

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

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

CASE NO.: 2015 CA 002419

Plaintiffs,

v.

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

Defendant.

MOTION FOR LEAVE TO AMEND COMPLAINT

COMES NOW, Plaintiffs, TIMOTHY J. IAFOLLA, et al., by and through its undersigned counsel, and hereby moves this Court pursuant to Rule 1.190, Fla. R. Civ. Pro., for entry of an order allowing the filing of an Amended Complaint, and as grounds state:

1. This is the Plaintiff's first request to the Court seeking leave to amend the Complaint in this matter.
2. Plaintiff seeks leave to amend the Complaint to revise certain causes of action in its Complaint.
3. This motion is made in good faith and not for purposes of delay.

4. Rules of Civil Procedure governing amended pleadings require that leave to amend be freely given unless a party has abused the privilege to amend. *Rohlwing v. Myakka River Real Properties, Inc.*, 884 So. 2d 402, 406 (Fla. 2d DCA 2004); *Sun Valley Homeowners, Inc. v. Am. Land Lease, Inc.*, 927 So. 2d 259, 262 and 263 (Fla. 2d DCA 2006) (Public policy favors the liberal amendment of pleadings so that cases can be tried on their merits).

5. Since the filing of the Complaint, certain facts concerning certain of the Plaintiffs' rental property has changed.

6. Since the filing of the Complaint, Defendant has passed an "Emergency Ordinance" modifying the regulations that are the subject of this action.

7. The passage of the Emergency Ordinance has necessitated the amendment of the Complaint to remove certain claims while adding others.

8. Despite the passage of the original Ordinance and the Emergency Ordinance, the City has maintained a building moratorium that contributes to a de facto prohibition of Plaintiff's use of their properties as vacation rentals or the operation of their vacation rental businesses. Further, the moratorium makes it impossible for Plaintiffs to comply with the Emergency Ordinance.

9. The matter is not currently set for trial, and the amendment will not prejudice the Defendant.

10. The undersigned will make a good faith effort to resolve this matter without need for a court hearing.

11. A copy of the proposed Amended Verified Complaint is attached hereto as **Exhibit "1"**.

WHEREFORE, the Plaintiffs, TIMOTHY J. IAFOLLA, et al., respectfully requests entry of an order granting Plaintiffs' leave to file the attached Amended Verified Complaint, plus all further relief this Court deems proper.

Respectfully submitted this 25th day of June, 2015.

/s/ Kevin S. Hennessy

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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed and furnished electronically via the Florida Courts E-Filing Portal to: Gretchen R.H. Vose, Esq. and Wade C. Vose, Esq., Vose Law Firm, LLP, 324 W. Morse Blvd., Winter Park, Florida, 32789, bvose@voselaw.com, bswims@voselaw.com, and service@voselaw.com, this 25th day of June, 2015.

/s/ Kevin S. Hennessy

KEVIN S. HENNESSY, ESQUIRE

EXHIBIT 1

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

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

CASE NO.: 2015 CA 002419

Plaintiffs,

v.

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

Defendant.

**AMENDED VERIFIED COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF**

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

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

JURISDICTION AND VENUE

1. This is an action for declaratory relief and preliminary and permanent injunctions.

2. This Court has jurisdiction in this matter pursuant to Art. V(5)(b), Fla. Const., and Sections 26.012(2)(c) and (3), and 86.011, Fla. Stat., as this is a claim seeking equitable and injunctive relief and raises claims otherwise not cognizable by the county courts.

3. Venue is proper in Manatee County pursuant to Section 47.011, Fla. Stat., as the actions and the facts giving rise to this Complaint occurred in Manatee County, the real property owned by Iafollas, Roaldi, Salouh, Rysal, and Seven Emeralds and otherwise impacted by the actions of the City is located in Manatee County, and the City maintains its headquarters and principle place of business and is otherwise located in Manatee County.

THE PARTIES

4. The Iafollas own property located at 12108 Gulf Drive and 207 Coconut Avenue, Anna Maria, Manatee County, Florida, and rent their properties several months per year.

5. Roaldi owns property located at 110 Palm Avenue and 220 Chilson Avenue, Anna Maria, Manatee County, Florida, and rent their properties several months per year.

6. Salouh is a Florida limited liability company who own property located at 106 Los Cedros Drive, Anna Maria, Manatee County, Florida, and rent their property several months per year.

7. Rysal is a Delaware limited liability company, registered to do business in Florida. Rysal maintains its principal office at 8374 Market Street, #477, Bradenton, FL 34202, and does business in Manatee County. Rysal owns property at 812 N. Shore Drive, 843 N. Shore

Drive and 113 Park Avenue, in Anna Maria, Florida, and rents these properties several months per year.

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

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

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

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

12. The Iafollas are Maryland residents, who own two homes in the City. Both homes have two (2) bedrooms. The Gulf Drive property was purchased as a small beach cottage in need of repair. The Iafollas restored the small cottage to maintain the "old Florida" feel. The cottage does not have a garage or carport, only a driveway. The Coconut Ave. property is also a small cottage that has a wooden fenced-in pool and one (1) car carport with driveway. The Iafollas use the cottages for their

personal use, for family to stay in periodically throughout the year, and as a rental. Currently the Iafollas have rental contracts on the properties for much of 2015 and 2016. IRE is the Rental Agent for the Iafolla's property.

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

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

15. Rysal owns three single family homes (812 N. Shore Drive, 843 N. Shore Drive and 113 Park Avenue) in the City of Anna Maria. Lyn Puskas is the manager of Rysal. The 812 N. Shore Drive property is a five bedroom single family home that has a pool with a white vinyl fence around it. The 113 Park Avenue property is a four bedroom single family home that also has a pool with a part wooden and part vinyl fence around it. Ms. Puskas uses the properties primarily for rentals and also for personal and family vacations several times a year. The properties currently have rental contracts pending for 2015, 2016, and 2017. Both the 843 N. Shore Drive and 113 Park Avenue properties were recently purchased by Rysal, have historically been used as rentals and were

purchased with the intent to continue to use the properties as rentals. Rysal does not use a Rental Agent for its properties.

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

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

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

19. The Plaintiffs have all invested substantial sums of money in their rental properties and rental businesses. The Plaintiffs keep their rental properties well maintained,

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

THE CHALLENGED ORDINANCE

20. The City of Anna Maria City Commission held a first reading of Ordinance 15-788 and voted in favor of the draft ordinance to create a system of regulation applicable solely to vacation rental properties.

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

22. On or about June 11, 2015, the City of Anna Maria City Commission held a Special Meeting. At the meeting the Commission adopted Ordinance 15-794 as an "Emergency Amendment to Vacation Rental Ordinance 15-788." (hereinafter, "Challenged Ordinance"). Ordinance 15-794 is attached hereto as **Exhibit "B"**. The Emergency Amendment retained all of the provisions adopted in Ordinance 15-788, but added Section 108-64: "Exemption for rental agreements entered into on or prior to April 9, 2015."

23. The Challenged Ordinance provides thirteen "findings of fact" based in part upon "Short-Term Rental Housing Restrictions White Paper" prepared for the National Association of Realtors by Robinson & Cole Attorneys at Law in 2011. [Sec. 108-2].

24. The Challenged Ordinance notes that homes have recently been legally constructed with as many as “six or more bedrooms” that have been utilized with “as many as 24 or more” occupants. [Sec. 108-2(8)].

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

26. The Challenged Ordinance regulates the rental property owner, vacation rental Agent, renter and any occupant, which is defined as any person who occupies the rental either during the day or overnight, including day guests. Occupant under this definition would encompass the property owner, their families, and their social guests, once the property has been licensed as a Vacation Rental under the Challenged Ordinance. The Ordinance makes no distinction between those times when a property with a Vacation Rental license is occupied by a paying guest, or the owner, their family, or their social guests.

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

Any unit, group of units, dwelling, building or group of buildings within a single complex of buildings which is rented to guests more than three (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

Exhibit A at p. 4.

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

29. The Challenged Ordinance creates two new categories of violation, unique in the code: "Transitory Violations" and "Continuing Violations." Penalties for violations include fines, and the mandatory suspension of a Vacation Rental License for a "third offense."

30. The Challenged Ordinance provides a definition for "Bedroom" which provides that "No room shall be considered a bedroom unless it was so designated on the plans submitted to the City for the construction of the building."

31. In order for a property owner to rent out their home on a short-term basis under the Challenged Ordinance, they must obtain a Vacation Rental License from the City, the application standards for which include:

- a. Completing a sworn vacation rental License application form;
- b. Paying to the City all applicable fees;
- c. Obtaining a Florida Department of Business and Professional Regulation license as a transient public lodging establishment;

- d. Obtaining a Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes, and transient rental taxes;
- e. Providing evidence of the vacation rental's current and active account with the Manatee County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Manatee Tax Collector;
- f. Providing a copy of the current Certificate of Occupancy for the building in which the vacation rental is or will be located which must comport with the R-1 occupancy requirements of the Florida Building Code, or an application made to the City of Anna Maria to obtain an R-1 designation;
- g. Providing an exterior site sketch, including all structures, pools, hot tubs, fencing, areas used for off-street parking and trash collection;
- h. Providing an interior building sketch by floor identifying all bedrooms, other rooms, hallways, exits, stairways, smoke detectors, fire extinguishers and exit signage;

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

32. The Mayor is granted responsibility under the Challenged Ordinance for granting, denying, revoking, renewing, suspending and canceling Vacation Rental Licenses for proposed and existing Vacation Rentals.

33. Section 108-26, of the Challenged Ordinance requires that a vacation rental be properly maintained in accordance with the standards set forth in the Challenged Ordinance and

that the City shall “re-inspect such vacation rental at least once a year to ensure compliance with the standards and requirements” of the Challenged Ordinance.

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

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

- a. The Agent’s full name, home and business address, home telephone number, business telephone number, cellular phone telephone number, facsimile machine phone number, and email address with copies of the Agent’s Florida Driver’s License and proof of professional licensure, if any;
- b. Completed Certificate, certifying that the Agent meets the qualification of the Agent as set forth in the Challenged Ordinance; including that he or she has read the Challenged Ordinance and certifies he or she meets the requirements, agrees to perform the duties, and agrees to be bound by the requirements, conditions, and penalties of the Agent as set forth in the Challenged Ordinance;
- c. A document provided by the City in which the Agent swears under oath to indemnify, defend, save and hold harmless the City, its elected officials, officers, agents, and employees from any and all liability, claims demands, disputes, damages, costs, attorney’s fees and expenses as a result of any matter relating to the application for vacation rental License, the vacation

rental License, actions or inactions of the vacation rental Owner, actions or inactions of the vacation rental Agent, actions or inactions of a vacation rental Occupant, tenants, guests, or invitees, or the operation or use of the vacation rental;

- d. Proof of insurance held by the Agent including:
 - i. Commercial general liability \$1,000,000 limits with the City listed as an additional insured,
 - ii. Worker's Compensation Insurance without restrict endorsements and the minimum amount provided by an umbrella or excess policy shall be: (1) statutory requirements and (2) \$500,000 per accident; and
 - iii. Automobile Liability Insurance with minimum limits \$1,000,000 per each occurrence;
- e. Written instruction to all insurance companies to provide thirty (30) day notice of any cancellation to the City;
- f. Proof of compliance with all Agent requirements provided in the Challenged Ordinance, including:
 - i. 18 years old or older;
 - ii. Valid Florida Driver's License;
 - iii. Customarily be present at a business location within Manatee County for the purposes of transacting business; or have his or her permanent residence within Manatee County;
 - iv. Available by telephone answered by Agent at listed number 24 hours a day, seven days a week;

- v. Be willing and able to be physically present at the vacation rental within thirty (30) minutes and shall actually be physically present within that time frame when requested; and
- vi. Conduct an on-site inspection of the vacation rental no less often than weekly to assure compliance;
- g. If an Agent is associated with a vacation rental Agency, then the Agent must disclose the name, address, phone number and email address of the Agency;

Exhibit A at pp. 12-15.

36. Despite the requirement that the Agent be available 24 hours a day, seven days a week, only one Agent may be designated at any given time. To change the designated Vacation Agent, the exact same application procedure for the initial designation is required. [Section 108-40(b)]

37. The Challenged Ordinance Section 108-44 provides for suspension of rights as a Vacation Rental Agent for “three (3) Unresolved Violations.” The Mayor is granted the power to make a “reasonable determination” if responsibility for violation of the code should be imputed to the Vacation Rental Agent as an Unresolved Violation. Suspension of a Vacation Rental Agent’s privileges would immediately act to suspend the Vacation Rental License of every property they manage until a new Rental Agent can be appointed.

38. Section 108-52 of the Challenged Ordinance creates eight separate categories of “minimum safety and operational requirements” of vacation rentals; all of which must be initially and continually met in order for a property owner to obtain and maintain the necessary City license and to rent out their home on a short-term basis. These requirements include regulation on the use of swimming pools and spas, requirement for a six foot high fence

constructed with a “vinyl acoustic material” (a term not defined in the Challenged Ordinance), requirements for sleeping rooms or bedrooms, requirements for interconnected and hardwired smoke and carbon monoxide detection systems and a wall-mounted fire extinguisher located on each floor. Most of these standards are unique to short-term vacation rental properties and apply to no other type of residential property in the City.

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

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

41. Section 108-55 requires that one trash container shall be provided per three occupants, and that trash storage containers shall be screened with a six foot fence with an opening for container removal. The vacation rental must contract with a waste management provider for side door pick-up service. There is no certainty that such service can even be obtained. These same restrictions are not placed on all other residential properties on the same street.

42. Section 108-52 also regulates the use of swimming pools and hot tubs located on the premises of the vacation rental and Section 108-56 specifically prohibits any excessive noise or

amplified sound extending beyond the lot or parcel line between the "given hours" of 10 p.m. and 8 a.m. daily. The Challenged Ordinance contains no definition of "quiet hours" nor any maximum decibel levels or other measureable criteria or guidance for determining what "quiet" means. Section 108-52 requires that swimming pools and hot tubs undergo an annual inspection by a licensed technician and a log of the inspections be kept and provided to the City upon request. No similar restriction or regulation is placed on any non-rented or long term rented property on the same street.

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

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

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

- a. The maximum occupancy of the vacation rental;
- b. The names and ages of all Occupants, but the age of any Occupant over 30 can state "adult;"
- c. License tag numbers for all vehicles that the occupants will be parking at the vacation rental;

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

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

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

47. Section 1, 108-4 of the Challenged Ordinance provides that the violation of any of the provisions of the Challenged Ordinance constitutes either a transitory reduction, (i.e., violation of guest hours, parking in a right-of-way), or a continuing violation (i.e., operating a vacation rental without a license); and for each day a violation exists constitutes a separate distinct violation which may result in monetary fines, suspension or revocation of a vacation rental license, liens and other civil and criminal penalties. The fines imposed differ from those provided for under the City's existing nuisance and code enforcement regulations.

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

49. Sec. 108-64 of the Challenged Ordinance provides an application and approval process to permit homeowners with existing rental contracts to honor those contracts. The application process requires submittal of the contracts, rental agents, amount of any deposits received, and names and contact information for the families renting the homes no later than July 15, 2015. Approval must be granted by the City's Special Magistrate, who is charged with determining the validity of the existing rental agreements.

50. Section 34 of the Challenged Ordinance provides that the remaining regulations of the Challenged Ordinance will become effective on January 1, 2016.

BUILDING MORATORIUM ORDINANCE

51. On December 18, 2014, the City Commission passed Ordinance No. 14-785 (hereinafter referred to as the "Building Moratorium Ordinance"). Ordinance 14-785 is attached hereto as **Exhibit "C"**. That Ordinance establishes a Moratorium on "the acceptance, processing and issuing of applications for building permits for residential structures that contain or will result in the creation of four (4) or more rooms that will be or can be used for bedrooms or sleeping areas". The Building Moratorium Ordinance is effective on both construction of new residential structures and the expansion or modification of existing residential structures. Additionally, the Moratorium effects all applications pending with the City as of September 22, 2014.

52. The Building Moratorium Ordinance defines the phrase, "rooms that will be or can be used for bedrooms or sleeping areas" to include any room designated on building plans as

a bedroom, sleeping area or room that can be converted to a bedroom or a sleeping area by simply replacing the furniture. The number of bedrooms and sleeping areas will be counted on a parcel/lot basis regardless of whether they are contained in the same structure. The Building Moratorium Ordinance specifically excludes kitchens and bathrooms as bedrooms or sleeping areas.

53. The Building Moratorium does not affect building permit applications for residential structures containing or resulting in three (3) or fewer bedrooms or sleeping areas.

54. The Building Moratorium provides an exception whereby any property that is subject to the Moratorium would be released from the Moratorium upon the property owner and lienholders voluntary entry into a restrictive covenant with the City. The restricted covenant mandates the property be used for single family purposes and not rental property "except for periods of thirty (30) continuous days or more". The Building Moratorium Ordinance shall remain in effect until December 18, 2015 and its effective date relates back to September 22, 2014 when the first official action was taken to adopt the Moratorium.

THE CHALLENGED ORDINANCE'S IMPACT ON THE PLAINTIFFS

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

56. Couple the Challenged Ordinance with the Building Moratorium Ordinance and the intention of the City of complete vacation rental prohibition is obvious. Residential property that has four (4) or more bedrooms or sleeping areas are subject to the Building Moratorium definition of four (4) or more sleeping rooms means areas which can be converted by replacing furniture. By this determination, the room may never be used as a sleeping area but its mere ability to be converted makes it a sleeping area. This expansive definition is illogical and does not comport with the Florida Building Code regulations which have certain emergency egress requirements that do not apply to other rooms such as dining rooms, living rooms, or dens. However, applying this code definitions, any two (2) bedroom home that has a living room and dining room would be considered to have four (4) or more bedrooms or sleeping areas subjecting it to the Building Moratorium. Thus, a short-term rental property owner would be unable to apply for any building permits necessary to implement the required Challenged Ordinance changes to its property until December 18, 2015 but is required to have those required Challenged Ordinance changes in place by January 1, 2016. One need look no further than the mandated restrictive covenant to see the City's intention with these ordinances.

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

58. The Challenged Ordinance contains a number burdensome and expensive requirements on owners and agents. The costs for meeting all of the Challenged Ordinance's

requirements, assuming they can be met at all, will be substantial. These costs will naturally have to be passed onto the renters of these homes or borne by the owners who will either take reduced revenue or a loss associated with ownership.

59. Designation of a property as a Vacation Rental under the scheme of the Challenged Ordinance would make the owners of the homes themselves subject to classification as "Occupants." limit the number of guests they may have in their own homes, limit the times they may use their own swimming pools, restrict their ability and that of their social guests to utilize the on-street parking otherwise open to the general public, and subject themselves to intrusive inspections.

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

61. Since violations of the Challenged Ordinance will subject the property owners, agents and occupants to civil and criminal penalties, it can be expected that a number of homeowners will either no longer rent their homes or sell their homes, likely at a significantly reduced value. The number of businesses interested in acting as agents for short-term rentals will likely also be reduced or eliminated entirely.

62. The substantial economic effects of the Challenged Ordinance will result in less homes being made available for short-term vacation rentals (the actual goal of the Challenged Ordinance), at much higher charges. Therefore, the pool of renters who can afford these vacation homes will also shrink. The Challenged Ordinance will also substantially reduce the

amount of revenue generated by vacation rentals. This will also reduce the revenue for rental agents, while also increasing rental agent costs, responsibility and liability. The combination of lost revenue to homeowners and rental agents will have a devastating effect on this important industry.

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

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

COUNT I - DECLARATORY JUDGMENT
EXPRESS PREEMPTION BY STATE LAW

65. Plaintiffs re-allege paragraphs 1 through 64 as if fully set forth herein.

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

67. The regulation of the operation of public lodging establishments is expressly preempted to the State of Florida:

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

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

68. A "public lodging establishment" is defined by Section 509.013(4)(a), Fla. Stat., to include a "transient public lodging establishment," which is in turn defined as "any unit, group of units, dwelling, building, or group of buildings within a single complex which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised and held out to the public as a place regularly rented to guests." § 509.013(4)(a)1., Fla. Stat.

69. The Statute goes further, prohibiting any local governmental agency from making any law, ordinance, or regulation that prohibits vacation rentals or regulates the duration or frequency of rental of vacation rentals. § 509.032(7)(b), Fla. Stat.

70. The City's Challenged Ordinance contains numerous regulations on the operation of short-term vacation rentals which have the effect of creating regulations in areas preempted to the State, create regulations which will have the effect of limiting the frequency and duration of vacation rentals, and which ultimately act as a *de facto* prohibition of vacation rentals, in direct conflict with the State prohibition of the same.

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

72. Sec. 108-26 of the Challenged Ordinance grants an unbridled right of entry and inspection for compliance with the vacation rental regulations. Florida Statute 509.032(7)(a)

expressly limits inspection by local governments to “compliance with the Florida Building Code and Florida Fire Prevention Code.” The inspections permitted per the Challenged Ordinance clearly exceed this scope and are expressly preempted. Further, Section 108-52(a) requires annual inspections of pools, spas and hot tubs and city inspection of records which conflicts with the statutory preemption.

73. The State has specifically exempted the short-term rental of single family properties and duplexes from tourist development taxes under Section 125.0104(3)(a)1, Fla. Stat. However, the Challenged Ordinance overrides this uniform state-wide regulation and requires property owners to obtain a license that the Department of Revenue will not even issue. This is a mandatory requirement under the Challenged Ordinance, it is impossible to achieve and will therefore work as an illegal prohibition on Vacation Rentals in direct conflict with Florida Statute § 509.032(7)(b).

74. The Challenged Ordinance mandates the evidence of current and active account with the Manatee County Tax Collector for the purpose of collecting and remitting tourist development taxes. The City may not require or control the actions taken by Manatee County in its role as Tax Collector. The current or continuing availability of such an “account” is unknown, and if unavailable would act as a prohibition on Vacation Rentals, due to the mandatory nature of the requirement. This requirement may act as an illegal prohibition on Vacation Rentals in direct conflict with Florida Statute § 509.032(7)(b).

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

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

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

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

77. Section 108-22(b)(6) of the Challenged Ordinance requires a Certificate of Occupancy indicating compliance with Florida Building Code designation “R-1” and if not currently designated as such, the property owner must file with the City to obtain such a designation. “R-1” building codes are designated by the Florida Building Code as appropriate for “Residential occupancies containing *sleeping units*...” with the examples given as “Hotels *transient*” and “Motels *transient*.” (Fla. Building Code Sec. 310.3). “Sleeping Units” are described as those spaces that are NOT part of a “Dwelling Unit.” (Fla. Building Code, Chapter 2). Single-family or two-dwelling unit residences are classified as Residential Group R-3 under the Florida Building Code. The City has made no finding as to why the R-1 Occupancy classification is required, what structural modifications this change is likely to entail, or if it can even be achieved by a residential dwelling originally constructed under the R-3 classification. To

the extent that structural modifications are necessary, the existing Building Moratorium would prohibit the changes from being made. The mandatory occupancy requirement of R-1 for a structure originally built to the R-3 classifications will act as an illegal prohibition on Vacation Rentals in direct conflict with Florida Statute § 509.032(7) (b).

78. Section 108-3 of the Challenged Ordinance provides the Definition for Bedroom, which in turn determines the maximum number of "Occupants" permitted, which includes day-time guests. The definition states "No room shall be considered to be a bedroom unless it was so designated on the plans submitted to the City for the construction of the building." Many of the properties currently used as Vacation Rentals were built decades ago. Whether or not a room was labelled as a "bedroom" at time of construction plans would have been a function of the building regulations in place at the time, or the whim of the architect in labeling their plans. Under this definition, if a plan was submitted and approved for construction with NO labels on any of the bedrooms, NO occupancy would be permitted under the Challenged Ordinance. Because the plans have to have been labeled when they were submitted for construction, it would impossible to cure any defect. The definition for Bedroom will have the effect of prohibiting Vacation Rentals in certain homes, in direct conflict with Florida Statute § 509.032(7) (b).

79. Section 108-21 of the Challenged Ordinance, effective January 1, 2016, prohibits any person from renting all or any portion of an affected property as a vacation rental without complying with all the provisions of the Challenged Ordinance, including obtaining and maintaining a City-issued license. This prohibition is in direct conflict with Florida Statute § 509.032(7) (b).

80. Section 108-4 of the Challenged Ordinance provides for the suspension of the City license as punishment for violation of the Challenged Ordinance, which is a prohibition on property

being used as a vacation rental during any period that the City license is suspended. This prohibition is in direct conflict with Florida Statute § 509.032(7) (b).

81. Section 108-54 of the Challenged Ordinance provides that “There shall be one off-street parking space for each bedroom in a Vacation Rental.” This requirement is further limited by the requirements that one space be in a garage or carport, spaces may not be “tandem,” and the width of a driveway at the curb can be no more than 24 feet. These regulations in total will result in most vacation rentals being limited to one or two parking spaces. However the mandatory nature of the regulation is such that if one space cannot be provided for every bedroom, no Vacation License will be issued whatsoever. This regulation will effectively prohibit Vacation Rentals in many residences in direct conflict with Florida Statute § 509.032(7)(b).

82. The City is expressly barred by statute from prohibiting or regulating the duration or frequency of short-term vacation rental of residential properties. Here, the City is attempting to directly prohibit and regulate the operation of vacation rentals or limit the frequency to under three (3) times per year or mandate the duration of more than 30 days under the guise of its limited retention of zoning authority.

83. The compilation of excessive regulation of the Challenged Ordinance including provisions impossible to comply with and the moratorium on building for short-term rental properties only, amounts to a prohibition on vacation rentals because it will be cost prohibitive if not physically impossible to engage in the practice. Further, the risk of civil or criminal penalties creates a chilling effect on any homeowner choosing to rent their property as a vacation rental or any business choosing to manage vacation rental properties.

84. The Challenged Ordinance mandates the designation of an Agent who is available 24 hours a day, seven days a week, to respond to the property within 30 minutes notice. However the regulations mandate there may only be one designated Agent, there is no provision for temporary replacement of the Agent. This provision is virtually impossible to comply with. The Challenged Ordinance unnecessarily restricts the designated Agent from being unable to leave town, work or live more than 30 minutes away from the City (i.e. a person living in the eastern portion of Manatee County such as Lakewood Ranch, could not be an Agent). The impossibility of complying with this *de facto* City residency provision effectively prohibits Vacation Rentals in direct conflict with Florida Statute § 509.032(7)(b).

85. The Challenged Ordinance's numerous effective prohibitions of vacation rentals is contrary to State law and preempted by Florida Statute § 509.032(7) (b)..

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

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

88. Because the City has invaded an area of regulation preempted by State law and has created a situation where Plaintiffs will be unable to rent their property to families or vacationers, a prompt resolution of this matter is vital.

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

WHEREFORE, Plaintiffs respectfully request that this Court:

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

COUNT II - DECLARATORY JUDGMENT
EQUAL PROTECTION

90. Plaintiffs re-allege paragraphs 1 through 64 as if fully set forth herein.

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

92. The City is required by the Constitution to treat all persons and entities subject to its Challenged Ordinances equally. No law may be passed unless the regulations are rationally related to a legitimate governmental interest.

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

94. The Challenged Ordinance also bans the use of public property by the owners, their families, their agents, renters, and social guests of short-term renters, which is otherwise open to all persons.

95. By its terms, the Challenged Ordinance does not apply to long-term rentals of residential homes, to short-term rentals that occur two (2) times per year, to existing motels within residential neighborhoods, or to any properties which are occupied on a full time basis by the owner as an on-premises permanent resident. The Challenged Ordinance clearly targets specific short-term rentals of residential homes. There is no rational basis for this distinction between the long-term rental of residential properties and the short-term rental of residential properties, nor the distinction

between properties occupied on a full time basis by the owner as an on-premises permanent resident and an off-site owner. There is no rational basis for the distinction between a short-term property rental that occurs only two times a year and that which occurs four times a year. There is no rational basis for regulating the use of a residential home and swimming pool, yet failing to provide any similar regulation for non-conforming motels in the very same residential district. Yet, the City has irrationally chosen to heavily restrict one category of properties and to exempt another.

96. The Challenged Ordinance also includes occupancy restrictions on short-term rental properties. Under the Challenged Ordinance, the maximum short-term rental occupancy of single two, three and four-family properties and condominiums which are not occupied on a full time basis by the owner as an on-premises permanent resident, is restricted to the lesser of 2 people per bedroom or a total of 8 occupants, **including day guests**. However, no occupancy restrictions exist on properties rented long-term; short-term rentals occurring only two (2) times per years; short-term rentals lasting 31 days; or owner occupied homes. A five bedroom vacation rental property is limited to eight occupants. Yet an identical property next door may be occupied by an extended family of unlimited size. Even when the owner of the short-term rental property uses his own property, he is still prohibited from having more than 8 people, including any day guest occupying the property. Yet an owner of a short-term rental property who only rents his property two (2) times per year is not prohibited from having more than 8 people. There is no rational relationship to a legitimate government purpose to support this disparate treatment.

97. The Challenged Ordinance prohibits parking on the public rights-of-way for any property for which a license for short-term vacation rentals is obtained, including day guests, apparently even prohibiting the owner of the property or his or her guest from parking on the

street during a period when the owner himself is occupying the property. Despite other prohibitions in the City's code that specifically grant all occupants and visitors use of off-street parking. However, the permanent owner occupants, short-term rentals that last more than 30 days or occurring less than two (2) times per year, or long-term rental occupants of the property next door are free to park on the street as much as they wish, as is the general public.

98. The Challenged Ordinance mandates one off-street parking space for each bedroom for a vacation rental property, one parking space must be in a covered garage or carport, parking spaces cannot be tandem. However, the permanent occupants or long-term rental occupants of the property next door have no such restrictions imposed. Thus, a 5 bedroom single-family home used as a vacation rental must have 5 off-street non-tandem parking spaces with at least one space in a covered garage or carport, but a similar home next door with 5 bedrooms can park as many cars as it likes in its driveway, including tandem parking. Despite requiring non-tandem spaces, driveway openings are limited to twenty-four feet in width, which would permit only two cars side-by-side, creating an impossible situation when no tandem parking is allowed. Moreover, these parking restrictions are only mandated for certain vacation rentals; specifically those vacation rentals located in R-1, R-2, Residential Districts and those in Residential/Office/Retail (ROR) District that are not located above the ground floor and those rented out for less than 30 days three (3) or more times per year. Further, any short-term rental property owner who does not already have a carport or garage and has four (4) or more rooms (not including bathroom and kitchen) is prohibited from obtaining a building permit to attempt to comply with the Challenged Ordinances onerous requirements. This selective and arbitrary regulation of parking is not rationally related to a legitimate government purpose.

99. The Challenged Ordinance requires one trash storage container per every three occupants, that the containers be screened with a six foot fence, and that the rental contract with the waste management provider for side door pick-up service. There is no guarantee such service can even be provided. Long-term rentals, short-term rentals for 31 days, and permanently occupied homes do not have similar restrictions. This selective and arbitrary regulation of trash storage is not rationally related to a legitimate government purpose.

100. Section 108-22(b)(6) of the Challenged Ordinance requires a Certificate of Occupancy indicating compliance with Florida Building Code designation "R-1" and if not currently designated as such, the property owner must file with the City to obtain such a designation. "R-1" building codes are designated by the Florida Building Code as appropriate for "Residential occupancies containing *sleeping units*..." with the examples given as "Hotels *transient*" and "Motels *transient*." (Fla. Building Code Sec. 310.3). "Sleeping Units" are described as those spaces that are NOT part of a "Dwelling Unit." (Fla. Building Code, Chapter 2). Single-family or two-dwelling unit residences are classified as Residential Group R-3 under the Florida Building Code. The use of the homes for the occupancy by an owner, their family and their guests is not functionally different than those occupying for a vacation rental. The building safety issues are identical and there is no rational basis to distinguish the Florida Building Code classification.

101. The Challenged Ordinance imposes on short-term rentals "quiet hours" at unspecified noise levels. Yet the City imposes no similar noise restrictions on any other type of property. The permanently occupied or long-term rental property next to a short-term vacation rental property has no such quiet hours restriction. No rational basis exists to create a unique

noise regulation for a single type of residential property in the City where no other similarly situated property in the City is subject to such regulation.

102. The Challenged Ordinance imposes restrictions on the hours a person may use the hot tubs and pools at short-term rentals; yet imposes no similar time restriction on any other kind of residential property. The permanently occupied, short-term rental for 31 days, or long-term rental property next to a short-term vacation rental property has no restriction of the hours a person may use the hot tub or pool. This selective and arbitrary regulation of personal pool and hot tub use is not rationally related to a legitimate government purpose. If there are “quiet hours” already imposed then the restriction on use are not rationally related to any specified legislative finding. The only purpose being served by such a regulation is to create a regulation almost impossible to comply with, and when combined with harsh civil and criminal penalties, creates a deterrence to the short-term rental of property.

103. The Challenged Ordinance imposes requirements that a short-term rental have a six (6) foot vinyl acoustic fence around a pool or spa, but there is no requirement for such fencing on a long-term rental property, property rented two times per year, or a permanently occupied home. In addition, there is no definition of what is meant by a fence constructed with “vinyl acoustic material.” Furthermore, under the Challenged Ordinance a short-term rental property owner would be forced to remove an existing six (6) foot high opaque wood fence, or a legally permitted four (4) foot vinyl fence around a pool and replace it with a six (6) foot high vinyl acoustic fence, while other homeowner’s fencing choices are not regulated. Existing motels with swimming pools are not subject to the screening and “vinyl acoustic” requirements. This again is selective and arbitrary regulation of fencing around a personal pool and is not rationally related to a legitimate government purpose. Furthermore, with “quiet hours” imposed there is no legislative finding to

support this onerous restriction on private property. The only purpose of the requirement is to increase the regulatory cost burden on owners of short-term rental property, in the hopes such use will be discontinued. Coupled with the Building Moratorium limited to short-term vacation rental owners, the mandate to build with the prohibition on building has the effect of prohibiting short-term rentals by the City.

104. The Challenged Ordinance Sec. 108-52(a) imposes requirements for annual inspections by a licensed technician of short-term rental swimming pools and hot tubs and that those inspections are logged and the log provided to the City upon request. The permanently occupied short-term rentals of 31 days or long-term rental property have no annual inspection requirement. This selective and arbitrary regulation of personal swimming pools and hot tubs is not rationally related to a legitimate government purpose. The only purpose being served by such a regulation is to create a regulation that increases the cost burden on short-term property owners, in an attempt to deter to the short-term rental of properties in the City.

105. The Challenged Ordinance imposes requirements on short-term vacation rentals, which are not occupied on a full time basis by the owner as an on-premises permanent resident, that "mandate the rental agreement contain the name and age of each occupant, the license tag number of all occupants' vehicles, imposes requirements on their advertising, and specifies that there must be a designated Agent who is available 24 hours a day, seven days a week, to respond to the property within 30 minutes notice. However the regulations mandate there may only be one designated Agent, there is no provision for temporary replacement of the Agent. Full compliance with this provision is impossible. In most instances, at the time when a guest enters into a rental agreement he will not know the names and ages of all of the occupants nor the tag number of the vehicles which will be parked there. Many guests fly in and rent a car when they arrive.

Furthermore, this Challenged Ordinance raises safety concerns where it requires the names and ages of all children be disclosed in a rental agreement that then must be posted next to the main entrance door. Furthermore, the Challenged Ordinance unnecessarily restricts the designated Agent from being unable to leave town, work or live more than 30 minutes away from the City (i.e. a person living in the eastern portion of Manatee County such as Lakewood Ranch, could not be an Agent). No rational basis exists for imposing these requirements on residential properties rented on a short-term basis and not on others.

106. The Anna Maria Zoning Ordinances do not permit motels in any area of the City. However several motels exist within areas designated by the City Zoning Map as "Residential." No additional regulations, restrictions or limitations have been placed on motels in residential areas in regards to: noise, screening and use of swimming pools, or the necessity of an agent or manager to be available 24 hours a day, 7 days a week. The lack of regulation on uses that would have identical, if not greater impacts to the residential community, demonstrates the City has no rational basis for the new short-term rental regulations.

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

108. The Challenged Ordinance is over-inclusive, making no distinction between those times when a private residential property with a Vacation Rental License is rented out, versus when it is being utilized and occupied by the owners of the property. When the owners are in possession of the home there is NO distinction whatsoever between that home, and any other property occupied part-time or full-time by a property owner in the City who chooses not to rent out their home in their absence. The regulations strip owners of their rights to the use, quiet

enjoyment, and privacy associated with private property ownership. Property owners would be required to provide their names, the names of their family and guests, and post the same within their own homes during those times they reside in the home as an "Occupant." Property owners would be restricted from using their swimming pools at any time they choose, as any other property owner may. Property owners would not be permitted, nor allow their guests, to park on those portions of the City right-of-way open to the public. There is no rational basis for the regulations imposed upon property owners when they occupy their own homes.

109. The Challenged Ordinance creates a new and separate system of code enforcement for Vacation Rentals, with fines that accrue in a greater amount, despite the fact that the nature and impact of the violations are the same as they would be under the existing nuisance and code enforcement regulations. A "Transitory Violation" is defined to include "a violation of quiet hours" and is subject to a fine of \$250 for the first offense. [Sec. 108-3 through 108-4]. However under the existing nuisance codes of the City, a "Noise Disturbance" is subject to only a \$100 fine for the first offense. [City Code of Ordinances Sec. 26-90 through Sec. 26-93]. There is no rational basis upon which to make a distinction between the impact of a sound nuisance generated by a vacation rental, and that created by any other resident, visitor, or business in the City.

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

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

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

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

114. Because the City has unlawfully singled out Plaintiffs and similarly situated property owners for distinct and much harsher regulations and penalties, the City has created a circumstance where Plaintiffs will be unable to rent its properties and where Plaintiffs may not be permitted to honor signed rental contracts for the coming year. Given the extensive requirements of the Challenged Ordinance and the burden it imposes on affected properties, a prompt resolution of this matter is vital. Therefore, Plaintiffs are entitled to a speedy hearing pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

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

**COUNT III- DECLARATORY JUDGMENT
UNCONSTITUTIONAL VAGUENESS**

115. Plaintiffs re-allege paragraphs 1 through 64 above as if fully set forth herein.

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

117. Challenged Ordinances, particularly those which carry the threat of civil and criminal sanctions, must provide a person of ordinary intelligence with fair notice of what

constitutes forbidden conduct. The City may not adopt a Challenged Ordinance which, by its vague wording, leaves persons to necessarily guess at its meaning.

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

119. Section 1, 108-56 provides:

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

120. There are no objective criteria for a person of ordinary intelligence to apply, to determine what would constitute a violation of the quiet hours requirement in the Challenged Ordinance. The insufficiency of this requirement is seen in contrasting this regulation with the City's existing code prohibition for "Noise Disturbances" which includes eleven individual factors for determining when such a noise disturbance exists. [Anna Maria Code of Ordinances, Sec. 26-90].

121. Without definition or objective standards, the Challenged Ordinance, as written, guarantees that enforcement of "Quiet Hours" will be arbitrary and discriminatory.

122. Section 108-44 creates a threat of suspension of the rights to act as a Vacation Rental Agent or Agency upon aggregation of "Unresolved Violations." However the meaning and nature of what constitutes an Unresolved Violation is left to the "reasonable determination of the Mayor." The Challenged Ordinance provides the Mayor no discernable standards, only that they should determine if violations "are the result of negligent or intentional actions or inactions of the Vacation Rental Agent." A regulation that has the power to strip a rental agent of their very right to pursue their profession cannot be based on a mere "reasonable determination".

123. Without definition or objective standards, the Challenged Ordinance, as written, guarantees that enforcement of “Unresolved Violations” will be arbitrary and discriminatory.

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

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

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

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

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

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

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

WHEREFORE, Plaintiffs respectfully request that this Court:

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

**COUNT IV - DECLARATORY JUDGMENT
IMPAIRMENT OF CONTRACT**

131. Plaintiffs re-allege paragraphs 1 through 64 as if fully set forth herein. Plaintiffs re-allege paragraphs 1 through 55 as if fully set forth herein.

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

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

134. Plaintiffs have entered into short-term rental contracts for future periods including 2016 and 2017. IRE's short-term rental contracts include confidentiality provisions.

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

136. The Challenged Ordinance purports to avoid the unconstitutional impairment of Plaintiffs' contracts by the passage of certain Exemptions. Sec. 108-64 provides a mechanism to submit existing contracts for review and determination as to their "validity." The application for exemption is subject to review by a Special Magistrate, which may be denied. Additionally any changes to an existing contract, regardless of how immaterial the modification may be, invalidates any exemption previously granted.

137. In order to qualify for the Exemption, the vacation rental owner must supply the renters name and contact information, and supply the agreements to the City. The existing contracts include an expectation of privacy of contracting parties, including provisions that expressly protect the privacy of the agreement. The requirements to "qualify" for the exemption will in itself constitute an impairment of the express and implied terms of existing contracts.

138. Several property owners have contracted with rental management companies for their services in managing their property. Some of these management contracts contain confidentiality provisions. These contracts typically are for longer than one year, permitting the advertising and rental of the property out into the future. The viability of these management contracts will be diminished and in some cases eliminated through the passage of the Challenged Ordinance. The inability for a property owner to bring his property into conformance with the stringent regulations due to the Building Moratorium, or the inability of a management company to

supply a single Agent who can be available 24 hours a day, 7 days a week, and able to reach the property within 30 minutes, or comply with the disclosure requirements of the Challenged Ordinance will destroy the value of these existing management contracts.

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

140. The occupancy limitations, disclosure requirements, and other regulations and restrictions in the Challenged Ordinance effectively prohibit Plaintiffs from performing their obligations under existing agreements.

141. The Challenged Ordinance is unconstitutional and unenforceable because it unlawfully impairs existing contracts. The purported system of “exemption” does nothing to cure the unconstitutional imposition made by the regulations.

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

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

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

145. Because the City has unlawfully singled out Plaintiffs and similarly situated property owners for distinct and much harsher regulations under a Challenged Ordinance that unconstitutionally impairs its existing contracts, the City has created a circumstance where Plaintiffs will be unable to honor signed, rental contracts and companies will be unable to honor existing management contracts. Given the extensive requirements of the Challenged Ordinance

and the burden it imposes on affected properties, a prompt resolution of this matter is vital. Therefore, Plaintiffs are entitled to a speedy hearing pursuant to Section 86.111, Fla. Stat.

WHEREFORE, Plaintiffs respectfully request that this Court:

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

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

146. Plaintiffs re-allege paragraphs 1 through 64 as if fully set forth herein.

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

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

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

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

151. Chapter 48, Fla. Stat., contains the requirements for service on individuals in the State of Florida. Namely, original process is made by delivering a copy to the individual, or leaving at his/her residence and substitute service may be made on the individual's spouse.

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

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

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

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

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

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

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

WHEREFORE, Plaintiffs respectfully request that this Court:

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

COUNT VI - DECLARATORY JUDGMENT
UNCONSTITUTIONAL VIOLATION OF RIGHT TO PRIVACY

159. Plaintiffs re-allege paragraphs 1 through 64 as if fully set forth herein.

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

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

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

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

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

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

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

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

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

169. Existing rental contracts and the internet services that provide vacation rental reservations have explicit privacy clauses. The Challenged Ordinance attempts to override the contracted for and established privacy rights.

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

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

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

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

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. issue an order declaring that the Challenged Ordinance violates the right to privacy contained in Article I, § 23 of the Florida Constitution and is therefore invalid and unenforceable;
- b. set this cause for an expedited date for trial in accordance with § 86.111, Fla. Stat.;
- c. award Plaintiffs their costs; and
- d. provide such other relief as this Court deems just and proper.

COUNT VII - PRELIMINARY INJUNCTIVE RELIEF

174. Plaintiffs re-allege paragraphs 1 through 64 as if fully set forth herein.

175. This is an action for preliminary injunctive relief.

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

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

178. Furthermore, upon implementation of the harsh and unreasonable restrictions and regulations in the Challenged Ordinance, the Plaintiffs would be forced to make substantial modifications to their properties or face the loss of rental income and potential sale of their property. Given the Building Moratorium, it is impossible for the Plaintiff to make the required substantial modifications.

179. There is no adequate remedy at law for Plaintiffs injuries as a result of the Challenged Ordinance becoming effective. The Challenged Ordinance inhibits Plaintiffs use or transfer of their property, interferes with existing obligations of their contracts, and imposes numerous restrictions, many of which leave Plaintiffs guessing as to whether the property does or may ever comply with the Challenged Ordinance. The Building Moratorium Ordinance prevents the Plaintiffs from being able to bring their properties into compliance with the ordinance. Plaintiffs' injuries are difficult, if not impossible, to quantify monetarily.

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

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

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

COUNT VIII - PERMANENT INJUNCTIVE RELIEF

182. Plaintiffs re-allege paragraphs 1 through 64 as if fully set forth herein.

183. This is an action for permanent injunction.

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

185. The Challenged Ordinance violates Plaintiffs' clear legal rights. Plaintiffs have a right to be free from City regulations that function to prohibit the use of Vacation Rentals that is expressly preempted by State regulations with which Plaintiffs are in compliance. The Challenged Ordinance also violates Plaintiffs' clear legal right to be treated equally under the law, to have their contracts protected and honored and free from intrusions on privacy, to be free from vague, contradictory, duplicative, and unenforceable laws, and to freely transfer property. This Challenged Ordinance provides onerous requirements including construction requirements that are specifically prohibited by the City's Building Moratorium and thus prevent the Plaintiffs from being able to reasonably comply with the Challenged Ordinance. The Challenged Ordinance strips Plaintiffs of their rights to utilize their residential property in a manner consistent with their personal property rights and freedoms.

186. The City has imposed a system of regulations that are impossible to comply with, have no effect other than to create a *de facto* prohibition on Vacation Rentals in the City, and will lead to the ultimate destruction of their property value.

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

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

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

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

189. Plaintiffs re-allege paragraphs 1 through 64 as if fully set forth herein.

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

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

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

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

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

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

196. Plaintiffs’ properties were constructed in conformity with the rules, requirements and regulations of the City’s zoning code. Building size, number of bedrooms, number and arrangement of parking spaces, setbacks, fencing, and landscape, are conforming or otherwise permitted under the approval and construction permitting processes.

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

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

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

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

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

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

203. The City’s Zoning Code does not specifically speak about short-term rentals of residential property. However, the requirements imposed under the Challenged Ordinance will have the effect of either converting the existing, legal, permitted use of Plaintiffs’ properties into a non-

conforming use, or otherwise will create a series of structural non-conformities also limiting the use and value of the property.

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

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

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. issue an order declaring that short-term residential rentals are a permitted use in R-1, R-2, and ROR districts of the City's zoning code, and no non-conforming use, structure or lot is created through the adoption of the Challenged Ordinance;
- b. award Plaintiffs their costs; and
- c. provide such other relief as this Court deems just and proper.

COUNT X - DECLARATORY JUDGMENT
ORDINANCE ADOPTED IN VIOLATION OF FLORIDA STATUTE 166.041

206. Plaintiffs re-allege paragraphs 1 through 64 as if fully set forth herein.

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

208. Florida Statute §166.041(3)(c) provides the procedures that municipalities are required to follow in order to adopt an ordinance that changes the zoning map or that change the permitted, conditional, or prohibited uses within a zoning category. The Statute's requirements include, but are not limited to:

- a. The required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper;
- b. The headline in the advertisement shall be in a type no smaller than 18 point.

c. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear.

209. Florida Statute §166.041(3)(b) prohibits the adoption of an Emergency Ordinance for a change to the zoning map or changing the uses permitted in their zoning code.

210. The City's new regulations create requirements with which short-term rentals must comply, or they are otherwise prohibited. These requirements have the identical effect of establishing a conditional use or prohibition for residential properties.

211. Upon information and belief, the City's initial ordinance was not adopted in conformity with Florida Statute §166.041(3)(c), and is accordingly invalid.

212. The City subsequently adopted the Challenged Ordinance as an Emergency Ordinance. This process is not permissible for the adoption of a modification to the zoning code that impacts the permitted or prohibited uses to real property, and is accordingly invalid.

WHEREFORE, Plaintiffs respectfully request that this Court:

- a. issue an order declaring the Challenged Ordinance invalid for failure to meet the Statutory Requirements for adoption;
- b. award Plaintiffs their costs; and
- c. provide such other relief as this Court deems just and proper.

RESERVATION OF FEDERAL RIGHTS

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

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

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

Respectfully Submitted,

/s/ Kevin S. Hennessy
KEVIN S. HENNESSY, ESQUIRE
Florida Bar No. 0602558
JENNIFER R. COWAN, ESQUIRE
Florida Bar No. 0038081
LEWIS, LONGMAN & WALKER, P.A.
101 Riverfront Boulevard, Suite 620
Bradenton, FL 34205
Telephone: (941) 708-4040
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Primary Email: khennessy@llw-law.com
jcowan@llw-law.com
Secondary Email: jbissette@llw-law.com
jdavy@llw-law.com
Attorneys for Plaintiff

VERIFICATION

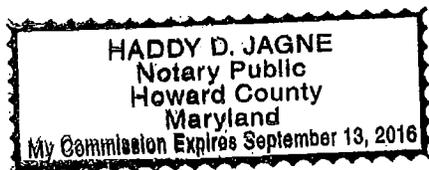
STATE OF MARYLAND
COUNTY OF MONTGOMERY

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

Timothy J. Iafolla
TIMOTHY J. IAFOLLA

Sworn to and subscribed before me this 23 of June, 2015, by TIMOTHY J. IAFOLLA, who is personally known to me or produced the following identification: MD License

(Notary Seal)



H. Jagne
Notary Public, State of Maryland

VERIFICATION

STATE OF Maryland
COUNTY OF Prince George's

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

Ayne Kimberly Iafolla
AYNE KIMBERLY IAFOLLA

Sworn to and subscribed before me this 24th of June, 2015, by AYNE KIMBERLY IAFOLLA, who is personally known to me or produced the following identification: Personal known to me.

(Notary Seal)



Lakisha L. Hurt
Notary Public, State of Maryland

LAKISHA L. HURT
Notary Public-Maryland
Prince George's County
My Commission Expires
June 02, 2018

VERIFICATION

STATE OF FLORIDA
COUNTY OF MANATEE

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

Carol A. Roaldi

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

Sworn to and subscribed before me this 24th day of June, 2015, by CAROL A. ROALDI, individually and as Trustee of CAROL A. ROALDI REVOCABLE TRUST DATED 12/4/14, who is personally known to me or produced the following identification: _____



STEPHANIE A. SOOY, NOTARY
STATE OF OHIO
MY COMMISSION EXPIRES: NOVEMBER 7, 2016

Stephanie A. Sooy
Notary Public, State of Florida Ohio

VERIFICATION

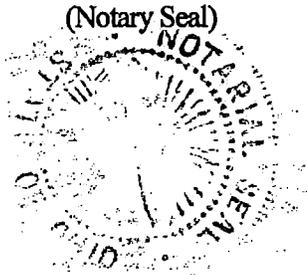
STATE OF FLORIDA
COUNTY OF MANATEE

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

SALOUH FLORIDA, LLC,
a Florida limited liability company

By: , mgr.
RANDALL L. HOULAS, Manager

Sworn to and subscribed before me this 25 day of June, 2015, by RANDALL L. HOULAS as Manager of SALOUH FLORIDA, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me or produced the following identification: _



Mari Harris
Notary Public, State of ~~Florida~~ Ohio
Mari Harris
Commission Expires: 10-26-2019

VERIFICATION

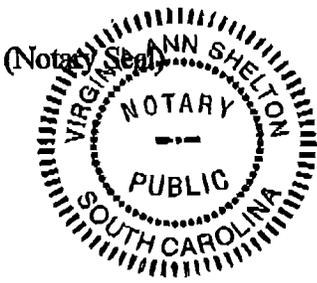
STATE OF FLORIDA
COUNTY OF MANATEE

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

RYSAL ENTERPRISES, LLC,
a Delaware limited liability company

By: *[Signature]*
LYN C. PUSKAS, Manager

Sworn to and subscribed before me this 24th day of June, 2015, by LYN C. PUSKAS as Manager of RYSAL ENTERPRISES, LLC, a Delaware limited liability company, on behalf of the company, who is personally known to me or produced the following identification: South Carolina Drivers License



[Signature]
Notary Public, State of Florida South Carolina

My commission expires August 24, 2017

VERIFICATION

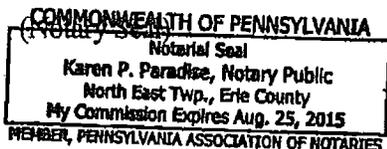
STATE OF Pennsylvania
COUNTY OF Erle

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

SEVEN EMERALDS, LLC,
a Florida limited liability company

By: Christopher R. Miller
Christopher R. Miller, Managing Member

Sworn to and subscribed before me this 23 day of June, 2015, by Christopher R. Miller as Managing Member of SEVEN EMERALDS, LLC, a Florida limited liability company, on behalf of the company, who is personally known to me or produced the following identification: _____



Karen P Paradise
Notary Public, ~~State of Florida~~
Commonwealth of PA

VERIFICATION

STATE OF FLORIDA
COUNTY OF MANATEE

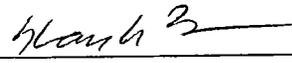
I, LAWRENCE D. CHATT as Vice President of ISLAND REAL ESTATE OF ANNA MARIA ISLAND, INC., a Florida corporation, having been duly sworn under oath, hereby attest that the matters stated in the, above Verified Amended Complaint for Declaratory and Injunctive Relief are, to my personal knowledge, true and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

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

By: 
LAWRENCE D. CHATT, Vice President

Sworn to and subscribed before me this 24th day of June, 2015, by LAWRENCE D. CHATT as Vice President of ISLAND REAL ESTATE OF ANNA MARIA ISLAND, INC. a Florida corporation, on behalf of the corporation, who is personally known to me or produced the following identification: _____

(Notary Seal)



Notary Public, State of Florida



VERIFICATION

STATE OF FLORIDA
COUNTY OF MANATEE

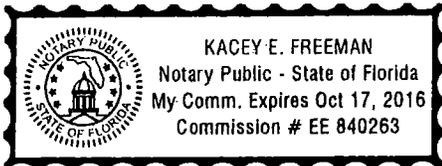
I, LAWRENCE D. CHATT as President of ANNA MARIA ISLAND VACATION PROPERTY ASSOCIATION, INC., a Florida not for profit corporation, having been duly sworn under oath, hereby attest that the matters stated in the, above Verified Amended Complaint for Declaratory and Injunctive Relief are, to my personal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

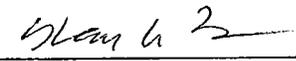
ANNA MARIA ISLAND VACATION
PROPERTY ASSOCIATION, INC.,
a Florida not for profit corporation

By: 
LAWRENCE D. CHATT, President

Sworn to and subscribed before me this 24th day of June, 2015, by LAWRENCE D. CHATT as President of ANNA MARIA ISLAND VACATION PROPERTY ASSOCIATION, INC., a Florida corporation, on behalf of the corporation, who is personally known to me or produced the following identification: _____

(Notary Seal)





Notary Public, State of Florida

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed and furnished electronically via the Florida Courts E-Filing Portal to: Gretchen R.H. Vose, Esq. and Wade C. Vose, Esq., Vose Law Firm, LLP, 324 W. Morse Blvd., Winter Park, Florida, 32789, bvose@voselaw.com, bswims@voselaw.com, and service@voselaw.com, this 25th day of June, 2015.

/s/ Kevin S. Hennessy

KEVIN S. HENNESSY, ESQUIRE

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

Diana L. Percy Clerk

ORDINANCE 15-788

AN ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA ADOPTING A NEW CHAPTER 108, "VACATION RENTALS," PROVIDING A GENERAL FRAMEWORK FOR THE REGULATION OF VACATION RENTALS; MAKING FINDINGS OF FACTS; PROVIDING FOR PENALTIES AND ENFORCEMENT; REQUIRING A VACATION RENTAL LICENSE FOR VACATION RENTALS; PROVIDING REQUIREMENTS FOR APPLICATIONS; REQUIRING INSPECTIONS; REQUIRING VACATION RENTAL AGENTS, AND PROVIDING APPLICATION AND OTHER REQUIREMENTS, DUTIES; PENALTIES AND QUALIFICATIONS RELATING TO SAME; PROVIDING STANDARDS AND REQUIREMENTS FOR VACATION RENTALS; PROVIDING FOR SEVERABILITY, CODIFICATION AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ANNA MARIA, FLORIDA:

SECTION 1. A new Chapter 108, "Vacation Rentals" of the Code of Ordinances of the City of Anna Maria is hereby adopted to read as follows:

ARTICLE 1. IN GENERAL

Sec. 108-1. Authority, Scope and Purpose.

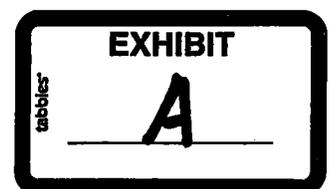
This chapter is enacted under the home rule power of the City of Anna Maria in the interest of the health, peace, safety and general welfare.

Section 509.013, Florida Statutes, provides a distinction between "transient public lodging establishments," which are rented, or advertised or held out for rental to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less; and "nontransient public lodging establishments," which are rented, or advertised or held out for rental to guests for periods of at least 30 days or 1 calendar month, whichever is less.

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

It is the intent of this Chapter to regulate Vacation Rentals as defined by Florida Statutes.

In 2011, the Florida Legislature passed House Bill 883, (Chapter 2011-119, Laws of Florida), amending Florida Statutes, Section 509.032(b) to provide that "[a] local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate



vacation rentals based solely on their classification, use or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.”

In 2014, the Florida Legislature passed Senate Bill 356 (Chapter 2014-71, Laws of Florida), amending that same statute to read “[a] local law, ordinance, or regulation may not prohibit vacation rentals, or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.”

The official statement of legislative intent of Senate Bill 356 as reflected in the House of Representatives’ Final Bill Analysis, dated June 19, 2014, states that the “Effect of the Bill” is as follows:

“The bill permits local governments to create regulation that distinguishes vacation rentals from other residential property. In the past, local government regulations have included noise, parking, registration, and signage requirements for vacation rentals.

“The bill does not allow local governments to create regulations that would prohibit vacation rentals or restrict the duration or frequency of vacation rentals. These types of regulation remain preempted to the state.

“The grandfather provision in existing law exempting any local law, ordinance, or regulation adopted on or before June 1, 2011, is maintained. Any local law, ordinance, or regulation passed before that date that prohibits or restricts vacation rentals based on the duration or frequency may continue to be enforced.”

This Chapter does not prohibit Vacation Rentals, or the duration or frequency of Vacation Rentals, nor is it the intention of the City of Anna Maria to do so, but rather this Chapter is intended to address life safety and compatibility concerns in the interests of the health, peace, safety, and general welfare. In order to accomplish those purposes, the City of Anna Maria, through the requirements of this Chapter, is regulating development, including changes in the intensity of the use of land relating to Vacation Rentals.

Sec. 108-2. Findings of Facts

Based on evidence and testimony presented at public hearings before the City Commission, and on the Short-Term Rental Housing Restrictions White Paper, prepared by Robinson & Cole, Attorneys at Law, in 2011, prepared for the National Association of Realtors®, the City Commission finds:

(1) Residents residing within their residential dwellings are inherently familiar with the local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from their residential dwellings, thereby minimizing potential risks to themselves and their families.

(2) In contrast, transient occupants of Vacation Rentals, due to their transient nature, are typically not familiar with local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from the Vacation Rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation.

(3) Certain Vacation Rentals are presently located within the Residential and Residential/Office/Retail zoning districts of the City of Anna Maria.

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

(5) Vacation Rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods, and the quiet enjoyment of its residents.

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

(7) A residential dwelling is typically the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of Vacation Rentals.

(8) Subsequent to the passage of House Bill 883 in 2011, the City of Anna Maria suffered an increase in the construction of new structures containing as many as six or more bedrooms which were subsequently used, with no notice to the City, as Vacation Rentals with as many as 24 or more transient occupants staying there at one time.

(9) According to the 2010 U.S. Census, the City of Anna Maria has an average household size of 1.89 persons.

(10) According to the 2010 U.S. Census, the City of Anna Maria has an average family size of 2.33 persons.

(11) Vacation Rentals situated in single-family and two-family residential neighborhoods can and do create a great disparity in occupancy.

(12) Water and wastewater usage by Vacation Rentals will typically exceed the anticipated design capacity of a structure when permitted and built, creating an additional demand on the water and wastewater systems and utility plants.

(13) The City of Anna Maria has limited parking available to the general public, typically "day-trippers" to the City who wish to utilize beach access and enjoy the amenities available in the City. Due to a lack of other available parking within the City, parking upon rights of way is generally allowed for use of the general public. The City receives funds from governmental sources for purposes of beach renourishment, and such funds are typically based upon the availability of parking for the general public. Therefore, it is vital for the City to keep on-street parking available for such use, and not allow such use to be effectively blocked by on-site parking at Vacation Rentals that requires over-sized access to City rights of way that limit the use of such rights of way for general public parking.

Sec. 108-3. Definitions

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

"Bedroom" means any room in a Vacation Rental that contains 70 square feet or more, and which has a bed or other place for sleeping and a closet, but shall not include a bathroom, a kitchen, and one main living area. No room shall be considered to be a bedroom unless it was so designated on the plans submitted to the City for the construction of the building.

"Continuing Violation" means a violation of this Chapter that is continuing in nature and for which there may be an opportunity to cure, such as, but not limited to, operation of a Vacation Rental without a currently valid Vacation Rental License, failing to acquire a modified Vacation Rental License when required, violations of minimum safety and operational requirements under this Chapter, and violations of the Florida Building Code, Florida Fire Code or Life Safety Code.

"Occupant" means any person who occupies, either during the day or overnight, a Vacation Rental.

"Transient public lodging establishments" means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

"Transitory Violation" means a violation of this Chapter that is transitory, transient, or temporary in nature, such as, but not limited to, a violation of quiet hours or pool hours, maximum occupancy violations, parking in the right of way or blocking general public parking in the right of way, failure to make Vacation Rental available for inspection as required herein, failure of Rental Agent to comply with the duties of a Vacation Rental Agent as set forth in this Chapter, and failure to have required postings at the Vacation Rental.

"Vacation Rental" is any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family or four-family house or dwelling unit that is also a transient public lodging establishment, but that is not a timeshare project.

“Vacation Rental Agency” is any real estate company, or other entity, or group of entities and/or individuals, that employs or has associated with it in any way, any two or more Vacation Rental Agent(s), or is used for purposes of advertising two or more Vacation Rentals, managing two or more Vacation Rentals, providing booking services for two or more Vacation Rentals, purchasing or otherwise obtaining insurance for two or more Vacation Rentals or two or more Vacation Rental Agents. It is the intent of this definition to broadly include all entities or groups that provide services to two or more Vacation Rentals or Vacation Rental Agents.

“Vacation Rental Agent” is a person designated as a Vacation Rental Agent in accordance with the provisions of Article 3 of this chapter.

“Vacation Rental License” is an official action of the City of Anna Maria having the effect, among other things, of permitting the development of land, and is the development order granted pursuant to Article 2 of this Chapter.

“Vacation Rental Owner” is the fee simple owner of the Vacation Rental, whether an individual, partnership, corporation, limited liability company, trust, or other entity. In the event the Vacation Rental Owner is not an individual, each and every person who owns 20% or more of the equitable interest in the Vacation Rental shall also be deemed a Vacation Rental Owner.

Sec. 108-4. Penalties and enforcement.

- (a) *Transitory Violations.* For Transitory Violations as defined herein, the Vacation Rental owner, the Vacation Rental Agent, and/or the offending Vacation Rental Occupant(s), as applicable and without limitation, shall each be deemed to be a "violation" as that term is used in Article III of Chapter 2 of the Code of Ordinances of the City of Anna Maria, and may be punished as follows. Each individual Transitory Violation shall constitute a separate and distinct violation, and if the Transitory Violation continues for more than one day, each day that the violation continues will be considered a separate and distinct violation. Any Transitory Violation may be punished by citation, as specifically described in Sec. 2-65 of the Anna Maria City Code, including but not limited to the requirements of a reasonable warning prior to issuance of a citation; provided, however, such violation shall be subject to a fine in the amount of \$250.00, for the first offense, \$500.00 for the second and subsequent offenses, plus a suspension of the Vacation Rental License as provided hereinafter, for the third offense.
- (b) *Continuing Violations.* For Continuing Violations as defined herein, the Vacation Rental owner, the Vacation Rental Agent, and/or the offending Vacation Rental Occupant(s), as applicable and without limitation, shall each be deemed to be a "violation" as that term is used in Article III of Chapter 2 of the Code of Ordinances of the City of Anna Maria, and may be punished as follows. Each day a violation exists shall constitute a separate and distinct violation. Continuing Violations may be punished by citation, as specifically described in Sec. 2-65 of the Anna Maria City Code, including but not limited to the requirements of a reasonable warning prior to issuance of a citation; or through the Code Enforcement Magistrate procedure as provided under the Anna Maria City Code;

provided, however, such violations shall be subject to a fine in the amount of \$250.00, for the first offense, \$500.00 for the second and subsequent offenses, plus a suspension of the Vacation Rental License as provided hereinafter, for the third offense.

(c) *Other enforcement methods and penalties.* Notwithstanding anything otherwise provided herein, violations of this chapter shall also be subject to all the enforcement methods and penalties that may be imposed for the violation of ordinances of the city as provided in Article III of Chapter 2 of the Code of Ordinances of the City of Anna Maria. Nothing contained herein shall prevent the City of Anna Maria from seeking all other available remedies which may include, but not be limited to, injunctive relief, abatement of public nuisance, liens, fines, imprisonment, and other penalties as provided by law.

(d) *Suspensions of license.*

(1) In addition to any fines and any other remedies described herein or provided for by law, the City of Anna Maria shall suspend a Vacation Rental License upon a third violation of this Chapter in any continuous 12 month period. Such suspension of a Vacation Rental License shall be for a period of one year, and shall begin following notice, commencing either at the end of the current vacation rental lease period, or after thirty (30) calendar days, whichever is less.

(2) For violations of Sec. 108-52, subsections, (a), (d), (e), (f), (g), or (h), or violations of the Florida Building Code, or Florida Fire Code or Life Safety Code, a Vacation Rental License shall be subject to temporary suspension starting immediately three (3) working days after citation for such violation if it is not corrected, re-inspected, and found in compliance. Such suspension shall remain in place until corrected, re-inspected, and found in compliance.

(e) For all purposes under this chapter, service of notice on the Vacation Rental Agent shall be deemed service of notice on the applicable Vacation Rental Agent, Vacation Rental Owner, the Vacation Rental Agency with which such Vacation Rental Agent is associated, and Occupant.

(f) No Occupant shall occupy a Vacation Rental, and no advertisement for the Vacation Rental shall occur during any period of suspension of a Vacation Rental's Vacation Rental License.

Sec. 108-5. Responsibilities of departments.

The ultimate responsibility for the administration of this Chapter is vested in the City Commission. The Mayor or his or her authorized designee is responsible for granting, denying, revoking, renewing, suspending and canceling Vacation Rental Licenses for proposed and existing Vacation Rentals as set forth in this chapter. Additionally, the Mayor or his or her authorized designee is responsible for inspecting any proposed or existing Vacation Rental in

order to ascertain compliance with this chapter, and all applicable building codes, fire codes, statutes, ordinances and regulations.

Sec. 108-6. Appeals.

Any decision of the Mayor or his or her authorized designee relating to the grant, denial, renewal, modification, or suspension of a Vacation Rental License under this Chapter shall be rendered in writing in appealable form, and reviewed by the City Commission if a notice by the applicant is filed with the City Clerk within ten (10) days after the action to be reviewed. The City Clerk shall place the matter on the agenda of an upcoming meeting of the City Commission, at which the matter will be reviewed. The decision of the City Commission shall be final and shall be rendered in writing in appealable form. Such final decision may be reviewed as permitted under Florida law.

Sec. 108-7. Notice.

Any notice required under this Chapter shall be accomplished by sending a written notification by U.S. Mail, postage paid, to the mailing address of the Vacation Rental Agent set forth on documents filed with the City of Anna Maria under this Chapter, which shall be considered for all purposes as the correct address for service, or by personal service or delivery to the Vacation Rental Agent.

Sec. 108-8. Immunity from prosecution.

The City of Anna Maria, the City Commission, the Mayor, the City Commissioners, and any of the City's departments or agents, and any law enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon a Vacation Rental while acting within the scope of this Chapter.

Sec. 108-9. Construction of chapter.

This chapter shall be liberally construed to accomplish its purpose of regulating Vacation Rentals, protecting the residential character of Anna Maria, the health, safety, and general welfare of its residents and visitors, and the quiet enjoyment by Anna Maria's residents of their residential property.

Sec. 108-10. Severability

In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, or application thereof, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this ordinance, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-

sections, sub-sections, or sections of this Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as expressed herein.

Sec. 108-11 – 108-20. Reserved.

ARTICLE 2. VACATION RENTAL LICENSE

Sec. 108-21. License required.

After January 1, 2016, an active Vacation Rental License shall be required to operate a Vacation Rental within the City of Anna Maria. After January 1, 2016, only Vacation Rentals holding an active Vacation Rental License issued by the City of Anna Maria may operate within the City. Prior to the issuance of a Vacation Rental License, the City of Anna Maria shall ensure that the building in which the Vacation Rental is or will be located is in full compliance with the appropriate portions of the Florida Building Code and the Florida Fire and Life Safety Codes. A separate Vacation Rental License shall be required for each Vacation Rental. Applications for Vacation Rental License(s) for currently existing Vacation Rentals shall be submitted to the City of Anna Maria in accordance with the Vacation Rental Application Schedule adopted by Resolution of the City Commission of the City of Anna Maria.

Sec. 108-22. Application for Vacation Rental license.

- (a) A property owner seeking initial issuance of a Vacation Rental License, or the renewal, or modification of a Vacation Rental License, shall submit to the City a completed Vacation Rental License application in a form promulgated by the City, together with an application fee in an amount set by resolution of the City Commission.
- (b) A complete application for the initial issuance, or renewal, or modification, of a Vacation Rental License shall demonstrate compliance with the standards and requirements set forth in this Chapter through the following submittals:
 - (1) A completed Vacation Rental License application form.
 - (2) Payment of applicable fees.
 - (3) A copy of the Vacation Rental's current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation if the applicant has such license. Pursuant to Section 166.033, Florida Statutes, the City may process and issue a Vacation Rental License before the issuance of that state license; provided, however, that the Vacation Rental may not operate prior to receiving such state license.
 - (4) A copy of the Vacation Rental's current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting

sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue. Pursuant to Section 166.033, Florida Statutes, the City may process and issue a Vacation Rental License before the issuance of that state certificate of registration; provided, however, that the Vacation Rental may not operate prior to receiving such state certification of registration.

- (5) Evidence of the Vacation Rental's current and active account with the Manatee County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Manatee County Tax Collector. Pursuant to Section 166.033, Florida Statutes, the City may process and issue a Vacation Rental License before the establishment of such account; provided, however, that the Vacation Rental may not operate prior to the establishment of such account.
 - (6) A copy of the current Certificate of Occupancy for the building in which the vacation rental is or will be located. The City shall check to ensure that the current Certificate of Occupancy indicates an occupancy pursuant to Section 310.01 of the Florida Building Code of R-1 for the building planned to be used as a Vacation Rental. In the event the current Certificate of Occupancy is for an occupancy other than R-1, the applicant must apply to the City of Anna Maria for a Change of Use to R-1 pursuant to the Florida Building Code prior to the issuance of a Vacation Rental License.
 - (7) *Exterior site sketch.* An exterior sketch of the Vacation Rental facility shall be provided, demonstrating compliance with the standards and requirements set forth in this Chapter. The sketch provided shall be drawn to scale, and shall show and identify all structures, pools, spas, hot tubs, fencing, and uses, including areas provided for off-street parking and trash collection. For purposes of the sketch, off-street parking spaces shall be delineated so as to enable a fixed count of the number of spaces provided.
 - (8) *Interior building sketch by floor.* A building sketch by floor shall be provided, showing a floor layout and demonstrating compliance with the standards and requirements set forth in this Chapter. The sketch provided shall be drawn to scale, and shall show and identify all bedrooms, other rooms, exits, hallways, stairways, smoke and carbon monoxide detectors, fire extinguishers and exit signage/lighting.
- (c) Incomplete applications will not be accepted, but will be returned with any fees submitted to the applicant Vacation Rental Owner with a notation of what items are missing.
 - (d) Vacation Rental License applications shall be sworn to under penalty of perjury, and false statements in an application shall be a basis for the revocation of any license issued pursuant to such application.

Sec. 108-23. Modification of Vacation Rental License.

An application for modification of a Vacation Rental License shall be required in the event that any of the following changes to the Vacation Rental are proposed:

- (1) An increase in the gross square footage of the Vacation Rental.
- (2) An increase in the number of bedrooms in the Vacation Rental.
- (3) An increase in the maximum occupancy of the Vacation Rental.
- (4) An increase in the number of parking spaces, or a change in the location of parking spaces for the Vacation Rental.
- (5) An increase in the number of bathrooms in the Vacation Rental.
- (6) Any other material modifications that would increase the intensity of use of the Vacation Rental.

Sec. 108-24. Duration of Vacation Rental License.

A Vacation Rental License shall be valid for one (1) year after the date of issuance.

Sec. 108-25. Renewal of Vacation Rental License.

A Vacation Rental Owner must apply annually for a renewal of the Vacation Rental License no later than sixty (60) days prior to the expiration date of the previous Vacation Rental License.

Sec. 108-26. Initial and Periodic Compliance Inspections of Vacation Rentals.

- (a) Inspection of a Vacation Rental to verify compliance with this Chapter, the Florida Building Code, and the Florida Fire and Life Safety Codes, shall be required prior to issuance of an initial Vacation Rental License. If instances of noncompliance with the standards and requirements set forth in this Chapter are found, all such instances of noncompliance shall be corrected and the Vacation Rental shall be re-inspected prior to the issuance of an initial Vacation Rental License.
- (b) Once a Vacation Rental License is issued for a Vacation Rental, such Vacation Rental shall be properly maintained in accordance with the standards and requirements set forth in this Chapter. The City shall re-inspect such Vacation Rental at least once a year to ensure compliance with the standards and requirements set forth in this Chapter and the Anna Maria Code of Ordinances. All violations of this Chapter or the Anna Maria Code of Ordinances identified in such inspection shall be corrected and re-inspected within 30

calendar days after the issuance of a notice of violation, with the exception of life safety violations, which must be corrected within the earlier of three (3) working days or the start of the next rental period. Failure to correct such violations within the timeframes provided shall result in the suspension of the Vacation Rental License until such time that the violations are corrected, re-inspected, and found in compliance.

- (c) The City may inspect a Vacation Rental at any time upon reasonable notice to the Vacation Rental Agent. Inspections shall be made by appointment with the Vacation Rental Agent. If an City inspector has made an appointment with Vacation Rental Agent for an inspection, and the City inspector is unable to complete the inspection as a result of an action or inaction of the Vacation Rental Agent, Vacation Rental Owner, or an occupant of the Vacation Rental, the Vacation Rental shall be charged a "re-inspection" fee in an amount set by resolution of the City Commission to cover the inspection expense incurred. The re-inspection fee shall be paid prior to scheduling the re-inspection.
- (d) If, after two attempts, a City inspector is unable to complete an inspection of a Vacation Rental as a result of an action or inaction of the Vacation Rental Agent, Vacation Rental Owner, or an occupant of the Vacation Rental, the City inspector shall provide notice of failure of inspection to the Vacation Rental Agent at the address shown on the Vacation Rental License or application for Vacation Rental License. With respect to an application for a Vacation Rental License, such notice of failure of inspection shall constitute a basis for the denial of the Vacation Rental License. With respect to an active Vacation Rental License, such notice of failure of inspection shall result in the suspension of the Vacation Rental License until such time that the Vacation Rental is inspected and found in compliance.

Sec. 108-27. Vacation Rental License non-transferable, non-assignable

Vacation Rental Licenses are non-transferable and non-assignable. If the ownership of any Vacation Rental is sold or otherwise transferred, any outstanding Vacation Rental License as to that Vacation Rental shall be null and void upon the sale or transfer.

Sec. 108-28. Vested Rights/Waiver/Estoppel

The issuance of a Vacation Rental License shall not be construed to establish any vested rights or entitle the license holder to any rights under the theory of estoppel. Issuance of a Vacation Rental License shall not be construed as a waiver of any other requirements contained within the City of Anna Maria City Code or Comprehensive Plan, and is not an approval of any other code requirement outside this chapter. The receipt of a Vacation Rental License is not an approval of a use or activity that would otherwise be illegal under Florida law, the Florida Building Code, the Florida Fire Code or Life Safety Code, or in violation of the Anna Maria City Code or Comprehensive Plan.

Sec. 108-29 – 108-39. Reserved.

ARTICLE 3. VACATION RENTAL AGENT.

Sec. 108-40. Designation, application.

- (a) Prior to the issuance, modification or renewal of a Vacation Rental License, the Vacation Rental Owner shall designate a Vacation Rental Agent on the Vacation Rental License application. In order to designate a Vacation Rental Agent, the Vacation Rental Owner and Vacation Rental Agent shall complete documentation as prescribed by the City of Anna Maria that includes the following:
- (1) Designation of Vacation Rental Agent by Vacation Rental Owner;
 - (2) Vacation Rental Agent's full name, home and business addresses, home telephone number, business telephone number, cellular phone telephone number, facsimile machine phone number, and e-mail address, together with copies of the Vacation Rental Agent's Florida Driver's License, and proof of professional licensure, if any.
 - (3) Certificate on a form prescribed by the City certifying that the Vacation Rental Agent meets the qualifications of a Vacation Rental Agent as set forth herein; that he or she has read the Vacation Rental Chapter in full and certifies that he or she meets the qualifications of a Vacation Rental Agent and agrees to perform the duties of a Vacation Rental Agent as set forth herein; that he or she agrees to be bound by the requirements, conditions, and penalties for Vacation Rental Agents as set forth herein; and that in the event he or she no longer has the qualifications, or is unable or unwilling to fulfill the role of Vacation Rental Agent, he or she will immediately so notify the City of Anna Maria and the owner of the Vacation Rental.
 - (4) A document prescribed by the City of Anna Maria, and signed under oath before a notary public, by both the Vacation Rental Owner and the Vacation Rental Agent, agreeing to, jointly and severally, indemnify, defend, save and hold harmless the City of Anna Maria, and its elected officials, officers, agents, and employees, from any and all liability, claims, demands, disputes, damages, costs, attorney's fees, and expenses (including prior to trial, through trial, and to and on appeal), as a result, directly or indirectly, of any matter relating to the application for Vacation Rental License, the Vacation Rental License, actions or inactions of the Vacation Rental Owner, actions or inactions of the Vacation Rental Agent, actions of any Vacation Rental Occupants, tenants, guests, or invitees, or the operation or use of the Vacation Rental.
 - (5) Proof of insurance held by the Vacation Rental Agent as required herein.

- (6) Proof of compliance with all Vacation Rental Agent requirements as provided herein.
- (7) If the Vacation Rental Agent is associated in any way with a Vacation Rental Agency, such association shall be disclosed, along with the name, address, phone number, and e-mail address of such Vacation Rental Agency.
- (b) A Vacation Rental Owner may change his or her designation of a Vacation Rental Agent temporarily or permanently; however, there shall only be one Vacation Rental Agent for each Vacation Rental at any given time. The method to change the designated Vacation Rental Agent is the same as the method set forth hereinabove for the initial designation of Vacation Rental Agent.
- (c) Any notice of violation or legal process which has been delivered or served upon the previous Vacation Rental Agent, prior to the appointment of a subsequent Vacation Rental Agent, shall be deemed effective notice for all purposes.
- (d) A Vacation Rental Agent may serve as Vacation Rental Agent for more than one Vacation Rental, but a separate designation of Vacation Rental Agent and applicable documentation must be submitted as to each Vacation Rental.

Sec. 108-41. Insurance for Vacation Rental Agent.

- (a) Vacation Rental Agent, at his or her own cost and expense, shall have in force at all times, and as a condition of being appointed a Vacation Rental Agent, insurance from an insurance company licensed in the State of Florida and rated "Class A" or better by A. M. Best or some other form of assurance reasonably approved by the City of Anna Maria as follows:
 - (1) Commercial General Liability Insurance insuring the Vacation Rental Agent against liability arising from his or her actions in the capacity as Vacation Rental Agent and all actions incidental thereto. Vacation Rental Agent shall list and endorse the City of Anna Maria as an additional insured under the general liability policy. Except as otherwise agreed in writing by the City, the insurance shall be provided on a form no more restrictive than the Standard Commercial General Liability Form (ISO FORM CG 00 01) without any restrictive endorsements, and the City shall be included as an "Additional Insured" on a form no more restrictive than Form CG 20 10, Additional Insured-Owners, Lessees, or Contractors (Form B). The minimum limits (inclusive of amounts by an umbrella or excess policy) shall be available at all times and shall be:

\$1,000,000 General Aggregate
 \$1,000,000 Products Liability/Completed Operation Aggregate
 \$1,000,000 Personal and Advertising Injury
 \$1,000,000 Each Occurrence

The General Liability policy is to contain or be endorsed to name the City of Anna Maria, its elected officials, officers, officials and employees as additional insureds as respects to the liability arising out of the activities performed as the Vacation Rental Agent. Such coverage shall be primary to the extent of the Vacation Rental Agent's negligent acts or omissions or willful misconduct, and shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. In addition, a waiver of subrogation by the commercial liability insurer shall be provided that lists or names the additional insured as subject to the waiver.

- (2) Worker's Compensation Insurance, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employer's Liability Act and any other applicable Federal and State law. If the Vacation Rental Agent is exempt from Worker's Compensation Insurance, the Vacation Rental Agent shall supply documentation sufficient to prove such exemption. The minimum amount provided by an umbrella or excess policy shall be:

Part One-"Statutory" requirements

Part Two-\$500,000 Each Accident

\$500,000 Disease-Policy Limit

\$500,000 Disease Each Employee

- (3) Automobile Liability Insurance on a form no more restrictive than that provided by Section II (Liability Coverage) of the Standard Business Auto Policy (ISO Form CA 00 01) and shall cover User owned, non-owned, and hired autos used in any manner or incidental to the duties of the Vacation Rental Agent. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1,000,000 per each Occurrence-Bodily Injury and Property Damage Combined.
- (b) The required insurance shall be evidenced by a certificate of insurance which must be submitted to the City of Anna Maria prior to the appointment of the Vacation Rental Agent. A copy of all notices, from all insurance companies providing coverage, directly or indirectly related to the insurance required hereunder, must be provided to the City of Anna Maria within five (5) days of receipt. All insurance companies shall be instructed in writing by the Vacation Rental Agent to provide thirty (30) days' notice of any cancellation to the City. Failure to comply with this requirement shall render this designation of Vacation Rental Agent null and void, and Vacation Rental Owner shall be required to designate another Vacation Rental Agent. The Vacation Rental Agent shall provide the City with renewal or replacement evidence of insurance at least ten (10) days prior to expiration or termination of such insurance.

Sec. 108-42. Vacation Rental Agent's qualifications.

All Vacation Rental Agents shall be eighteen (18) years of age or older with a valid Florida Driver's License, and must not be a registered sex offender. The Vacation Rental Owner may serve as the Vacation Rental Agent, but only if such Vacation Rental Owner otherwise meets the qualifications of, and is able to fulfill the duties of, a Vacation Rental Agent as provided herein. In addition, the Vacation Rental Agent must either customarily be present at a business location within Manatee County for the purposes of transacting business; or have his or her permanent residence within Manatee County.

Sec. 108-43. Duties of Vacation Rental Agent.

Every Vacation Rental Agent shall:

- (1) Be available by landline or mobile telephone answered by the Vacation Rental Agent at the listed phone number 24-hours a day, seven days a week to handle any problems arising from the Vacation Rental; and
- (2) Be willing and able to be physically present at the Vacation Rental within thirty (30) minutes following notification from a Vacation Rental Occupant, the Vacation Rental Owner, law enforcement officer, emergency personnel, or the City of Anna Maria for issues related to the Vacation Rental, and shall actually be physically present at that location in that time frame when requested; and
- (3) Conduct an on-site inspection of the Vacation Rental no less often than weekly to assure continued compliance with the requirements of this Chapter.

Sec. 108-44. Suspension of Vacation Rental Agent/Agency.

- (a) If a Vacation Rental Agent has received an aggregate total of three (3) Unresolved Violations for the Vacation Rentals the Vacation Rental Agent manages, within a continuous twelve (12) month period, the Vacation Rental Agent shall lose the ability to act as a Vacation Rental Agent in the City of Anna Maria for a period of twenty-four (24) months. In that event, the Vacation Rental Agent, and all Vacation Rental Owners of Vacation Rentals that he or she manages, shall be notified by the City of Anna Maria that he or she has been removed as the Vacation Rental Agent for all Vacation Rentals managed. If the Vacation Rental Agent so removed is associated with a Vacation Rental Agency, no employee or associate of that Vacation Rental Agency may be a Vacation Rental Agent for the particular Vacation Rentals that had formerly been managed by the removed Vacation Rental Agent for a period of twenty-four (24) months. All Vacation Rental Licenses associated with the removed Vacation Rental Agent shall be suspended until new Vacation Rental Agents are appointed by the relevant Vacation Rental Owners.
- (b) If Vacation Rental Agents associated with a particular Vacation Rental Agency collectively receive an aggregate total of ten (10) Unresolved Violations for the Vacation

Rentals the Vacation Rental Agents associated with the Vacation Rental Agency manage, within a continuous twelve (12) month period, all Vacation Rental Agents associated with that Vacation Rental Agency shall lose their ability to act as Vacation Rental Agents in the City of Anna Maria for a period of twenty-four (24) months. In that event, the Vacation Rental Agents associated with the Vacation Rental Agency, and all Vacation Rental Owners of Vacation Rentals managed by those Vacation Rental Agents shall be notified by the City of Anna Maria that their Vacation Rental Agent has been removed as the Vacation Rental Agent for all Vacation Rentals managed. All Vacation Rental Licenses associated with the removed Vacation Rental Agents shall be suspended until new Vacation Rental Agents are appointed by the relevant Vacation Rental Owners.

- (c) For purposes of this section, an Unresolved Violation shall mean any time the Vacation Rental Agent does not comply with the specific duties of the Vacation Rental Agent as set forth in this Chapter, and any time, in the reasonable determination of the Mayor or his or her designee, violations relating to the Vacation Rentals managed by the Vacation Rental Agent are the result of negligent or intentional actions or inactions of the Vacation Rental Agent, such as, but not limited to, knowingly allowing more Occupants than allowed in a Vacation Rental, or not appropriately preventing or mitigating violations of this Chapter by Occupants of the Vacation Rental.

Sec. 108-45 – 108-50. Reserved.

ARTICLE 4. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

Sec. 108-51. Generally

The standards and requirements set forth in the Article shall apply to the rental, use, and occupancy of Vacation Rentals in the City of Anna Maria.

Sec. 108-52. Minimum safety and operational requirements.

Vacation Rentals in the City of Anna Maria shall meet the following minimum safety and operational requirements, and the applicable standards under the Florida Statutes, Florida Building Code and the Florida Fire Code and Life Safety Code. Whenever there is an inconsistency among the requirements of this section, the Florida Statutes, the Florida Building Code, or the Florida Fire Code and Life Safety Code, the most restrictive requirement shall apply.

- (a) *Swimming pool, spa and hot tub safety.* A swimming pool, spa or hot tub offered or made available as an amenity at a Vacation Rental shall comply with the current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes. The Vacation Rental Agent shall cause the swimming pool drain system, any underwater lighting system, and the electrical pump system of such swimming pools, spas, and hot tubs to be inspected annually by an appropriately licensed technician. The Vacation Rental Agent

shall maintain a contemporaneous log of such inspections, which shall be made available to the City for inspection upon request during normal business hours.

- (b) *Swimming pool, spa and hot tub hours of use.* Swimming pools, spas and hot tubs offered or made available as an amenity at a Vacation Rental may only be used between the hours of 8:00 a.m. and 10:00 p.m.
- (c) *Swimming pool, spa and hot tub screening.* In all Vacation Rentals located in the R-1, R-2 Residential District, and those Vacation Rentals located in the ROR, Residential/Office/Retail District that are not located above the ground floor over a permitted retail/service or office use, swimming pools, spas, and hot tubs shall be screened by a six-foot, 100 percent opacity fence. The fence shall be constructed with a vinyl acoustic material within the fence or along the interior side of the fence. Swimming pool equipment shall be separately screened on all open sides with a six-foot 100 percent opacity fence constructed with vinyl acoustical material.
- (d) *Bedrooms.* All bedrooms within a Vacation Rental shall meet the applicable requirements of the Florida Building Code, and the Florida Fire Code and Life Safety Code.
- (e) *Smoke and carbon monoxide (CO) detection and notification system.* An interconnected, hard-wired smoke alarm and carbon monoxide (CO) alarm system shall be installed within the Vacation Rental and maintained on a continuing basis consistent with the requirements of Section R314, Smoke Alarms, and Section R315, Carbon Monoxide Alarms, of the Florida Building Code – Residential.
- (f) *Fire extinguisher.* A portable, multi-purpose dry chemical 2A:10B:C fire extinguisher shall be installed, inspected and maintained in accordance with NFPA 10 on each floor of a Vacation Rental. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location of the fire extinguisher.
- (g) *Emergency egress maintenance and lighting.* Halls, entrances and stairways within a Vacation Rental shall be clean, ventilated and well lighted day and night. Hall and stair runners shall be kept in good condition. Rails shall be installed on all stairways and around all porches and steps.
- (h) *Local phone service.* At least one landline telephone with the ability to call 911 shall be available in the main level common area in the Vacation Rental.

Sec. 108-53. Maximum occupancy based on site capacity / limitations.

The maximum occupancy of a Vacation Rental shall be limited to the lesser of:

- (1) Two persons per bedroom within the Vacation Rental (counting only those rooms that satisfy the definition of bedroom under this Chapter).

- (2) A total of eight occupants per Vacation Rental, inclusive of day guests.
- (3) In the event there is more than one building or dwelling on one platted lot, (not to include Vacation Rentals located in the ROR, Residential/Office/Retail District that are located above the ground floor over a permitted retail/service or office use), the maximum occupancy shall be capped at the lesser of eight occupants per lot, or two persons per bedroom, regardless of the building in which such bedroom(s) are located.

Sec. 108-54. Parking standards.

In all Vacation Rentals located in the R-1, R-2 Residential District, and those Vacation Rentals located in the ROR, Residential/Office/Retail District that are not located above the ground floor over a permitted retail/service or office use, the following parking standards shall apply. There shall be one off-street parking space for each bedroom in a Vacation Rental. One such required parking space for each Vacation Rental shall be in a covered garage or carport. Structures complying with Chapter 82, existing construction definition are exempt from the requirement of providing one parking space in a garage or carport. Recreational vehicles and accessory trailers shall only be permitted in driveways, or other parking areas specifically designated for such use by the City. No recreational vehicle or any other motor vehicle parked on the premises of a Vacation Rental shall be used for sleeping. Parking spaces shall not be tandem. Neither on-street parking nor parking within the right-of-way shall be permitted for use by Vacation Rentals or Occupants. Access to parking spaces for Vacation Rentals shall be limited to one driveway with maximum access way(s) in the nature of curb cut(s), to the right of way of a total of 24 feet, so as to not unduly limit the use of the right of way for general public parking.

Sec. 108-55. Solid waste handling and containment.

In all Vacation Rentals located in the R-1, R-2 Residential District, and those Vacation Rentals located in the ROR, Residential/Office/Retail District that are not located above the ground floor over a permitted retail/service or office use, the following standards shall apply. One trash storage container shall be provided per three occupants or fraction thereof, calculated based upon the maximum occupancy of the Vacation Rental. Trash storage containers shall be screened with a six foot fence, with an opening for container removal. The Vacation Rental shall contract with the waste management provider for side door pick-up service. Notice of side door pick up and the times and regulations thereof shall be posted by the main entrance of the Vacation Rental.

Sec. 108-56. Quiet hours and pool hours.

Quiet hours for Vacation Rentals shall be from 10:00 p.m. to 8:00 a.m. daily. Swimming pool, spa and hot tub use on the premises of a Vacation Rental is limited to the hours of 8:00 a.m. to 10:00 p.m. daily. During quiet hours, no excessive or boisterous noise or amplified sound extending beyond the lot or parcel line is permitted.

Sec. 108-57. Violations of other legal provisions.

No person shall allow the occupancy or use any portion of a structure as a Vacation Rental if the structure or its use is in violation of or inconsistent with any applicable zoning, comprehensive planning, building, housing, density, life safety, utility, public health, sanitary or fire code, ordinance, plan, statute, regulation, or rule. Such a violation shall also be considered a violation of this Chapter.

Sec. 108-58. Vacation Rental advertising.

Advertising of a Vacation Rental shall be consistent with the information contained within the Vacation Rental's Vacation Rental License. Such advertising shall conspicuously disclose the maximum occupancy of the Vacation Rental under this Chapter.

Sec. 108-59. Licensure as transient public lodging establishment.

A Vacation Rental shall at all times maintain a current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation.

Sec. 108-60. Florida Department of Revenue certificate; Manatee County Tax Collector account.

A Vacation Rental shall at all times maintain a current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue. A Vacation Rental shall at all times maintain a current and active account with the Manatee County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Manatee County Tax Collector.

Sec. 108-61. Prohibition of occupancy by registered sex offenders.

A Vacation Rental shall not be rented to or occupied by a registered sex offender. The Vacation Rental Agent for each Vacation Rental shall have the affirmative duty to research, via third party information service, and document that each Occupant of a Vacation Rental is not a registered sex offender. Such documentation shall be maintained by the Vacation Rental Agent for a period of not less than three years after the stay of a given Occupant, and shall be made available to the City for inspection upon request during normal business hours.

Sec. 108-62. Vacation Rental agreements – minimum provisions.

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

- (1) Maximum occupancy of the Vacation Rental that is consistent with the Vacation Rental License.
- (2) The name and ages of all Occupants; provided, however, the age of any Occupant over the age of 30 can be stated merely as "Adult".
- (3) The license tag numbers for all vehicles that the Vacation Rental Occupant(s) will be parking at the Vacation Rental, with a total number not to exceed the number of off-street parking spaces at the Vacation Rental as designated on the Vacation Rental License;
- (4) The Occupant(s)' agreement to abide by all the requirements of this Chapter, and acknowledgement that his or her rights under the agreement may not be transferred or assigned in whole or in part to anyone else without a new agreement being entered into between the new Occupant(s) and the Vacation Rental Owner; and
- (5) The Occupant(s)' acknowledgement and agreement that violation of the agreement or this Chapter may result in immediate termination of the agreement and eviction from the Vacation Rental by the Vacation Rental Owner or Vacation Rental Agent, and potential liability for payment of fines levied by the City.
- (6) The permitted off-street parking locations where Occupants may park according to the Vacation Rental License sketch.
- (7) A statement that all Occupants must promptly evacuate from the Vacation Rental upon posting of any evacuation order issued by state or local authorities.
- (8) Consent to the reasonable entry by the City of Anna Maria inspectors into the Vacation Rental.
- (9) A copy of the noise, quiet hours, pool hours, and trash regulations, as well as regulations related to sea turtle lighting, if applicable, as lease addendums.

Sec. 108-63. Required posting of Vacation Rental information.

- (a) In each Vacation Rental, located on the back or next to the main entrance door there shall be posted as a single page the following information:
 - (1) The name, address and phone number of the Vacation Rental Agent;
 - (2) The maximum occupancy of the Vacation Rental;

- (3) Notice that quiet hours are to be observed between 10:00 p.m. and 8:00 a.m. daily and that between these hours no excessive or boisterous noise or amplified sound extending beyond the lot or parcel line is permitted;
 - (4) Notice that swimming pool, spa and hot tub use on the premises of a Vacation Rental is limited to the hours of 8:00 a.m. to 10:00 p.m. daily;
 - (5) The maximum number of vehicles that can be parked at the Vacation Rental, along with a sketch of the location of the off-street parking spaces;
 - (6) The days and times of trash pickup;
 - (7) The notice of sea turtle nesting season and sea turtle lighting regulations, if applicable; and
 - (8) The location of the nearest hospital.
- (b) There shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map – Minimum 8-1/2" by 11".
 - (c) There shall be posted in each Vacation Rental, located on the back or next to the main entrance door, a copy of the Rental Agreement for the vacation rental listing all the names of all Occupants, and the license numbers of all vehicles permitted to park at the vacation rental, during the lease period.

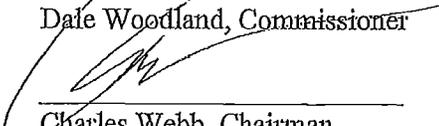
SECTION 2. Severability. In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, or application thereof, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this ordinance, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as expressed herein.

SECTION 3. Codification. The provisions of this Ordinance shall be codified as, and become and be made a part of the Code of Ordinances of the City of Anna Maria. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

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

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

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



Charles Webb, Chairman

I hereby approve this Ordinance:



Dan Murphy, Mayor

04-16, 2015

ATTEST:



Diane Percycoe, City Clerk

Approved as to form and legality for
the use and reliance of the City of
Anna Maria only

Gretchen R. H. "Becky" Vose
City Attorney

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

EMERGENCY ORDINANCE 15-794

Diana L. Perigo Clerk

AN EMERGENCY ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA AMENDING CHAPTER 108, "VACATION RENTALS," BY CHANGING THE EFFECTIVE DATE OF STANDARDS AND REQUIREMENTS FOR VACATION RENTALS OF ARTICLE 4, AND BY PROVIDING EXEMPTIONS RELATING TO RENTAL AGREEMENTS ENTERED INTO BEFORE APRIL 9, 2015; PROVIDING FOR PROCEDURES TO VERIFY EXISTING RENTAL AGREEMENTS; PROVIDING FOR CONSEQUENCES FOR INTENTIONALLY FALSE OR FRAUDULENT EXEMPTION APPLICATIONS; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ANNA MARIA, FLORIDA:

WHEREAS, the City Commission of the City of Anna Maria adopted Ordinance 15-788 on April 9, 2015; and

WHEREAS, on June 1, 2015, the Circuit Court of the Seventh Judicial Circuit, in and for Flagler County, Florida, entered an order in the case of *30 Cinnamon Beach Way, LLC v. Flagler County*, Case No. 2015 CA 167, in which the court generally upheld a Flagler County ordinance regulating vacation rentals, but specifically found that such ordinance could not legally be applied to rental contracts entered into prior to the enactment of that particular ordinance due to constitutional issues; and

WHEREAS, the City Commission of the City of Anna Maria desires to amend its vacation rental ordinance to eliminate any legal concerns regarding potential constitutional issues by amending Ordinance 15-788 to eliminate the retroactive application of regulations to rental agreements entered into before April 9, 2015; and

WHEREAS, the City Commission of the City of Anna Maria desires to immediately make the amendments provided in this ordinance to avoid any prejudice to owners of vacation rental properties, and therefore, deems that this ordinance should be adopted utilizing the provisions of Florida Statutes, Section 166.041(3)(b), and Section 3.10 of the Charter of the City of Anna Maria, permitting the adoption of an emergency ordinance without the normally required two meetings and advertising requirements; and

WHEREAS, it is the intention of the City Commission to re-adopt this ordinance within sixty (60) days of the adoption of this emergency ordinance, with additional revisions that are currently being considered by the City Commission, utilizing the notice, advertising and multiple reading requirements of a non-emergency ordinance.

SECTION 1. Chapter 108, "Vacation Rentals" of the Code of Ordinances of the City of Anna Maria is hereby amended to read as follows:



ARTICLE 1. IN GENERAL

Sec. 108-1. Authority, Scope and Purpose.

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

Section 509.013, Florida Statutes, provides a distinction between “transient public lodging establishments,” which are rented, or advertised or held out for rental to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less; and “nontransient public lodging establishments,” which are rented, or advertised or held out for rental to guests for periods of at least 30 days or 1 calendar month, whichever is less.

Section 509.242(1)(c), Florida Statutes, further provides for a subset of transient public lodging establishments, called “Vacation Rental” which is any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family or four-family house or dwelling unit that is also a transient public lodging establishment, but that is not a timeshare project.

It is the intent of this Chapter to regulate Vacation Rentals as defined by Florida Statutes.

In 2011, the Florida Legislature passed House Bill 883, (Chapter 2011-119, Laws of Florida), amending Florida Statutes, Section 509.032(b) to provide that “[a] local law, ordinance, or regulation may not restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use or occupancy. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.”

In 2014, the Florida Legislature passed Senate Bill 356 (Chapter 2014-71, Laws of Florida), amending that same statute to read “[a] local law, ordinance, or regulation may not prohibit vacation rentals, or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.”

The official statement of legislative intent of Senate Bill 356 as reflected in the House of Representatives’ Final Bill Analysis, dated June 19, 2014, states that the “Effect of the Bill” is as follows:

“The bill permits local governments to create regulation that distinguishes vacation rentals from other residential property. In the past, local government regulations have included noise, parking, registration, and signage requirements for vacation rentals.

“The bill does not allow local governments to create regulations that would prohibit vacation rentals or restrict the duration or frequency of vacation rentals. These types of regulation remain preempted to the state.

“The grandfather provision in existing law exempting any local law, ordinance, or regulation adopted on or before June 1, 2011, is maintained. Any local law, ordinance, or regulation passed before that date that prohibits or restricts vacation rentals based on the duration or frequency may continue to be enforced.”

This Chapter does not prohibit Vacation Rentals, or the duration or frequency of Vacation Rentals, nor is it the intention of the City of Anna Maria to do so, but rather this Chapter is intended to address life safety and compatibility concerns in the interests of the health, peace, safety, and general welfare. In order to accomplish those purposes, the City of Anna Maria, through the requirements of this Chapter, is regulating development, including changes in the intensity of the use of land relating to Vacation Rentals.

Sec. 108-2. Findings of Facts

Based on evidence and testimony presented at public hearings before the City Commission, and on the Short-Term Rental Housing Restrictions White Paper, prepared by Robinson & Cole, Attorneys at Law, in 2011, prepared for the National Association of Realtors®, the City Commission finds:

(1) Residents residing within their residential dwellings are inherently familiar with the local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from their residential dwellings, thereby minimizing potential risks to themselves and their families.

(2) In contrast, transient occupants of Vacation Rentals, due to their transient nature, are typically not familiar with local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from the Vacation Rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation.

(3) Certain Vacation Rentals are presently located within the Residential and Residential/Office/Retail zoning districts of the City of Anna Maria.

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

(5) Vacation Rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods, and the quiet enjoyment of its residents.

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

(7) A residential dwelling is typically the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of Vacation Rentals.

(8) Subsequent to the passage of House Bill 883 in 2011, the City of Anna Maria suffered an increase in the construction of new structures containing as many as six or more bedrooms which were subsequently used, with no notice to the City, as Vacation Rentals with as many as 24 or more transient occupants staying there at one time.

(9) According to the 2010 U.S. Census, the City of Anna Maria has an average household size of 1.89 persons.

(10) According to the 2010 U.S. Census, the City of Anna Maria has an average family size of 2.33 persons.

(11) Vacation Rentals situated in single-family and two-family residential neighborhoods can and do create a great disparity in occupancy.

(12) Water and wastewater usage by Vacation Rentals will typically exceed the anticipated design capacity of a structure when permitted and built, creating an additional demand on the water and wastewater systems and utility plants.

(13) The City of Anna Maria has limited parking available to the general public, typically "day-trippers" to the City who wish to utilize beach access and enjoy the amenities available in the City. Due to a lack of other available parking within the City, parking upon rights of way is generally allowed for use of the general public. The City receives funds from governmental sources for purposes of beach renourishment, and such funds are typically based upon the availability of parking for the general public. Therefore, it is vital for the City to keep on-street parking available for such use, and not allow such use to be effectively blocked by on-site parking at Vacation Rentals that requires over-sized access to City rights of way that limit the use of such rights of way for general public parking.

Sec. 108-3. Definitions

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

"Bedroom" means any room in a Vacation Rental that contains 70 square feet or more, and which has a bed or other place for sleeping and a closet, but shall not include a bathroom, a kitchen, and one main living area. No room shall be considered to be a bedroom unless it was so designated on the plans submitted to the City for the construction of the building.

“Continuing Violation” means a violation of this Chapter that is continuing in nature and for which there may be an opportunity to cure, such as, but not limited to, operation of a Vacation Rental without a currently valid Vacation Rental License, failing to acquire a modified Vacation Rental License when required, violations of minimum safety and operational requirements under this Chapter, and violations of the Florida Building Code, Florida Fire Code or Life Safety Code.

“Occupant” means any person who occupies, either during the day or overnight, a Vacation Rental.

“Transient public lodging establishments” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

“Transitory Violation” means a violation of this Chapter that is transitory, transient, or temporary in nature, such as, but not limited to, a violation of quiet hours or pool hours, maximum occupancy violations, parking in the right of way or blocking general public parking in the right of way, failure to make Vacation Rental available for inspection as required herein, failure of Rental Agent to comply with the duties of a Vacation Rental Agent as set forth in this Chapter, and failure to have required postings at the Vacation Rental.

“Vacation Rental” is any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family or four-family house or dwelling unit that is also a transient public lodging establishment, but that is not a timeshare project.

“Vacation Rental Agency” is any real estate company, or other entity, or group of entities and/or individuals, that employs or has associated with it in any way, any two or more Vacation Rental Agent(s), or is used for purposes of advertising two or more Vacation Rentals, managing two or more Vacation Rentals, providing booking services for two or more Vacation Rentals, purchasing or otherwise obtaining insurance for two or more Vacation Rentals or two or more Vacation Rental Agents. It is the intent of this definition to broadly include all entities or groups that provide services to two or more Vacation Rentals or Vacation Rental Agents.

“Vacation Rental Agent” is a person designated as a Vacation Rental Agent in accordance with the provisions of Article 3 of this chapter.

“Vacation Rental License” is an official action of the City of Anna Maria having the effect, among other things, of permitting the development of land, and is the development order granted pursuant to Article 2 of this Chapter.

“Vacation Rental Owner” is the fee simple owner of the Vacation Rental, whether an individual, partnership, corporation, limited liability company, trust, or other entity. In the event the

Vacation Rental Owner is not an individual, each and every person who owns 20% or more of the equitable interest in the Vacation Rental shall also be deemed a Vacation Rental Owner.

Sec. 108-4. Penalties and enforcement.

- (a) *Transitory Violations.* For Transitory Violations as defined herein, the Vacation Rental owner, the Vacation Rental Agent, and/or the offending Vacation Rental Occupant(s), as applicable and without limitation, shall each be deemed to be a "violation" as that term is used in Article III of Chapter 2 of the Code of Ordinances of the City of Anna Maria, and may be punished as follows. Each individual Transitory Violation shall constitute a separate and distinct violation, and if the Transitory Violation continues for more than one day, each day that the violation continues will be considered a separate and distinct violation. Any Transitory Violation may be punished by citation, as specifically described in Sec. 2-65 of the Anna Maria City Code, including but not limited to the requirements of a reasonable warning prior to issuance of a citation; provided, however, such violation shall be subject to a fine in the amount of \$250.00, for the first offense, \$500.00 for the second and subsequent offenses, plus a suspension of the Vacation Rental License as provided hereinafter, for the third offense.
- (b) *Continuing Violations.* For Continuing Violations as defined herein, the Vacation Rental owner, the Vacation Rental Agent, and/or the offending Vacation Rental Occupant(s), as applicable and without limitation, shall each be deemed to be a "violation" as that term is used in Article III of Chapter 2 of the Code of Ordinances of the City of Anna Maria, and may be punished as follows. Each day a violation exists shall constitute a separate and distinct violation. Continuing Violations may be punished by citation, as specifically described in Sec. 2-65 of the Anna Maria City Code, including but not limited to the requirements of a reasonable warning prior to issuance of a citation; or through the Code Enforcement Magistrate procedure as provided under the Anna Maria City Code; provided, however, such violations shall be subject to a fine in the amount of \$250.00, for the first offense, \$500.00 for the second and subsequent offenses, plus a suspension of the Vacation Rental License as provided hereinafter, for the third offense.
- (c) *Other enforcement methods and penalties.* Notwithstanding anything otherwise provided herein, violations of this chapter shall also be subject to all the enforcement methods and penalties that may be imposed for the violation of ordinances of the city as provided in Article III of Chapter 2 of the Code of Ordinances of the City of Anna Maria. Nothing contained herein shall prevent the City of Anna Maria from seeking all other available remedies which may include, but not be limited to, injunctive relief, abatement of public nuisance, liens, fines, imprisonment, and other penalties as provided by law.
- (d) *Suspensions of license.*
 - (1) In addition to any fines and any other remedies described herein or provided for by law, the City of Anna Maria shall suspend a Vacation Rental License upon a third violation of this Chapter in any continuous 12 month period. Such

suspension of a Vacation Rental License shall be for a period of one year, and shall begin following notice, commencing either at the end of the current vacation rental lease period, or after thirty (30) calendar days, whichever is less.

- (2) For violations of Sec. 108-52, subsections, (a), (d), (e), (f), (g), or (h), or violations of the Florida Building Code, or Florida Fire Code or Life Safety Code, a Vacation Rental License shall be subject to temporary suspension starting immediately three (3) working days after citation for such violation if it is not corrected, re-inspected, and found in compliance. Such suspension shall remain in place until corrected, re-inspected, and found in compliance.
- (e) For all purposes under this chapter, service of notice on the Vacation Rental Agent shall be deemed service of notice on the applicable Vacation Rental Agent, Vacation Rental Owner, the Vacation Rental Agency with which such Vacation Rental Agent is associated, and Occupant.
- (f) No Occupant shall occupy a Vacation Rental, and no advertisement for the Vacation Rental shall occur during any period of suspension of a Vacation Rental's Vacation Rental License.

Sec. 108-5. Responsibilities of departments.

The ultimate responsibility for the administration of this Chapter is vested in the City Commission. The Mayor or his or her authorized designee is responsible for granting, denying, revoking, renewing, suspending and canceling Vacation Rental Licenses for proposed and existing Vacation Rentals as set forth in this chapter. Additionally, the Mayor or his or her authorized designee is responsible for inspecting any proposed or existing Vacation Rental in order to ascertain compliance with this chapter, and all applicable building codes, fire codes, statutes, ordinances and regulations.

Sec. 108-6. Appeals.

Any decision of the Mayor or his or her authorized designee relating to the grant, denial, renewal, modification, or suspension of a Vacation Rental License under this Chapter shall be rendered in writing in appealable form, and reviewed by the City Commission if a notice by the applicant is filed with the City Clerk within ten (10) days after the action to be reviewed. The City Clerk shall place the matter on the agenda of an upcoming meeting of the City Commission, at which the matter will be reviewed. The decision of the City Commission shall be final and shall be rendered in writing in appealable form. Such final decision may be reviewed as permitted under Florida law.

Sec. 108-7. Notice.

Any notice required under this Chapter shall be accomplished by sending a written notification by U.S. Mail, postage paid, to the mailing address of the Vacation Rental Agent set forth on

documents filed with the City of Anna Maria under this Chapter, which shall be considered for all purposes as the correct address for service, or by personal service or delivery to the Vacation Rental Agent.

Sec. 108-8. Immunity from prosecution.

The City of Anna Maria, the City Commission, the Mayor, the City Commissioners, and any of the City's departments or agents, and any law enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon a Vacation Rental while acting within the scope of this Chapter.

Sec. 108-9. Construction of chapter.

This chapter shall be liberally construed to accomplish its purpose of regulating Vacation Rentals, protecting the residential character of Anna Maria, the health, safety, and general welfare of its residents and visitors, and the quiet enjoyment by Anna Maria's residents of their residential property.

Sec. 108-10. Severability

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

Sec. 108-11 – 108-20. Reserved.

ARTICLE 2. VACATION RENTAL LICENSE

Sec. 108-21. License required.

After January 1, 2016, an active Vacation Rental License shall be required to operate a Vacation Rental within the City of Anna Maria. After January 1, 2016, only Vacation Rentals holding an active Vacation Rental License issued by the City of Anna Maria may operate within the City. Prior to the issuance of a Vacation Rental License, the City of Anna Maria shall ensure that the building in which the Vacation Rental is or will be located is in full compliance with the appropriate portions of the Florida Building Code and the Florida Fire and Life Safety Codes. A separate Vacation Rental License shall be required for each Vacation Rental. Applications for Vacation Rental License(s) for currently existing Vacation Rentals shall be submitted to the City

of Anna Maria in accordance with the Vacation Rental Application Schedule adopted by Resolution of the City Commission of the City of Anna Maria.

Sec. 108-22. Application for Vacation Rental license.

- (a) A property owner seeking initial issuance of a Vacation Rental License, or the renewal, or modification of a Vacation Rental License, shall submit to the City a completed Vacation Rental License application in a form promulgated by the City, together with an application fee in an amount set by resolution of the City Commission.
- (b) A complete application for the initial issuance, or renewal, or modification, of a Vacation Rental License shall demonstrate compliance with the standards and requirements set forth in this Chapter through the following submittals:
 - (1) A completed Vacation Rental License application form.
 - (2) Payment of applicable fees.
 - (3) A copy of the Vacation Rental's current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation if the applicant has such license. Pursuant to Section 166.033, Florida Statutes, the City may process and issue a Vacation Rental License before the issuance of that state license; provided, however, that the Vacation Rental may not operate prior to receiving such state license.
 - (4) A copy of the Vacation Rental's current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue. Pursuant to Section 166.033, Florida Statutes, the City may process and issue a Vacation Rental License before the issuance of that state certificate of registration; provided, however, that the Vacation Rental may not operate prior to receiving such state certification of registration.
 - (5) Evidence of the Vacation Rental's current and active account with the Manatee County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Manatee County Tax Collector. Pursuant to Section 166.033, Florida Statutes, the City may process and issue a Vacation Rental License before the establishment of such account; provided, however, that the Vacation Rental may not operate prior to the establishment of such account.
 - (6) A copy of the current Certificate of Occupancy for the building in which the vacation rental is or will be located. The City shall check to ensure that the current Certificate of Occupancy indicates an occupancy pursuant to Section

310.01 of the Florida Building Code of R-1 for the building planned to be used as a Vacation Rental. In the event the current Certificate of Occupancy is for an occupancy other than R-1, the applicant must apply to the City of Anna Maria for a Change of Use to R-1 pursuant to the Florida Building Code prior to the issuance of a Vacation Rental License.

- (7) *Exterior site sketch.* An exterior sketch of the Vacation Rental facility shall be provided, demonstrating compliance with the standards and requirements set forth in this Chapter. The sketch provided shall be drawn to scale, and shall show and identify all structures, pools, spas, hot tubs, fencing, and uses, including areas provided for off-street parking and trash collection. For purposes of the sketch, off-street parking spaces shall be delineated so as to enable a fixed count of the number of spaces provided.
 - (8) *Interior building sketch by floor.* A building sketch by floor shall be provided, showing a floor layout and demonstrating compliance with the standards and requirements set forth in this Chapter. The sketch provided shall be drawn to scale, and shall show and identify all bedrooms, other rooms, exits, hallways, stairways, smoke and carbon monoxide detectors, fire extinguishers and exit signage/lighting.
- (c) Incomplete applications will not be accepted, but will be returned with any fees submitted to the applicant Vacation Rental Owner with a notation of what items are missing.
 - (d) Vacation Rental License applications shall be sworn to under penalty of perjury, and false statements in an application shall be a basis for the revocation of any license issued pursuant to such application.

Sec. 108-23. Modification of Vacation Rental License.

An application for modification of a Vacation Rental License shall be required in the event that any of the following changes to the Vacation Rental are proposed:

- (1) An increase in the gross square footage of the Vacation Rental.
- (2) An increase in the number of bedrooms in the Vacation Rental.
- (3) An increase in the maximum occupancy of the Vacation Rental.
- (4) An increase in the number of parking spaces, or a change in the location of parking spaces for the Vacation Rental.
- (5) An increase in the number of bathrooms in the Vacation Rental.

- (6) Any other material modifications that would increase the intensity of use of the Vacation Rental.

Sec. 108-24. Duration of Vacation Rental License.

A Vacation Rental License shall be valid for one (1) year after the date of issuance.

Sec. 108-25. Renewal of Vacation Rental License.

A Vacation Rental Owner must apply annually for a renewal of the Vacation Rental License no later than sixty (60) days prior to the expiration date of the previous Vacation Rental License.

Sec. 108-26. Initial and Periodic Compliance Inspections of Vacation Rentals.

- (a) Inspection of a Vacation Rental to verify compliance with this Chapter, the Florida Building Code, and the Florida Fire and Life Safety Codes, shall be required prior to issuance of an initial Vacation Rental License. If instances of noncompliance with the standards and requirements set forth in this Chapter are found, all such instances of noncompliance shall be corrected and the Vacation Rental shall be re-inspected prior to the issuance of an initial Vacation Rental License.
- (b) Once a Vacation Rental License is issued for a Vacation Rental, such Vacation Rental shall be properly maintained in accordance with the standards and requirements set forth in this Chapter. The City shall re-inspect such Vacation Rental at least once a year to ensure compliance with the standards and requirements set forth in this Chapter and the Anna Maria Code of Ordinances. All violations of this Chapter or the Anna Maria Code of Ordinances identified in such inspection shall be corrected and re-inspected within 30 calendar days after the issuance of a notice of violation, with the exception of life safety violations, which must be corrected within the earlier of three (3) working days or the start of the next rental period. Failure to correct such violations within the timeframes provided shall result in the suspension of the Vacation Rental License until such time that the violations are corrected, re-inspected, and found in compliance.
- (c) The City may inspect a Vacation Rental at any time upon reasonable notice to the Vacation Rental Agent. Inspections shall be made by appointment with the Vacation Rental Agent. If an City inspector has made an appointment with Vacation Rental Agent for an inspection, and the City inspector is unable to complete the inspection as a result of an action or inaction of the Vacation Rental Agent, Vacation Rental Owner, or an occupant of the Vacation Rental, the Vacation Rental shall be charged a "re-inspection" fee in an amount set by resolution of the City Commission to cover the inspection expense incurred. The re-inspection fee shall be paid prior to scheduling the re-inspection.
- (d) If, after two attempts, a City inspector is unable to complete an inspection of a Vacation Rental as a result of an action or inaction of the Vacation Rental Agent, Vacation Rental

Owner, or an occupant of the Vacation Rental, the City inspector shall provide notice of failure of inspection to the Vacation Rental Agent at the address shown on the Vacation Rental License or application for Vacation Rental License. With respect to an application for a Vacation Rental License, such notice of failure of inspection shall constitute a basis for the denial of the Vacation Rental License. With respect to an active Vacation Rental License, such notice of failure of inspection shall result in the suspension of the Vacation Rental License until such time that the Vacation Rental is inspected and found in compliance.

Sec. 108-27. Vacation Rental License non-transferable, non-assignable

Vacation Rental Licenses are non-transferable and non-assignable. If the ownership of any Vacation Rental is sold or otherwise transferred, any outstanding Vacation Rental License as to that Vacation Rental shall be null and void upon the sale or transfer.

Sec. 108-28. Vested Rights/Waiver/Estoppel

The issuance of a Vacation Rental License shall not be construed to establish any vested rights or entitle the license holder to any rights under the theory of estoppel. Issuance of a Vacation Rental License shall not be construed as a waiver of any other requirements contained within the City of Anna Maria City Code or Comprehensive Plan, and is not an approval of any other code requirement outside this chapter. The receipt of a Vacation Rental License is not an approval of a use or activity that would otherwise be illegal under Florida law, the Florida Building Code, the Florida Fire Code or Life Safety Code, or in violation of the Anna Maria City Code or Comprehensive Plan.

Sec. 108-29 – 108-39. Reserved.

ARTICLE 3. VACATION RENTAL AGENT.

Sec. 108-40. Designation, application.

- (a) Prior to the issuance, modification or renewal of a Vacation Rental License, the Vacation Rental Owner shall designate a Vacation Rental Agent on the Vacation Rental License application. In order to designate a Vacation Rental Agent, the Vacation Rental Owner and Vacation Rental Agent shall complete documentation as prescribed by the City of Anna Maria that includes the following:
- (1) Designation of Vacation Rental Agent by Vacation Rental Owner;
 - (2) Vacation Rental Agent's full name, home and business addresses, home telephone number, business telephone number, cellular phone telephone number, facsimile machine phone number, and e-mail address, together with copies of the Vacation Rental Agent's Florida Driver's License, and proof of professional licensure, if any.

- (3) Certificate on a form prescribed by the City certifying that the Vacation Rental Agent meets the qualifications of a Vacation Rental Agent as set forth herein; that he or she has read the Vacation Rental Chapter in full and certifies that he or she meets the qualifications of a Vacation Rental Agent and agrees to perform the duties of a Vacation Rental Agent as set forth herein; that he or she agrees to be bound by the requirements, conditions, and penalties for Vacation Rental Agents as set forth herein; and that in the event he or she no longer has the qualifications, or is unable or unwilling to fulfill the role of Vacation Rental Agent, he or she will immediately so notify the City of Anna Maria and the owner of the Vacation Rental.
 - (4) A document prescribed by the City of Anna Maria, and signed under oath before a notary public, by both the Vacation Rental Owner and the Vacation Rental Agent, agreeing to, jointly and severally, indemnify, defend, save and hold harmless the City of Anna Maria, and its elected officials, officers, agents, and employees, from any and all liability, claims, demands, disputes, damages, costs, attorney's fees, and expenses (including prior to trial, through trial, and to and on appeal), as a result, directly or indirectly, of any matter relating to the application for Vacation Rental License, the Vacation Rental License, actions or inactions of the Vacation Rental Owner, actions or inactions of the Vacation Rental Agent, actions of any Vacation Rental Occupants, tenants, guests, or invitees, or the operation or use of the Vacation Rental.
 - (5) Proof of insurance held by the Vacation Rental Agent as required herein.
 - (6) Proof of compliance with all Vacation Rental Agent requirements as provided herein.
 - (7) If the Vacation Rental Agent is associated in any way with a Vacation Rental Agency, such association shall be disclosed, along with the name, address, phone number, and e-mail address of such Vacation Rental Agency.
- (b) A Vacation Rental Owner may change his or her designation of a Vacation Rental Agent temporarily or permanently; however, there shall only be one Vacation Rental Agent for each Vacation Rental at any given time. The method to change the designated Vacation Rental Agent is the same as the method set forth hereinabove for the initial designation of Vacation Rental Agent.
- (c) Any notice of violation or legal process which has been delivered or served upon the previous Vacation Rental Agent, prior to the appointment of a subsequent Vacation Rental Agent, shall be deemed effective notice for all purposes.

- (d) . A Vacation Rental Agent may serve as Vacation Rental Agent for more than one Vacation Rental, but a separate designation of Vacation Rental Agent and applicable documentation must be submitted as to each Vacation Rental.

Sec. 108-41. Insurance for Vacation Rental Agent.

- (a) Vacation Rental Agent, at his or her own cost and expense, shall have in force at all times, and as a condition of being appointed a Vacation Rental Agent, insurance from an insurance company licensed in the State of Florida and rated "Class A" or better by A. M. Best or some other form of assurance reasonably approved by the City of Anna Maria as follows:

- (1) Commercial General Liability Insurance insuring the Vacation Rental Agent against liability arising from his or her actions in the capacity as Vacation Rental Agent and all actions incidental thereto. Vacation Rental Agent shall list and endorse the City of Anna Maria as an additional insured under the general liability policy. Except as otherwise agreed in writing by the City, the insurance shall be provided on a form no more restrictive than the Standard Commercial General Liability Form (ISO FORM CG 00 01) without any restrictive endorsements, and the City shall be included as an "Additional Insured" on a form no more restrictive than Form CG 20 10, Additional Insured-Owners, Lessees, or Contractors (Form B). The minimum limits (inclusive of amounts by an umbrella or excess policy) shall be available at all times and shall be:

\$1,000,000 General Aggregate
\$1,000,000 Products Liability/Completed Operation Aggregate
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Each Occurrence

The General Liability policy is to contain or be endorsed to name the City of Anna Maria, its elected officials, officers, officials and employees as additional insureds as respects to the liability arising out of the activities performed as the Vacation Rental Agent. Such coverage shall be primary to the extent of the Vacation Rental Agent's negligent acts or omissions or willful misconduct, and shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. In addition, a waiver of subrogation by the commercial liability insurer shall be provided that lists or names the additional insured as subject to the waiver.

- (2) Worker's Compensation Insurance, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employer's Liability Act and any other applicable Federal and State law. If the Vacation Rental Agent is exempt from Worker's Compensation Insurance, the Vacation Rental Agent shall supply

documentation sufficient to prove such exemption. The minimum amount provided by an umbrella or excess policy shall be:

Part One-“Statutory” requirements
Part Two-\$500,000 Each Accident
\$500,000 Disease-Policy Limit
\$500,000 Disease Each Employee

- (3) Automobile Liability Insurance on a form no more restrictive than that provided by Section II (Liability Coverage) of the Standard Business Auto Policy (ISO Form CA 00 01) and shall cover User owned, non-owned, and hired autos used in any manner or incidental to the duties of the Vacation Rental Agent. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1,000,000 per each Occurrence-Bodily Injury and Property Damage Combined.
- (b) The required insurance shall be evidenced by a certificate of insurance which must be submitted to the City of Anna Maria prior to the appointment of the Vacation Rental Agent. A copy of all notices, from all insurance companies providing coverage, directly or indirectly related to the insurance required hereunder, must be provided to the City of Anna Maria within five (5) days of receipt. All insurance companies shall be instructed in writing by the Vacation Rental Agent to provide thirty (30) days' notice of any cancellation to the City. Failure to comply with this requirement shall render this designation of Vacation Rental Agent null and void, and Vacation Rental Owner shall be required to designate another Vacation Rental Agent. The Vacation Rental Agent shall provide the City with renewal or replacement evidence of insurance at least ten (10) days prior to expiration or termination of such insurance.

Sec. 108-42. Vacation Rental Agent's qualifications.

All Vacation Rental Agents shall be eighteen (18) years of age or older with a valid Florida Driver's License, and must not be a registered sex offender. The Vacation Rental Owner may serve as the Vacation Rental Agent, but only if such Vacation Rental Owner otherwise meets the qualifications of, and is able to fulfill the duties of, a Vacation Rental Agent as provided herein. In addition, the Vacation Rental Agent must either customarily be present at a business location within Manatee County for the purposes of transacting business; or have his or her permanent residence within Manatee County.

Sec. 108-43. Duties of Vacation Rental Agent.

Every Vacation Rental Agent shall:

- (1) Be available by landline or mobile telephone answered by the Vacation Rental Agent at the listed phone number 24-hours a day, seven days a week to handle any problems arising from the Vacation Rental; and

- (2) Be willing and able to be physically present at the Vacation Rental within thirty (30) minutes following notification from a Vacation Rental Occupant, the Vacation Rental Owner, law enforcement officer, emergency personnel, or the City of Anna Maria for issues related to the Vacation Rental, and shall actually be physically present at that location in that time frame when requested; and
- (3) Conduct an on-site inspection of the Vacation Rental no less often than weekly to assure continued compliance with the requirements of this Chapter.

Sec. 108-44. Suspension of Vacation Rental Agent/Agency.

- (a) If a Vacation Rental Agent has received an aggregate total of three (3) Unresolved Violations for the Vacation Rentals the Vacation Rental Agent manages, within a continuous twelve (12) month period, the Vacation Rental Agent shall lose the ability to act as a Vacation Rental Agent in the City of Anna Maria for a period of twenty-four (24) months. In that event, the Vacation Rental Agent, and all Vacation Rental Owners of Vacation Rentals that he or she manages, shall be notified by the City of Anna Maria that he or she has been removed as the Vacation Rental Agent for all Vacation Rentals managed. If the Vacation Rental Agent so removed is associated with a Vacation Rental Agency, no employee or associate of that Vacation Rental Agency may be a Vacation Rental Agent for the particular Vacation Rentals that had formerly been managed by the removed Vacation Rental Agent for a period of twenty-four (24) months. All Vacation Rental Licenses associated with the removed Vacation Rental Agent shall be suspended until new Vacation Rental Agents are appointed by the relevant Vacation Rental Owners.
- (b) If Vacation Rental Agents associated with a particular Vacation Rental Agency collectively receive an aggregate total of ten (10) Unresolved Violations for the Vacation Rentals the Vacation Rental Agents associated with the Vacation Rental Agency manage, within a continuous twelve (12) month period, all Vacation Rental Agents associated with that Vacation Rental Agency shall lose their ability to act as Vacation Rental Agents in the City of Anna Maria for a period of twenty-four (24) months. In that event, the Vacation Rental Agents associated with the Vacation Rental Agency, and all Vacation Rental Owners of Vacation Rentals managed by those Vacation Rental Agents shall be notified by the City of Anna Maria that their Vacation Rental Agent has been removed as the Vacation Rental Agent for all Vacation Rentals managed. All Vacation Rental Licenses associated with the removed Vacation Rental Agents shall be suspended until new Vacation Rental Agents are appointed by the relevant Vacation Rental Owners.
- (c) For purposes of this section, an Unresolved Violation shall mean any time the Vacation Rental Agent does not comply with the specific duties of the Vacation Rental Agent as set forth in this Chapter, and any time, in the reasonable determination of the Mayor or his or her designee, violations relating to the Vacation Rentals managed by the Vacation Rental Agent are the result of negligent or intentional actions or inactions of the Vacation Rental Agent, such as, but not limited to, knowingly allowing more Occupants than allowed in a

Vacation Rental, or not appropriately preventing or mitigating violations of this Chapter by Occupants of the Vacation Rental.

Sec. 108-45 – 108-50. Reserved.

ARTICLE 4. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

Sec. 108-51. Generally

The standards and requirements set forth in the Article shall apply to the rental, use, and occupancy of Vacation Rentals in the City of Anna Maria.

Sec. 108-52. Minimum safety and operational requirements.

Vacation Rentals in the City of Anna Maria shall meet the following minimum safety and operational requirements, and the applicable standards under the Florida Statutes, Florida Building Code and the Florida Fire Code and Life Safety Code. Whenever there is an inconsistency among the requirements of this section, the Florida Statutes, the Florida Building Code, or the Florida Fire Code and Life Safety Code, the most restrictive requirement shall apply.

- (a) *Swimming pool, spa and hot tub safety.* A swimming pool, spa or hot tub offered or made available as an amenity at a Vacation Rental shall comply with the current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes. The Vacation Rental Agent shall cause the swimming pool drain system, any underwater lighting system, and the electrical pump system of such swimming pools, spas, and hot tubs to be inspected annually by an appropriately licensed technician. The Vacation Rental Agent shall maintain a contemporaneous log of such inspections, which shall be made available to the City for inspection upon request during normal business hours.
- (b) *Swimming pool, spa and hot tub hours of use.* Swimming pools, spas and hot tubs offered or made available as an amenity at a Vacation Rental may only be used between the hours of 8:00 a.m. and 10:00 p.m.
- (c) *Swimming pool, spa and hot tub screening.* In all Vacation Rentals located in the R-1, R-2 Residential District, and those Vacation Rentals located in the ROR, Residential/Office/Retail District that are not located above the ground floor over a permitted retail/service or office use, swimming pools, spas, and hot tubs shall be screened by a six-foot, 100 percent opacity fence. The fence shall be constructed with a vinyl acoustic material within the fence or along the interior side of the fence. Swimming pool equipment shall be separately screened on all open sides with a six-foot 100 percent opacity fence constructed with vinyl acoustical material.
- (d) *Bedrooms.* All bedrooms within a Vacation Rental shall meet the applicable requirements of the Florida Building Code, and the Florida Fire Code and Life Safety Code.

- (e) *Smoke and carbon monoxide (CO) detection and notification system.* An interconnected, hard-wired smoke alarm and carbon monoxide (CO) alarm system shall be installed within the Vacation Rental and maintained on a continuing basis consistent with the requirements of Section R314, Smoke Alarms, and Section R315, Carbon Monoxide Alarms, of the Florida Building Code – Residential.
- (f) *Fire extinguisher.* A portable, multi-purpose dry chemical 2A:10B:C fire extinguisher shall be installed, inspected and maintained in accordance with NFPA 10 on each floor of a Vacation Rental. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location of the fire extinguisher.
- (g) *Emergency egress maintenance and lighting.* Halls, entrances and stairways within a Vacation Rental shall be clean, ventilated and well lighted day and night. Hall and stair runners shall be kept in good condition. Rails shall be installed on all stairways and around all porches and steps.
- (h) *Local phone service.* At least one landline telephone with the ability to call 911 shall be available in the main level common area in the Vacation Rental.

Sec. 108-53. Maximum occupancy based on site capacity / limitations.

The maximum occupancy of a Vacation Rental shall be limited to the lesser of:

- (1) Two persons per bedroom within the Vacation Rental (counting only those rooms that satisfy the definition of bedroom under this Chapter).
- (2) A total of eight occupants per Vacation Rental, inclusive of day guests.
- (3) In the event there is more than one building or dwelling on one platted lot, (not to include Vacation Rentals located in the ROR, Residential/Office/Retail District that are located above the ground floor over a permitted retail/service or office use), the maximum occupancy shall be capped at the lesser of eight occupants per lot, or two persons per bedroom, regardless of the building in which such bedroom(s) are located.

Sec. 108-54. Parking standards.

In all Vacation Rentals located in the R-1, R-2 Residential District, and those Vacation Rentals located in the ROR, Residential/Office/Retail District that are not located above the ground floor over a permitted retail/service or office use, the following parking standards shall apply. There shall be one off-street parking space for each bedroom in a Vacation Rental. One such required parking space for each Vacation Rental shall be in a covered garage or carport. Structures

complying with Chapter 82, existing construction definition are exempt from the requirement of providing one parking space in a garage or carport. Recreational vehicles and accessory trailers shall only be permitted in driveways, or other parking areas specifically designated for such use by the City. No recreational vehicle or any other motor vehicle parked on the premises of a Vacation Rental shall be used for sleeping. Parking spaces shall not be tandem. Neither on-street parking nor parking within the right-of-way shall be permitted for use by Vacation Rentals or Occupants. Access to parking spaces for Vacation Rentals shall be limited to one driveway with maximum access way(s) in the nature of curb cut(s), to the right of way of a total of 24 feet, so as to not unduly limit the use of the right of way for general public parking.

Sec. 108-55. Solid waste handling and containment.

In all Vacation Rentals located in the R-1, R-2 Residential District, and those Vacation Rentals located in the ROR, Residential/Office/Retail District that are not located above the ground floor over a permitted retail/service or office use, the following standards shall apply. One trash storage container shall be provided per three occupants or fraction thereof, calculated based upon the maximum occupancy of the Vacation Rental. Trash storage containers shall be screened with a six foot fence, with an opening for container removal. The Vacation Rental shall contract with the waste management provider for side door pick-up service. Notice of side door pick up and the times and regulations thereof shall be posted by the main entrance of the Vacation Rental.

Sec. 108-56. Quiet hours and pool hours.

Quiet hours for Vacation Rentals shall be from 10:00 p.m. to 8:00 a.m. daily. Swimming pool, spa and hot tub use on the premises of a Vacation Rental is limited to the hours of 10:00 a.m. to 10:00 p.m. daily. During quiet hours, no excessive or boisterous noise or amplified sound extending beyond the lot or parcel line is permitted.

Sec. 108-57. Violations of other legal provisions.

No person shall allow the occupancy or use any portion of a structure as a Vacation Rental if the structure or its use is in violation of or inconsistent with any applicable zoning, comprehensive planning, building, housing, density, life safety, utility, public health, sanitary or fire code, ordinance, plan, statute, regulation, or rule. Such a violation shall also be considered a violation of this Chapter.

Sec. 108-58. Vacation Rental advertising.

Advertising of a Vacation Rental shall be consistent with the information contained within the Vacation Rental's Vacation Rental License. Such advertising shall conspicuously disclose the maximum occupancy of the Vacation Rental under this Chapter.

Sec. 108-59. Licensure as transient public lodging establishment.

A Vacation Rental shall at all times maintain a current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation.

Sec. 108-60. Florida Department of Revenue certificate; Manatee County Tax Collector account.

A Vacation Rental shall at all times maintain a current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue. A Vacation Rental shall at all times maintain a current and active account with the Manatee County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Manatee County Tax Collector.

Sec. 108-61. Prohibition of occupancy by registered sex offenders.

A Vacation Rental shall not be rented to or occupied by a registered sex offender. The Vacation Rental Agent for each Vacation Rental shall have the affirmative duty to research, via third party information service, and document that each Occupant of a Vacation Rental is not a registered sex offender. Such documentation shall be maintained by the Vacation Rental Agent for a period of not less than three years after the stay of a given Occupant, and shall be made available to the City for inspection upon request during normal business hours.

Sec. 108-62. Vacation Rental agreements – minimum provisions.

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

- (1) Maximum occupancy of the Vacation Rental that is consistent with the Vacation Rental License.
- (2) The name and ages of all Occupants; provided, however, the age of any Occupant over the age of 30 can be stated merely as "Adult".
- (3) The license tag numbers for all vehicles that the Vacation Rental Occupant(s) will be parking at the Vacation Rental, with a total number not to exceed the number of off-street parking spaces at the Vacation Rental as designated on the Vacation Rental License;
- (4) The Occupant(s)' agreement to abide by all the requirements of this Chapter, and acknowledgement that his or her rights under the agreement may not be transferred or assigned in whole or in part to anyone else without a new agreement being entered into between the new Occupant(s) and the Vacation Rental Owner; and

- (5) The Occupant(s)' acknowledgement and agreement that violation of the agreement or this Chapter may result in immediate termination of the agreement and eviction from the Vacation Rental by the Vacation Rental Owner or Vacation Rental Agent, and potential liability for payment of fines levied by the City.
- (6) The permitted off-street parking locations where Occupants may park according to the Vacation Rental License sketch.
- (7) A statement that all Occupants must promptly evacuate from the Vacation Rental upon posting of any evacuation order issued by state or local authorities.
- (8) Consent to the reasonable entry by the City of Anna Maria inspectors into the Vacation Rental.
- (9) A copy of the noise, quiet hours, pool hours, and trash regulations, as well as regulations related to sea turtle lighting, if applicable, as lease addendums.

Sec. 108-63. Required posting of Vacation Rental information.

- (a) In each Vacation Rental, located on the back or next to the main entrance door there shall be posted as a single page the following information:
 - (1) The name, address and phone number of the Vacation Rental Agent;
 - (2) The maximum occupancy of the Vacation Rental;
 - (3) Notice that quiet hours are to be observed between 10:00 p.m. and 8:00 a.m. daily and that between these hours no excessive or boisterous noise or amplified sound extending beyond the lot or parcel line is permitted;
 - (4) Notice that swimming pool, spa and hot tub use on the premises of a Vacation Rental is limited to the hours of 10:00 a.m. to 10:00 p.m. daily;
 - (5) The maximum number of vehicles that can be parked at the Vacation Rental, along with a sketch of the location of the off-street parking spaces;
 - (6) The days and times of trash pickup;
 - (7) The notice of sea turtle nesting season and sea turtle lighting regulations, if applicable; and
 - (8) The location of the nearest hospital.
- (b) There shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map – Minimum 8-1/2" by 11".

- (c) There shall be posted in each Vacation Rental, located on the back or next to the main entrance door, a copy of the Rental Agreement for the vacation rental listing all the names of all Occupants, and the license numbers of all vehicles permitted to park at the vacation rental, during the lease period.

ARTICLE 5. EXEMPTIONS

Sec. 108-64. Exemption for rental agreements entered into on or prior to April 9, 2015.

Notwithstanding any other provision of this ordinance, rental agreements with prospective Occupants for Vacations Rentals that were entered into on or prior to April 9, 2015, are exempt from the provisions of this ordinance. In order to qualify for this exemption, proof of the existence of any rental agreement entered into on or prior to April 9, 2015, must be submitted to the City of Anna Maria for verification no later than July 15, 2015 along with an application form in a form prepared by the City of Anna Maria. Such application form shall be signed and verified by the vacation rental owner or an owner's representative (hereinafter "Exemption Applicant") under penalty of perjury, and shall contain the following information:

1. The name, address, phone number, and e-mail address of the Exemption Applicant.
2. The address of the vacation rental.
3. The owner of the vacation rental.
4. The rental agent for the vacation rental, if any, if different from the Exemption Applicant.
5. The date(s) of occupancy of the vacation rental for which the exemption is requested.
6. The date the rental agreement for which the exemption is requested was entered into.
7. The amount of, and form of, deposit received.
8. The name of the prospective Occupant under the rental agreement.
9. Contact information for the prospective Occupant including telephone number and e-mail address. If the prospective Occupant does not have an e-mail address, a street address shall be furnished.

Such submitted proof of existence of rental agreement and application form shall be reviewed by the City's Special Magistrate, and such Special Magistrate shall make a written determination as to the validity of each such rental agreement for purposes of the exemption. The Special Magistrate shall utilize the following criteria to determine the validity of each submitted rental agreement:

1. The rental agreement reflects a binding agreement for the rental of the vacation rental.
2. The rental agreement was entered into on or before April 9, 2015.
3. The existence of the rental agreement and the date it was entered into was confirmed with the prospective Occupant.

If the Special Magistrate confirms that a submitted rental agreement is valid for purposes of the exemption from the terms of this ordinance, the City of Anna Maria shall so notify the Exemption Applicant in writing, and that particular rental agreement shall be deemed exempt

from the terms of this ordinance. If any changes are made to such rental agreement, including but not limited to, a change in the proposed occupant of the vacation rental, or a change in the term of the rental, any exemption shall no longer be valid.

If the Special Magistrate fails to confirm that a submitted rental agreement is valid for purposes of the exemption from the terms of this ordinance, the City of Anna Maria shall notify the Exemption Applicant of that fact in writing. Within twenty (20) days after such notice, an evidentiary hearing may be requested by the Exemption Applicant before the Special Magistrate to provide the Exemption Applicant an opportunity to provide additional evidence and/or testimony in support of the exemption. A determination by the Special Magistrate after such evidentiary hearing shall be final.

If it is determined that any information supplied to the City of Anna Maria in support of an application for exemption was intentionally false or fraudulent, the Exemption Applicant shall be disqualified for a period of one year beginning on January 1, 2016 from serving as a Vacation Rental Agent, and the particular vacation rental involved shall not be eligible for a Vacation Rental License for a period of one year beginning on January 1, 2016.

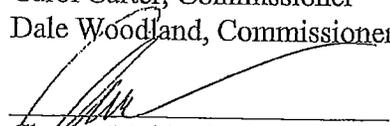
SECTION 2. Severability. In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, or application thereof, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this ordinance, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as expressed herein.

~~**SECTION 3. Codification.** The provisions of this Ordinance shall be codified as, and become and be made a part of the Code of Ordinances of the City of Anna Maria. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.~~

SECTION 34. Effective Date. This Ordinance shall be effective upon adoption by the City Commission and approval by the Mayor in accordance with the Charter of the City of Anna Maria. The standards and requirements relating to vacation rentals set forth in Article 4 of this Ordinance shall become effective January 1, 2016.

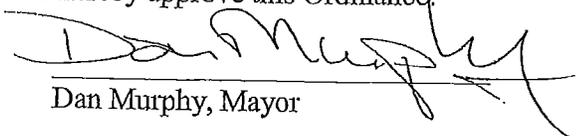
PASSED AND ADOPTED, by the City Commission of the City of Anna Maria, Florida, in regular session assembled, this 11 day of June, 2015.

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



Charles Webb, Chairman

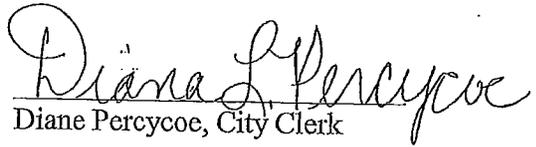
I hereby approve this Ordinance:



Dan Murphy, Mayor

06.23, 2015

ATTEST:



Diane Percycoc, City Clerk

Approved as to form and legality for
the use and reliance of the City of
Anna Maria only

Gretchen R. H. "Becky" Vose
City Attorney

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

Deana L Percycor Clerk

CITY OF ANNA MARIA

ORDINANCE 14-785

AN ORDINANCE OF THE CITY OF ANNA MARIA ESTABLISHING A MORATORIUM ON THE ACCEPTANCE, REVIEW, AND ISSUANCE OF BUILDING PERMIT APPLICATIONS FOR SINGLE FAMILY RESIDENCES; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR ESTABLISHMENT OF A MORATORIUM; PROVIDING FOR EXCEPTIONS FROM THE MORATORIUM; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Anna Maria is primarily a community of owner occupied single family homes; and

WHEREAS, the City Commission of the City of Anna Maria recognizes that the nature of the community is shifting away from owner occupied single family homes to structures intended for other than owner occupied; and

WHEREAS, the trend is construction of large houses containing a large number of bedrooms and rooms that are can be used as bedrooms; and

WHEREAS, houses with a large number of bedrooms disrupt traditionally single family neighborhoods and the City's traditional owner occupied housing; and

WHEREAS, the City Commission deems important the encouragement of the City's owner occupied housing and single family neighborhoods by considering and adopting amendments to its land use and other building regulations; and

WHEREAS, the City Commission deems it important that it set aside the sufficient time to consider testimony and evidence necessary to formulate new policies, regulations, and ordinances addressing the issue facing the City; and



28 WHEREAS, the City Commission deems it important and necessary to
29 adopt a moratorium on building permits for certain structures while it considers
30 appropriate and necessary changes to its policies, regulations, and ordinances; and

31 WHEREAS, the City Commission finds that the need to consider and adopt
32 additional regulations and ordinances to address the matters related herein
33 constitutes unusual circumstances as that term is used in Section 553.79, Florida
34 Statutes, and that accordingly, the City may hold pending building permit
35 applications for more than 30 business days; and

36 WHEREAS, the City recognizes how important housing and real property is
37 to its citizens and residents and how important balancing the competing interests of
38 those who live and own property in the City and those who desire to; and

39 WHEREAS, in 2012, the Florida Legislature, adopted changes to Section
40 509.032, Florida Statutes, which prohibited local governments from regulating
41 housing used for vacation rentals except for limited exceptions; and

42 WHEREAS, in the 2014 session, the Florida legislature amended Section
43 509.032, Florida Statutes, and authorized local governments, such as the City, to
44 adopt local ordinances addressing vacation rentals so long as vacation rentals are
45 not prohibited and the duration and frequency of vacation rentals are not regulated;
46 and

47 WHEREAS, the City desires to take advantage of its home rule authority
48 now unbridled by the Legislature to propose, consider, and possibly adopt such
49 regulations as it deems best and in the best interests of the City, which are now
50 again authorized under the amended legislation; and

51 WHEREAS, the City has previously addressed issues related to the erosion
52 of owner occupied housing and diminishing residential character of the City in
53 earlier ordinances such as Ordinance 13-754; and

54 WHEREAS, the City Commission desires to review whether its earlier
55 regulations and ordinances are successfully addressing the issues faced by the City;
56 and

57 WHEREAS, balancing competing interests, especially in light of the
58 complex web of laws that affect these decisions, takes time; and

59 WHEREAS, a moratorium as set forth herein creates the time needed to
60 receive information, weigh all factors, and craft appropriate policy; and

61 WHEREAS, the City Commission desires to hear from as many affected
62 persons who are willing to offer their comments to the City Commission as is
63 practicable; and

64 WHEREAS, a moratorium is otherwise in the best interests of the City, its
65 residents and citizens, and is otherwise in the best interests of the public's health
66 safety, and welfare.

67 NOW, THEREFORE, be it Ordained by the City Commission of the City of
68 Anna Maria, the following:

69 SECTION ONE. FINDINGS OF FACT.

70 The above Whereas clauses are deemed findings of fact and adopted herein.

71 SECTION TWO. ENACTMENT OF A MORATORIUM.

72 A. The City of Anna Maria hereby establishes a moratorium on the
73 acceptance, processing, and issuance of applications for building permits
74 for residential structures that contain or will result in the creation of four
75 (4) or more rooms that will be or can be used for bedrooms or sleeping
76 areas. The moratorium is effective towards both construction of new
77 residential structures and remodeling or expansion of existing residential
78 structures. This moratorium affects all applications pending within the
79 City as of close of business on September 22, 2014. All building permits
80 which had been issued by the City as of close of business on September
81 22, 2014, are effective and unaffected by the moratorium.

82 B. For purposes of this moratorium, the phrase "rooms that will be or can be
83 used for bedrooms or sleeping areas" includes rooms designated on
84 building plans as bedrooms or sleeping areas or which can be converted
85 to bedrooms or sleeping areas by simple means such as replacing

86 furniture. Rooms which have a designated purpose and which cannot be
87 converted to bedrooms or sleeping areas without an additional building
88 permit, such as kitchens and bathrooms, are not counted as bedrooms or
89 sleeping areas.

90 C. Building permit applications for residential structures containing or
91 resulting in three (3) or fewer bedrooms or sleeping areas are unaffected
92 by this moratorium and will be processed by the City in the normal
93 course of business.

94 D. The number of bedrooms and sleeping areas will be counted on a lot or
95 parcel basis regardless of whether the bedrooms and sleeping areas are
96 located within the same structure.

97 SECTION THREE. EXCEPTIONS.

98 The City hereby releases from the moratorium any property which would
99 otherwise be subject to the moratorium if the record owner of the property and
100 existing lien holders voluntarily enter into a restrictive covenant with the City. The
101 restrictive covenant will state that the property is intended to be used by the record
102 owner for single family purposes and not to be used for a rental property except for
103 periods of thirty continuous days or more. The City will be the enforcing entity and
104 the covenant will authorize the City to seek injunctive relief for any violations. A
105 specimen restrictive covenant document is attached hereto and incorporated herein
106 as Exhibit A. The mayor is authorized to execute a restrictive covenant on behalf
107 of the City if the mayor has received advice from the city attorney that such
108 restrictive covenant is in substantial compliance with Exhibit A.

109 SECTION FOUR. DURATION

110 This moratorium shall remain in effect until December 18, 2015.

111 SECTION FIVE. REPEAL OF ORDINANCES IN CONFLICT.

112 All ordinances in direct conflict with this ordinance are hereby repealed to
113 the extent of such conflict.

114 SECTION SIX. SEVERABILITY.

115 Should any portion of this Ordinance be found by a court of competent
116 jurisdiction to be illegal or unconstitutional, then such portion shall be severed and
117 the remaining portions of the Ordinance shall be unaffected thereby.

118 SECTION SEVEN. EFFECTIVE DATE. This effective date of this
119 Ordinance relates back to September 22, 2014, the day the City Commission first
120 took official action to adopt this moratorium in accordance with *Smith v. City of*
121 *Clearwater*, 383 So.2d 681(Fla. 2d DCA 1980).

122 PASSED AND ADOPTED, by the City Commission of the City of Anna
123 Maria, Florida, in regular session assembled, this 18 day of December,
124 2014.

125

126

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

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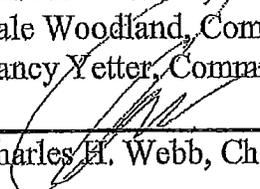
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Charles H. Webb, Chairman

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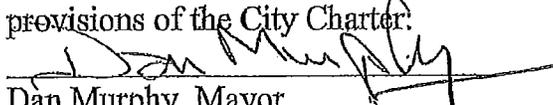
I hereby Approve Veto
this Ordinance in accordance with the
provisions of the City Charter:

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Dan Murphy, Mayor

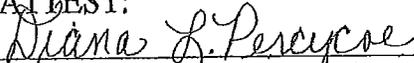
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01.29.15, ~~2014~~

140

141 ATTEST:

142


Diane Percycoc, City Clerk

143

144

January 29, 2015

145

146

Attachment: Exhibit A, a specimen

147

restrictive covenant.

This document prepared by:
James D. Dye, Esq.
Dye, Deitrich, Petruff & St. Paul, PL
1111 3rd Ave. West, Ste. 300
Bradenton, FL 34205

RESTRICTIVE COVENANT

This Declaration of Restrictive Covenant is made by and between the City of Anna Maria, a Florida municipal corporation ("City") and John Q. and Jane Q. Public, the owner(s) of the following described real property located within the corporate limits of the City ("Owner"):

<INSERT LEGAL DESCRIPTION FROM DEED>

WITNESSETH

City has enacted Ordinance 14-785 establishing a moratorium on acceptance, review, and issuance of building permits for residential structures with four or more bedrooms or sleeping areas.

Owner desires to construct a residential structure otherwise affected by Ordinance 14-785.

City has enabled a program authorizing issuance of building permits during the pendency of the moratorium to those persons who are voluntarily willing to limit the use of their property.

Owner has indicated agreement with such a condition and Owner and City desire to enter into the restrictive covenant.

AGREEMENT

City and Owner, in exchange for the mutual promises contained herein, the sum of Ten and no/100 dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

- A. Owner, on behalf of itself, its heirs, successors, and assigns, covenants and agrees with City that the property described above shall not be used rented, leased, or otherwise occupied for a consideration by persons other than Owner and Owner's family, for periods of less than thirty (30) sequential calendar days.
- B. City, in consideration of Owner's covenant, agrees that the voluntary execution of this Covenant by Owner exempts Owner's property from the effects of Ordinance 14-785, and Owner's property is eligible for receipt of a building permit despite the restrictions contained in Ordinance 14-785. Should Owner violate the terms of this Covenant by renting, leasing, or offering for rent or lease for periods of less than thirty sequential calendar days, the parties agree that the City may seek a court order

Ordinance 14-785

Exhibit A

State of _____ County of _____

The foregoing instrument was acknowledge before me this ____ day of _____, 20____, by _____, as President of _____, a _____, on behalf of the corporation, and who (____) is personally known to me or (____) who has produced _____ as identification.

Notary Public

Print Name of Notary

My commission expires: _____

MORTGAGEE'S JOINDER AND CONSENT TO RESTRICTIVE COVENANT

Mortgagee, _____, a _____, whose address is _____, the owner and holder of that certain mottgage recorded in OR Book _____, page _____, Public Records of Manatee County, hereby joins in and consents to this Restrictive Covenant.

IN WITNESS WHEREOF, Mortgagee has caused this instrument to executed in its name by the below authorized officer, this ____ day of _____, 20____.

_____, a _____

By: _____

Print name: _____

Its (president, vice president, etc.)

Ordinance 14-785

Exhibit A

Print Name of Notary

My commission expires: _____

Ordinance 14-785

Exhibit A



City of Anna Maria

December 23, 2014

To: Interested parties

Re: **Restrictive covenant exemption from Moratorium ordinance 14-785**

The City has prepared the restrictive covenant template for execution and recording. In order to execute the document the following information will be required from the applicant/property owner.

A copy of the deed for the property showing how the property is held and giving the name of the Person(s) or Entity holding ownership of the property and the recording information; Jurisdiction and Book and Page where recorded.

The Mortgagee's information; name, address and the recording information; Jurisdiction and Book and Page where recorded.

Once the Covenant is prepared, the owner is responsible for obtaining the proper signatures from the owners and from the mortgagee. When the signed document is returned to the City, City representative will sign and notarize the document and the covenant will be recorded into the Public Records by the Manatee County, Florida, Clerk of Court by the City Attorney. Fees for recording will be paid by the applicant/property owner.

As always, at your service,

Bob Welch, CBO CFM
Building Official
City of Anna Maria