

ORDINANCE NO. 2014 - __

1
2
3 AN ORDINANCE OF THE BOARD OF COUNTY
4 COMMISSIONERS OF FLAGLER COUNTY, FLORIDA,
5 AMENDING APPENDIX C, LAND DEVELOPMENT CODE,
6 OF THE CODE OF ORDINANCES OF FLAGLER COUNTY,
7 FLORIDA, RELATED TO SHORT-TERM VACATION
8 RENTALS; PROVIDING FOR FINDINGS; AMENDING
9 ARTICLE III, ZONING DISTRICT REGULATIONS;
10 CREATING SECTION 3.06.14., SHORT-TERM VACATION
11 RENTALS; AMENDING SECTION 3.03.02., AC-
12 AGRICULTURE DISTRICT, SECTION 3.03.03., AC-2-
13 AGRICULTURE/FORESTRY DISTRICT, 3.03.04., R-1-
14 RURAL RESIDENTIAL DISTRICT, 3.03.05., R-1B-URBAN-
15 SINGLE-FAMILY RESIDENTIAL DISTRICT, 3.03.06., R-
16 1C-URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT,
17 3.03.07., R-1D-URBAN SINGLE-FAMILY RESIDENTIAL
18 DISTRICT, 3.03.08., R-2-TWO-FAMILY RESIDENTIAL
19 DISTRICT, 3.03.09.01., R-3-MULTIFAMILY RESIDENTIAL
20 DISTRICT, 3.03.09.02., R-3B-MULTIFAMILY
21 RESIDENTIAL DISTRICT, 3.03.10., MH-1-RURAL MOBILE
22 HOME DISTRICT, 3.03.11., MH-2-URBAN MOBILE HOME
23 DISTRICT, 3.03.13., R/C-RESIDENTIAL/LIMITED
24 COMMERCIAL USE DISTRICT, 3.03.20., PUD-PLANNED
25 UNIT DEVELOPMENT, 3.03.20.2., MUL-PUD-MIXED USE,
26 LOW INTENSITY-PLANNED UNIT DEVELOPMENT,
27 3.03.20.3., MUH-PUD-MIXED USE, HIGH INTENSITY-
28 PLANNED UNIT DEVELOPMENT, 3.03.21., FDD-FUTURE
29 DEVELOPMENT DISTRICT, AND 3.08.02., SPECIFIC
30 DEFINITIONS OF CERTAIN TERMS USED IN THIS
31 ARTICLE; PROVIDING FOR CODIFICATION AND
32 SCRIVENER'S ERRORS; PROVIDING FOR
33 SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

34
35 **WHEREAS**, prior to 2011 Florida's Cities and Counties regulated local land use
36 issues and decisions under the Home Rule authority granted them within the Florida
37 Constitution; and

38
39 **WHEREAS**, the 2011 Florida Legislature enacted House Bill 883 (Chapter 2011-
40 119, Laws of Florida) which preempted the local regulation of a specific land use
41 commonly called short-term vacation rentals (transient rentals less than 30 days in
42 duration and commonly located in residential areas); and

43
44 **WHEREAS**, the preemption bill provided for very little oversight from the State for
45 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 "violator" 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.

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

4. Vacation rentals.

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

4. Vacation rentals.

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

5. Vacation rentals.

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

5. Vacation rentals.

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

- 1 ****
- 2 5. Vacation rentals.
- 3 ****
- 4 11. Amendment to Section 3.03.10., *MH-1-Rural mobile home district*, subsection B.,
- 5 *Permitted principal uses and structures*, to read as follows:
- 6
- 7 ****
- 8 6. Vacation rentals.
- 9 ****
- 10 12. Amendment to Section 3.03.11., *MH-2-Urban mobile home district*, subsection
- 11 B., *Permitted principal uses and structures*, to read as follows:
- 12
- 13 ****
- 14 3. Vacation rentals.
- 15 ****
- 16 13. Amendment to Section 3.03.13., *Residential/limited commercial use district*,
- 17 subsection B., *Permitted principal uses and structures*, to read as follows:
- 18
- 19 ****
- 20 4. Vacation rentals.
- 21 ****
- 22 14. Amendment to Section 3.03.20., *PUD-Planned unit development*, subsection B.,
- 23 *Permitted principal uses and structures*, to read as follows:
- 24
- 25 ****
- 26 19. Vacation rentals.
- 27 ****
- 28 15. Amendment to Section 3.03.20.2., *MUL-PUD-Mixed use, low intensity-planned*
- 29 *unit development*, subsection B., *Permitted principal uses and structures*, to read
- 30 as follows:
- 31
- 32 ****
- 33 16. Vacation rentals.
- 34 ****
- 35 16. Amendment to Section 3.03.20.3., *MUH-PUD-Mixed use, high intensity-planned*
- 36 *unit development*, subsection B., *Permitted principal uses and structures*, to read
- 37 as follows:
- 38
- 39 ****
- 40 17. Vacation rentals.
- 41 ****
- 42 17. Amendment to Section 3.03.21., *FDD-Future development district*, subsection B.,
- 43 *Permitted principal uses and structures*, to read as follows:
- 44
- 45 ****
- 46 16. Vacation rentals.

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

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

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

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

SECTION 3. CODIFICATION AND SCRIVENER’S ERRORS

- A. The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances of Flagler County, Florida, as additions and amendments thereto, and shall be appropriately renumbered or relettered to conform to the uniform numbering system of the Code. Scrivener’s errors may be corrected as deemed necessary.
- B. Only Section 2 herein shall be codified within the Flagler County Code of Ordinances. Sections not specifically amended herein shall remain unchanged 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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19

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

George Hanns, Chairman

ATTEST:

APPROVED AS TO FORM:

Gail Wadsworth, Clerk of the Circuit Court and Comptroller

Al Hadeed, County Attorney

