for multiple  
11 violations which are admitted or adjudicated in any continuous 36 month  
12 period, in accordance with the following:  
13

14 1. Suspension timeframes.

15  
16 a. Upon a fourth violation of this section the vacation rental certificate  
17 shall be suspended for a period of seven days.  
18

19 b. Upon a fifth violation of this section the vacation rental certificate  
20 shall be suspended for a period of 30 days.  
21

22 c. For each additional violation of this section the vacation rental  
23 certificate shall be suspended for an additional 30 days up to a  
24 maximum period of 12 months. For example the sixth violation  
25 shall be for 60 days; the seventh violation shall be for 90 days, and  
26 so on.  
27

28 d. For violations of any of the minimum life safety standards,  
29 suspension shall start immediately after three working days  
30 following admission or adjudication of the violation if it is not  
31 corrected and re-inspected. Such suspension shall remain in place  
32 until corrected.  
33

34 2. Suspension restrictions - A short-term vacation rental may not provide  
35 transient occupancy or advertise for transient occupancy during any  
36 period of suspension of a Short-Term Vacation Rental Certificate.  
37

38 a. The suspension shall begin immediately following notice,  
39 commencing either:  
40

41 1. at the end of the current vacation rental lease period; or  
42

43 2. within 30 calendar days, whichever is less.  
44



\*\*\*\*

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

\*\*\*\*

7. Vacation rentals.

\*\*\*\*

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

\*\*\*\*

6. Vacation rentals.

\*\*\*\*

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

\*\*\*\*

4. Vacation rentals.

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

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4. Vacation rentals.

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

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4. Vacation rentals.

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

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5. Vacation rentals.

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

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5. Vacation rentals.

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

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5. Vacation rentals.

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

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6. Vacation rentals.

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

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3. Vacation rentals.

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

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4. Vacation rentals.

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

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19. Vacation rentals.

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

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16. Vacation rentals.

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

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17. Vacation rentals.

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

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16. Vacation rentals.

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

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

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

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

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**SECTION 3. CODIFICATION AND SCRIVENER’S ERRORS**

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

**SECTION 4. SEVERABILITY**

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

**SECTION 5. EFFECTIVE DATE**

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

**PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.**

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS**

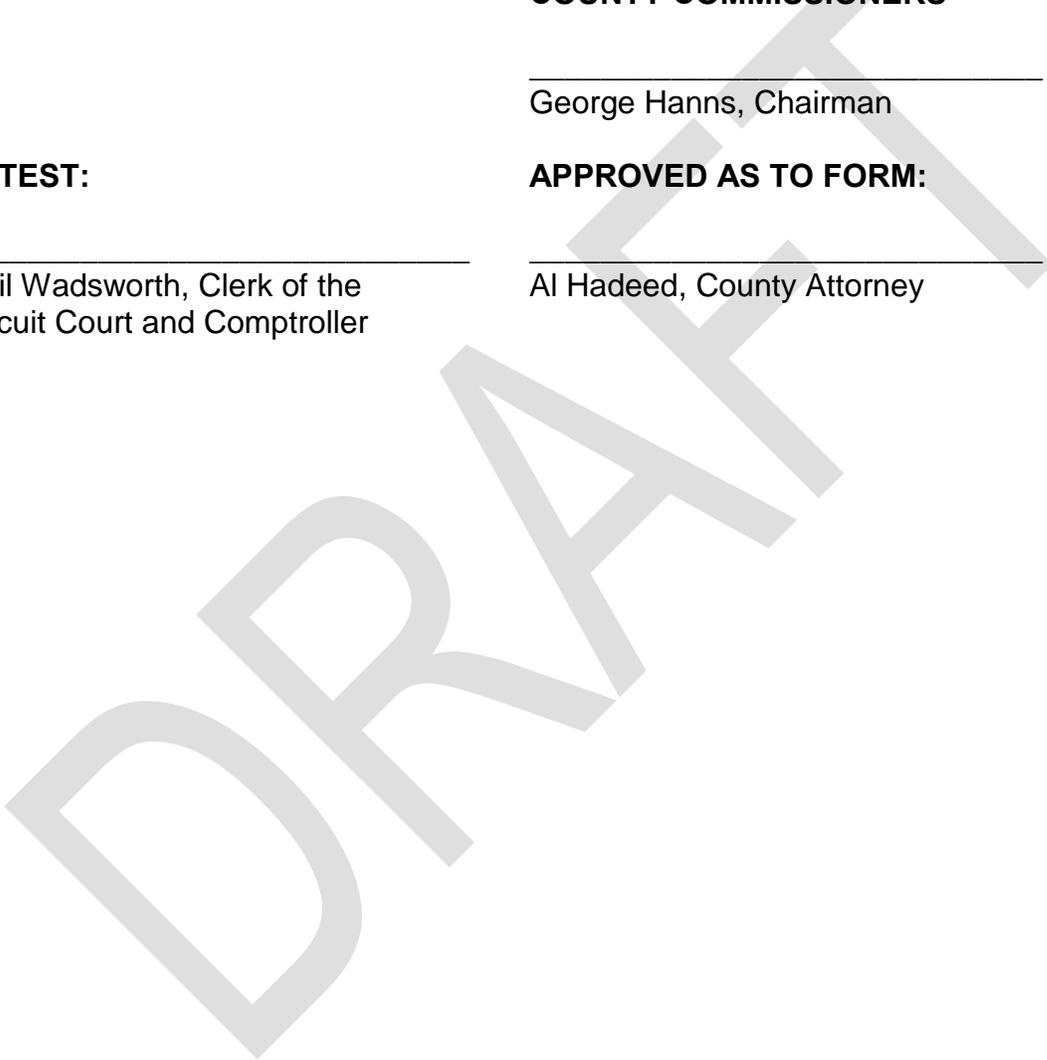
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George Hanns, Chairman

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gail Wadsworth, Clerk of the Circuit Court and Comptroller

\_\_\_\_\_  
Al Hadeed, County Attorney



## Attachment 2

### CHAPTER 2014-71

#### Senate Bill No. 356

An act relating to the regulation of public lodging establishments and public food service establishments; amending s. 509.032, F.S.; revising the permitted scope of local laws, ordinances, and regulations regarding vacation rentals; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (7) of section 509.032, Florida Statutes, is amended to read:

509.032 Duties.—

(7) PREEMPTION AUTHORITY.—

(a) The regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.

(b) A local law, ordinance, or regulation may not ~~restrict the use of vacation rentals, prohibit vacation rentals, or regulate the duration or frequency of rental of~~ 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.

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

Section 2. This act shall take effect July 1, 2014.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.

**STATE OF FLORIDA  
COMPARISON OF STATUTORY CHANGE TO VACATION RENTAL LEGISLATION**

2011's HB 883 (CHAPTER 2011-119, LAWS OF FLORIDA)	2014's SB 356 (CHAPTER 2014-71, LAWS OF FLORIDA)
<p>509.032 Duties.—</p> <p>(7) PREEMPTION AUTHORITY.—</p> <p>(a) The regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.</p> <p>(b) 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.</p> <p>(c) Paragraph (b) does not apply to any local law, ordinance, or regulation exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.</p>	<p>509.032 Duties.—</p> <p>(7) PREEMPTION AUTHORITY.—</p> <p>(a) The regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.</p> <p>(b) A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.</p> <p>(c) Paragraph (b) does not apply to any local law, ordinance, or regulation exclusively relating to property valuation as a criterion for vacation rental if the local law, ordinance, or regulation is required to be approved by the state land planning agency pursuant to an area of critical state concern designation.</p>