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

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

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

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

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

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

WHEREAS, the 2014 Florida Legislature enacted Senate Bill 356 (Chapter 2014-71, Laws of Florida) which rescinded the previous preemption on local regulation of short-term vacation rentals, but provided that a local law, ordinance, or regulation adopted after June 1, 2011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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, traditional lodging establishments have tougher development standards, undergo annual inspections, and have more stringent operational and business requirements; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WHEREAS, the Flagler County Planning and Development Board held a duly noticed public hearing on October 29, 2014 and recommended _____ of this ordinance; and

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

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

SECTION 1. FINDINGS

A. The above Recitals are incorporated herein as Findings of Fact.

B. The Board of County Commissioners further finds as follows:

1. The proposed amendment will provide for the orderly development of Flagler County and complies with applicable Comprehensive Plan goals, objectives and policies; and

2. The proposed amendment will serve to protect the health and safety of residents or workers in the area and will be complementary to the use of adjacent properties or the general neighborhood.

SECTION 2. LAND DEVELOPMENT CODE AMENDMENT

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

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

****

3.06.14. – Short-term vacation rentals.

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

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

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

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

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

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

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

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

1. Minimum life/safety requirements:

a. Swimming pool, spa and hot tub safety – A swimming pool, spa or hot tub shall comply with the current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes.

b. Sleeping rooms – All sleeping rooms shall meet the single- and two-family dwelling minimum requirements of the Florida Building Code.

c. Smoke and carbon monoxide (CO) detection and notification system – If an interconnected and hard-wired smoke and carbon monoxide (CO) detection and notification system is not in place within the short-term vacation rental unit, then an interconnected, hard-wired smoke alarm and carbon monoxide (CO) alarm system shall be required to be installed and maintained on a continuing basis consistent with the requirements of Section R314, Smoke Alarms, and Section R315, Carbon Monoxide Alarms, of the Florida Building Code – Residential.

d. Fire extinguisher – A portable, multi-purpose dry chemical 2A:10B:C fire extinguisher shall be installed, inspected and maintained in accordance with NFPA 10 on each floor/level of the unit. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location.

e. Emergency egress maintenance and lighting – Halls, entrances and stairways shall be clean, ventilated and well-lighted day and night. Hall and stair runners shall be kept in good condition. Railways shall be installed on all stairways and around all porches and steps. (Rule 61C-1.004(9), F.A.C.).

f. Local phone service – At least one landline telephone with the ability to call 911 shall be available in the main floor common area in the unit.

2. Maximum occupancy based on site capacity/limitations. The following specific site considerations shall limit any short-term vacation rental occupancy to whichever is less:

a. One person per 150 gross square feet of permitted conditioned living space, or

b. The maximum number permitted shall be restricted in accordance with any septic tank permit conditions issued by the Flagler County Health Department, or

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

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

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

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

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

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

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

7. Annual County solid waste charges. The short-term vacation rental shall be charged one annual solid waste fee for every eight transient occupants or fraction thereof, based on the maximum transient occupancy permitted. Any additional solid waste fees shall be paid at the time of permit issuance/renewal

8. Quiet hours. Quiet hours for short-term vacation rentals shall be from 10:00 p.m. to 8:00 a.m. daily. Law enforcement officers shall have the authority to determine if short-term vacation rentals are disturbing the peace and violating these quiet hours and issue citations appropriately.

9. Minimum Short-Term Vacation Rental Lease wording. The Short-Term Vacation Rental Lease agreement shall contain the minimum information as provided for in subsection 3.06.14.H.

10. Minimum short-term vacation rental information required postings. The short-term vacation rental shall be provided with posted material as required by Flagler County as prescribed in subsection 3.06.14.I.

11. Minimum short-term vacation rental lessee information. The short-term vacation rental lessee shall be provided with a copy of the information required in subsection 3.06.14.H.

12. Appointment of a short-term vacation rental agent. The short-term vacation rental agent shall be identified as required in subsection 3.06.14.G.

13. Utility service.

    a. If wastewater service is provided through a private septic system, then the owner shall demonstrate to Flagler County that the Flagler County Health Department has reviewed the utilization of the septic system for the short-term vacation rental and that the septic system provides adequate capacity for the anticipated short-term vacation rental occupancy applied for. For these purposes, a valid Health Department permit displaying the number of bedrooms shall satisfy this requirement.

    b. If central water and/or wastewater service is provided to the short-term vacation rental, then the owner shall demonstrate to Flagler County that appropriate application has been made and fees paid to reflect approval by the utility provider for the additional utility usage impacts from the short-term vacation rental use.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ii. The number of sleeping areas is increasing; or

iii. The occupancy is proposed to increase.

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

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

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

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

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

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

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

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

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

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

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

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

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

G. *Short-term vacation rental agent.*

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

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

   b. Actually resides within Flagler County.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I. *Required posting of the following short-term vacation rental unit information.*

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

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

   b. The maximum occupancy of the unit;

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

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

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

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

g. The location of the nearest hospital.

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

J. *Offenses/violations.*

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

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

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

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

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

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

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

1. Suspension timeframes.

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

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

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

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

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

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

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

2. within 30 calendar days, whichever is less.

3. Number of violations - For purposes of this section, violations shall be considered for only those situations in which a code enforcement citation or criminal charge was issued.

M. *Ongoing inspections and right of entry*. In order to ensure ongoing compliance with the provisions of this section, it may be necessary to inspect short-term vacation rental properties more frequently than the more routine initial and subsequent inspections previously described. Although random inspections are not anticipated, inspections related to complaints/observations of non-compliance are expected to be necessary from time to time:

1. In the application for a Short-Term Vacation Rental Certificate the owner is required to grant Flagler County the right of reasonable entry into the premises for compliance inspection purposes. In addition, such issuance of the vacation rental certificate shall be conditioned upon and subject to the County's right of reasonable entry into the premises for inspection purposes.

2. Whenever possible, the County shall provide a short-term vacation rental agent two hours advance notice of a pending inspection, except when the inspection is requested by the owner or agent.

3. The failure of a short-term vacation rental owner, agent, or tenant to provide access to an employee of Flagler County attempting to complete an inspection as provided for in this section shall be considered a violation and subject to the penalties as provided herein.

N. *Vesting*. Legally-established short-term vacation rentals located in zoning districts and developments described in subsection 3.06.14.C.3.b. as of January 1, 2015 shall be vested from the cumulative impact location standard at subsection 3.06.14.C.4, but shall otherwise meet the requirements contained herein.

O. *Registration*. Existing short-term vacation rentals at the time of notice shall have until March 1, 2015 to make application for a vacation rental certificate and until June 1, 2015 to receive a certificate to come into compliance with the County's requirements.

****

2. Amendment to Section 3.03.02., *AC-Agriculture district*, subsection B., *Permitted principal uses and structures*, to read as follows:

****

18. Vacation rentals.

****

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:

****

5. Vacation rentals.

****

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

****

6. Vacation rentals.

****

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

****

3. Vacation rentals.

****

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

****

4. Vacation rentals.

****

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

****

19. Vacation rentals.

****

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:

****

16. Vacation rentals.

****

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:

****

17. Vacation rentals.

****

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

****

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 a 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

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:

_____
Gail Wadsworth, Clerk of the Circuit Court and Comptroller

APPROVED AS TO FORM:

_____
Al Hadeed, County Attorney

DRAFT