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Additional  
Info.

## Memorandum

No. 15-005

City Attorney's Office

To: Honorable Mayor and Commissioners

From: Cynthia A. Everett, City Attorney *CVE*

Date: January 21, 2015

Re: Supplemental Memorandum on Vacation Rentals

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The following memorandum supplements material previously provided addressing the regulation of the short term residential use ("STRU"), which we consider to be the short term, e.g. 30 days, use of a residential property for non-residential purposes. It summarizes the state preemption of some local regulation of vacation rentals and provides suggested methods of regulating the use within the parameters of state law.

It is important to distinguish between the general classification of STRU and vacation rentals, which as defined by state statute is a type of STRU. Examples of STRUs are rental of residential property for commercial parties, events, assemblies or gatherings. The use of a property is considered a vacation rental if:

1. It uses one of the following types of residential dwellings:

- Condo unit(s)
- Coop unit(s)
- Single-family dwelling unit(s)
- Two-family dwelling unit(s)
- Three-family dwelling unit(s)
- Four-family dwelling unit(s)

or,

2. And is also a transient public lodging establishment, which means it is:

- Rented to guests for more than three times a calendar year for less than 30 days or one calendar month
- Advertised or held out as a place regularly rented to guests

If the use of residential property meets these criteria then the local government is preempted by Section 509.032(7), Florida Statute from: one, prohibiting the vacation rental, two, regulating the duration of rental of vacation rentals, and three, regulating the frequency of rental of vacation rentals.

The following are recommended steps that can be used by the City to address STRU as a whole, as well as vacation rentals as a subset.

- A. Enforce building code occupancy classifications and provisions.
- B. Enforce current quality of live code provisions such as:
  - Minimum housing standards found in Chapter 9, Article VI of the Code of Ordinances. Specifically Section 9-277 provides that each dwelling and each dwelling unit shall have a minimum gross floor area of not less than one hundred fifty (150) square feet for the first occupant and not less than one hundred (100) square feet for each additional occupant and that every room in a dwelling, dwelling unit, hotel or rooming house occupied for sleeping purposes shall have a gross floor area of not less than seventy (70) square feet and, when occupied by more than one (1) occupant it shall have a gross floor area of not less than fifty (50) square feet for each occupant with a minimum width of eight (8) feet.
  - Section 13-5. Capacity of assembly rooms in the case of rentals for wedding, parties and other events
  - Chapter 17, Noise Control
  - Section 18-54, Public nuisance
  - Chapter 26, Traffic - addressing where vehicles are parked
  - Section 47.34.1.A.1 prohibits the use for property for any purpose other than that permitted in the district in which the building or land is located. The commercial short term rental of property, with the exclusion of vacation rentals as preempted by state statute, is not permitted within the residential districts of the City.
- C. Strengthen the existing code provisions to address concerns regarding activities that the current code does not address adequately. This requires a study and recommendations from City staff.
- D. Amend code to provide for a registration, licensure or permitting process for vacation rentals. See attached examples from Destin, Fernandina Beach and Marathon, Florida (see Exhibits).
- E. Amend Unified Land Development Regulations
  - to define short term rentals as a use. Clarify that it is a non-residential use
  - to define vacation rentals and provide regulations consistent with state law
  - Create a definition to allow the accessory use for crew quarters and student dormitories in specific areas of the City.

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Please do not hesitate to contact me if you have any further questions.

CAE/dms

Exhibits

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**ARTICLE VI. - REGISTRATION OF SHORT-TERM RENTALS****Sec. 13-103. - Purpose.**

The city council of the City of Destin recognizes that the unregulated rental of single-family detached dwelling units by seasonal residents uniquely impacts certain neighborhoods within the City of Destin. Therefore, it is necessary and in the interest of the public health, safety, and welfare to monitor and provide reasonable means for citizens of the City of Destin to mitigate impacts created by such rental of single-family detached dwelling units within the City of Destin as set forth by this article.

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-104. - Definitions.**

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

*Garbage* shall mean every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers); and all other putrescible or easily decomposed animal or vegetable waste matter which is likely to attract flies or rodents.

*Owner* shall mean the person in whom is vested the ownership, dominion, or title of property.

*Responsible party* shall mean the owner or the person designated by the owner of the property to be called upon to answer for the maintenance of the property and the conduct and acts of seasonal residents of single-family detached dwelling units.

*Seasonal resident* shall mean guests, tourists, lessees, vacationers, or others who lease or rent a single-family detached dwelling unit for valuable consideration for a period of time between one (1) day to no more than six (6) months.

*Short term rental* shall mean any occupancy of a single-family detached dwelling unit for a period of time between one (1) day to no more than six (6) months.

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-105. - Registration required.**

It shall be unlawful for any person to allow another person to occupy any single-family detached dwelling unit as a seasonal resident within the City of Destin, or offer such rental services within the City of Destin, unless the person has been registered with the City of Destin in accordance with the provisions of this article.

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-106. - Formal application required.**

Every person required to procure a registration under the provisions of this article shall submit a formal application for such registration to the city manager or his designee.

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-107. - Application for registration.**

Applications for registration shall set forth and/or include at a minimum:

- (1) Address, lot, block and subdivision name of single-family detached dwelling unit offered for rental;
- (2) Name, address, and phone number of owner of said single-family detached dwelling unit;
- (3) Name, address, and emergency contact phone number of responsible party for said single-family detached dwelling unit, which shall be a twenty-four-hour, seven (7) days a week contact number;
- (4) That the phone number for the responsible party will be answered twenty-four (24) hours a day, seven (7) days a week by a party with authority to address or coordinate problems associated with the single-family detached dwelling unit;
- (5) Acknowledgements by owner of the following:
  - a. That all vehicles must be parked in the driveway of the single-family detached dwelling unit and clear of all grassy areas and sidewalk sections for pedestrian traffic pursuant to City of Destin Code of Ordinances, Section 19, Traffic and Motor Vehicles;
  - b. That it shall be unlawful to allow or make any noise or sound which exceed the limits set forth in Chapter 14, Article 2;
  - c. That a sign will be posted and maintained on the single-family detached dwelling unit in accordance with section 13-116, of this article;
  - d. That no garbage container shall be located at the curb for pickup before 12:00 p.m. of the day prior to pickup, and garbage container shall be removed before midnight of the day of pickup;
  - e. That whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance of a single-family detached dwelling unit, or, having been authorized, licensed, or invited is warned by the owner or lessee, to depart the single-family detached dwelling unit and refuses to do so, commits the offense of trespass in a structure or conveyance;
  - f. That other property are not jointly shared commodities and should not be considered available for public use; and
- (6) Proof of owner's current ownership of the single-family detached dwelling unit.

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-108. - Fees for registration.**

The City of Destin is authorized and shall charge reasonable fees for registration to compensate

for administrative expenses. The fees for registration shall be provided for, from time to time, by resolution adopted by the city council of the City of Destin.

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-109. - Issuance or refusal of registration.**

The city manager or his designee shall issue a registration to the applicant upon proof of the following:

- (1) The owner and/or responsible party completes the City of Destin registration application form;
- (2) The registration fee has been paid to the City of Destin; and
- (3) Incomplete registration applications are unacceptable and requested registration shall not issue.

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-110. - Registration not transferable.**

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

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-111. - Expiration of registration.**

All registrations issued under the provisions of this article shall be valid for no more than one (1) year, and all registrations shall expire on March 1 of each year. Registrations that are not renewed by March 1 of each year may be renewed up to the last business day in April of that year without paying a late renewal fee. Owners who do not renew their registrations before the last business day in April shall pay the appropriate late renewal fee as established, from time to time, by the city council of the City of Destin.

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-112. - Responsible party required.**

Whenever any property is required to be registered under this article, the owner shall appoint a person to serve as the local responsible party for service of notices as are specified herein, and notices given to the responsible party shall be sufficient to satisfy any requirement of notice to the owner. The owner shall notify the city manager or his designee in writing of the appointment within five days of being required to make such appointment, and shall thereafter notify the city manager or his designee of any change of responsible party within fifteen (15) days of such change. Further, it is hereby made the affirmative duty of the responsible party to:

- (1) Inform all seasonal residents prior to occupancy of the single-family detached dwelling unit of applicable City of Destin ordinances concerning noise, vehicle parking, garbage, and common area usage;
- (2) Maintain all properties under their control in compliance with the occupancy limits, as specified in the City of Destin Code of Ordinances;

- (3) See that the provisions of this article are complied with and promptly address any violations of this article or any violations of law, which may come to the attention of the responsible party;
- (4) Be available with authority to address or coordinate problems with the rental of the single-family detached dwelling unit twenty-four (24) hours a day, seven (7) days a week;
- (5) Be situated close enough to the single-family detached dwelling unit as to be able to, and shall, service emergency calls within one (1) hour of notification;
- (6) Keep available a register of all guests, which shall be open to inspection by officers of the City of Destin at all times; and
- (7) Maintain the entire property of the single-family detached dwelling unit free of garbage and litter. Provided however, that this section shall not prohibit the storage of garbage and litter in authorized private receptacles for collection.

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-113. - False information.**

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

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-114. - Revocation.**

Any registration issued pursuant to this article may be denied, revoked, or suspended by the city for the violation by the owner of this article, any City of Destin Ordinance, or state law. Such denial, revocation or suspension is in addition to any penalty provided herein.

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-115. - Territory embraced.**

The provisions of this article shall apply within the City of Destin.

(Ord. No. 151.23, § 3, 6-3-02)

**Sec. 13-116. - Posting of sign.**

Prior to the owner of the single-family detached dwelling unit allowing another person to occupy the single-family detached dwelling unit as a seasonal resident, owner shall post a sign on the property meeting the following requirements:

- (1) The sign must be prominently placed on the property of the single family detached dwelling unit so that the required content of the sign shall be legible as viewed from the public right-of-way;
- (2) Such sign shall be not larger than eighteen (18) inches by twelve (12) inches and not smaller than sixteen (16) inches by ten (10) inches in size;
- (3) The sign must clearly indicate the name, and twenty-four (24) hours a day, seven (7) days a week emergency contact phone number of the responsible party for said single-family detached dwelling unit. If the responsible party phone number and the rental contact phone

number are different, the sign shall clearly indicate both phone numbers;

- (4) The sign must be continuously on the property of the single-family detached dwelling unit during any period an local business tax or registration has not expired; and
- (5) The sign must clearly indicate the expiration date of both the local business tax and registration, if applicable.

*(Ord. No. 151.23, § 3, 6-3-02; Ord. No. 02-09-CC, § 3, 11-4-02; Ord. No. 06-07-CC, § 3, 7-10-06; Ord. No. 06-23-CN, § 4, 12-18-06)*

**Sec. 13-117. - Preemption of homeowner's association.**

All regulations regarding the posting of a sign on the property of the single-family detached dwelling unit shall preempt any homeowner's association restrictions on the posting of signs.

*(Ord. No. 151.23, § 3, 6-3-02)*

**Sec. 13-118. - Complaints.**

Whenever a violation of this article occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the city manager or his designee. The city manager or his designee shall record properly such complaint, investigate, and take action thereon in accordance with sections 14-71 through 14-85, City of Destin Code of Ordinances.

*(Ord. No. 151.23, § 3, 6-3-02)*

**Sec. 13-119. - Enforcement.**

The city manager or his designee shall, in connection with their duties imposed by law, diligently enforce the provisions of this article.

*(Ord. No. 151.23, § 3, 6-3-02)*



**ARTICLE V. - RESORT RENTAL DWELLING PERMITS****Sec. 26-101. - Permit required.**

- (a) It shall be unlawful for the owner of any dwelling unit in the city to permit the occupancy of any dwelling unit for resort rental dwelling purposes, unless such occupancy has been authorized by the issuance of a resort rental dwelling permit (RRDP) as provided herein. "resort rental dwelling" or "resort rental residential" shall be as defined in sections 1.07.00 and 4.02.05 of the city's land development code and which are limited to occupancy periods per rental of less than 30 days.
- (b) A resort rental dwelling permit shall be issued only when all of the following conditions have been met:
  - (1) The owner or his/her agent makes application for a resort rental dwelling permit or a renewal permit on a completed form prescribed by the city accompanied by a fee in an amount to be set by ordinance; and
  - (2) The resort rental dwelling unit is in compliance with the Land Development Code, including but not limited to regulations restricting outdoor lighting during sea turtle nesting season and has been inspected by the city, a contracted residential home inspector, or the Florida Department of Business and Professional Regulation (DBPR) and determined to be in compliance with and licensed in accordance with all applicable provisions and referenced documents of F.S. 509, Lodging and Food Service Establishments; as well as the uniform fire safety standards of the Florida Fire Prevention Code, NFPA 1 and 101, editions adopted and incorporated in the F.A.C., Rule 69A-3.012.
    - a. Inspections shall be conducted at least once annually by a city official for a fee to be determined by ordinance, by DBPR or by a professional residential home inspector licensed by the State of Florida. All inspections shall be conducted using a city checklist of inspected areas of dwelling unit.
- (c) The procedure for issuance of a resort rental dwelling permit is as follows:
  - (1) The owner of any dwelling unit or his agent shall apply to the city for a RRDP or annual renewal and shall provide such information as required by the city to render a decision. Such application shall be submitted at least 30 calendar days prior to the proposed occupancy date. It shall be unlawful for any person knowingly to make a false statement in an application for a RRDP.
- (d) A resort rental dwelling permit shall remain valid for a period of one year from the date of issuance.
- (e) The RRDP shall state:
  - (1) The date of issuance;
  - (2) The street address and parcel identification number of the dwelling unit;
  - (3) The name, address and signatures of the owner, authorized agents, and authorized property managers;
  - (4) The name and telephone number of a contact person who may be reached 24 hours per day;
  - (5) The property has been licensed by the DBPR certifying compliance with the standards for resort rental dwellings (transient public lodging establishments) as set forth in F.S. ch. 509,

and subsection (b)(2), above;

- (6) The total gross floor area of the dwelling unit, as determined by the county property appraiser's office or a certified survey of the dwelling unit, shall be used to calculate the maximum occupancy rating, which is calculated at 150 square feet gross floor area per person;
  - (7) A valid and current federal employer tax identification number (FEIN) if applicable, and a Department of Revenue taxpayer ID number for the owner(s) of the property;
  - (8) A valid and current Florida Department of Revenue Sales Tax Identification Number;
  - (9) A valid and current DBPR license number under F.S. ch. 509; and
  - (10) The address and 24-hour contact number for the Fernandina Beach Police Department.
- (f) The following regulations shall pertain and apply to resort rental dwelling use of or within a residential dwelling:
- (1) A contact person must be available 24 hours per day, seven days per week, for the purpose of responding promptly to complaints regarding the conduct of the guests of the resort rental dwelling unit. The name and phone number of the contact person must be stated on the RRDP and shall be provided to the city police department by the city. Said contact person must be able to respond in person to a call regarding a complaint within 30 minutes of said call, and said contact person shall be responsible to take any action necessary to address the violation of law or city ordinance;
  - (2) The owner or manager shall maintain a guest registration, which shall include the name, contact information and address of each unit's guest;
  - (3) Parking: The owner shall provide one off-street parking space for every four guests accommodated for sleeping in the unit. Additional parking requirements for new resort rental dwelling permits are set forth in the city's land development code, section 4.02.05. Notwithstanding the minimum parking requirements stated above, existing developed dwelling units as of the effective date of this ordinance shall be deemed to comply with this section if they met the city's parking requirements for the type of structure and zoning district at the time of issuance of the certificate of occupancy;
  - (4) The owner or his agent or manager shall require of each responsible guest a written agreement between a residential dwelling owner and the responsible guest and it shall contain the responsible guest's agreement to abide by the city's ordinances regarding the collection and disposal of solid waste as set forth in chapter 66, article II, sections 66-36 through 66-46; litter on private property as set forth in chapter 42, section 42-92; noise as set forth in chapter 42, sections 42-141 et seq.; nuisances as set forth in chapter 42, sections 42-41 and 42-42; beach littering as set forth in section 90-41; alcohol in open containers as set forth in chapter 10 of the City Code; restrictions on outdoor lighting during sea turtle nesting season as set for in the City Code and Land Development Code; and with F.S. § 562.111 which prohibits possession of alcoholic beverages by person(s) under the age of 21, as well as all restrictions, conditions and limits of any permit issued under this section. Copies of the agreement must be produced for inspection by the owner, manager or responsible guest at the request of a police officer or other city official in the lawful performance of his or her

duties;

- (5) Each resort rental dwelling unit owner shall participate in the city's "roll-out/roll-back" service as provided in section 66-44(a)(2) of the Code of Ordinances, and condominiums and other multi-family units are exempt from this requirement if they use a common-area trash receptacle such as a dumpster;
- (6) It shall be a violation of these regulations to enter into a long-term lease with the intent to subvert the regulatory goals of this section. It shall also be a violation of these regulations for a property owner to lease space to "roommates" for a period of less than 30 consecutive days, when not licensed as provided hereunder. For the purposes of enforcement, a rebuttable presumption shall exist that roommates use a common entrance to a dwelling;
- (7) It shall be unlawful for any owner, agent, manager, tenant, guest, broker, real estate agent or other representative of the owner(s) to hold out or advertise a residential dwelling unit as a resort accommodation, resort rental dwelling or vacation rental if the property is not permitted, as provided herein. Any person or business who is found in violation of this regulation shall be subject to business tax receipt suspension and/or revocation;
- (8) Every resort rental dwelling shall display at all times a current RRDP in a conspicuous place near the main entrance inside the dwelling unit;
- (9) Every advertisement or listing for a resort rental dwelling shall include the current, valid city-issued RRDP #, including but not limited to advertisements or listings on the internet, newspaper, magazines, vacation publications and manager listings. It shall be unlawful to advertise or list a property for renting as a resort rental dwelling or vacation rental without a valid city-issued RRDP; and
- (10) All dwelling unit owners with a valid RRDP shall file same with their condominium or homeowners' association within ten days of obtaining or renewing the RRDP. The city may inspect all RRDP's filed with any condominium or homeowners' association.

(g) Fees; set by ordinance.

- (1) An initial application fee in an amount to be set by ordinance by the city commission shall accompany the application for a resort rental dwelling permit (RRDP) and renewal as outlined in subsection (b)(1) of this section.
- (2) A person or entity that holds a resort rental dwelling permit (RRDP) shall obtain the annual business tax receipt, as provided for in section 74-80, services, division 1 of this Code of Ordinances.
- (3) Any late filing fees shall be the same as provided for in the business tax receipt section of this Code, or, at the discretion of the city commission, may be established by ordinance.

(h) Enforcement; penalties.

- (1) A violation of this section includes any violation of RRDP requirements which are subject to the fines and penalties listed in subsection (h)(2) below, and owners and managers are jointly and severally liable for RRDP violations. Owners, guests and managers are also jointly and severally liable for guest violations of this City Code and Land Development Code regulations, including but not limited to noise violations, parking violations, outdoor lighting violations during turtle nesting season, nuisance and garbage violations which are subject to citations

and fines in accordance with Florida Statutes, section 1-12 and chapter 42 of this City Code. "Jointly and severally liable" is defined as liability of more than one person for which each person is liable to pay the entire fine for violation of an ordinance.

- (2) A first violation of the RRDP requirements (not having a valid permit) of this section within any 12-month period shall be punishable by a citation and fine of \$1,000.00. Appeals of citations for violation of this section shall be made to the special magistrate as provided in chapter 2 of this City Code. If more than one violation of this section (permitting requirements) or any other City Code provision including but not limited to noise, outdoor lighting during turtle nesting season, nuisance or garbage violations occur in any 12-month period, the owner of the resort rental dwelling property shall be notified in writing of the violation, and the city shall proceed to prosecute the violation through the code enforcement board process as specified in chapter 2 of this City Code. If the code enforcement board finds a violation, the owner may be fined up to \$250.00 per day and lien(s) may be placed on the owner's property.
- (3) In addition, any license or RRD permit granted hereunder may be revoked for cause. Any person may seek injunctive relief in a court of competent jurisdiction to prevent or enjoin a violation of this section.
- (i) Upon the consummation of the sale or transfer of title of any dwelling unit for which an RRDP has been issued, the purchaser or transferee, or his/her authorized agent, shall apply for and obtain from the city a new RRDP in accordance with this section. If the seller/transferor had a valid annual RRDP at the time that the dwelling unit was sold or transferred, the purchaser/transferee shall apply for a new annual permit but not be required to pay an annual permit fee until such time as the RRDP must be renewed the next year. Nothing in this section shall affect the validity of the title between the seller and the buyer.
- (j) Temporary RRD (resort residential or resort rental dwelling) permits may be issued by the city after inspection, if it has been determined that an existing violation poses no serious or immediate threat to the health or safety of an occupant or guest and when all of the following conditions are determined to exist:
  - (1) The owner has been delayed in correcting violations necessary to permit the issuance of an RRD permit but has a valid contract in writing with a qualified person or firm for the performance of work and the furnishing of the materials to correct such violation(s) and the contract specifies the dates for commencement and completion of the work; or the owner provides an affidavit stipulating that the work is to be accomplished by the owner, specifying the date by which the work is to be completed, and furnishes copies of all applicable permits required to enable the owner to make the necessary corrections; and
  - (2) The city finds that the delay in the correction of the violation(s) and the plans for correction are reasonable and the work can be undertaken and completed while the premises are occupied.
- (k) The temporary occupancy permit shall expire at the time set forth therein. On or before the expiration of the temporary occupancy permit, a re-inspection shall be made.
- (l) Temporary renewal RRDP's may be issued by the city if the owner has not completed the required annual inspection as of the annual renewal date; however, such temporary renewal RRDP shall

not be valid for more than 60 days after issuance.

- (m) The provisions of this section shall not affect any right or obligation imposed by law or by agreement between any owner and occupant, but no agreement shall relieve any person of a duty or obligation imposed by this section.
- (n) This section shall not apply to motels, hotels and bed and breakfasts.
- (o) An RRDP shall not be required for occupancy of any dwelling unit by a tenant or guest in possession of such dwelling unit on the effective date of this section. Any dwelling unit vacant or vacated after the effective date of this section shall not be occupied for a rental period of four weeks or less than 30 consecutive days pursuant to an oral or written agreement until an RRDP has been issued by the city.
- (p) The owner or an adversely affected person aggrieved by any decision of the city under this section other than the revocation or termination of a RRDP or receipt of a citation may appeal said decision by filing a notice of appeal with the community development services department within 30 days of the decision, said notice setting forth that the decision is illegal in whole or in part, specifying the grounds of the illegality; the code enforcement board will hear the appeal and render its decision within 30 days of receipt of the same.
- (q) Nothing contained in these regulations shall prohibit the city from enforcing these regulations by any other means including, but not limited to issuance of a written warning, a notice of violation, a civil citation, a summons, a notice to appear in the county court, an arrest, or a civil action for injunctive relief. The enforcement procedures outlined herein are cumulative to all others and shall not be deemed prerequisites to filing suit for the enforcement of these regulations or any section of this City Code.

*(Ord. No. 2000-16, § 1, 10-3-00; Ord. No. 2006-46, § 1, 12-5-06; Ord. No. 2011-23, § 1, 11-15-11)*

**Sec. 8-11. - Intent and purpose.**

The intent and purpose of this article is to minimize the potential negative impacts of vacation rental uses through licensure and enforcement; to provide a reasonable period of time for the amortization of existing licensed vacation rental units made noncompliant by the requirements of this article; and of the discontinuation of such uses which are not in compliance with the provisions of this article.

(Ord. No. 2010-14, § 2(8-1), 1-11-2011)

**Sec. 8-12. - Licenses required.****(a) Vacation rental property license.**

- (1) A vacation rental property license is required for any property owner renting a legally existing dwelling unit for not less than seven (7) nights and not more than 28 nights. The renting of any private residence for a period of less than seven (7) nights is prohibited. If a lot has more than one (1) legally existing dwelling unit on the property, a vacation rental property license shall be obtained for each dwelling that is to be used for vacation rentals.
- (2) A vacation rental property license shall be valid for a period of one (1) year and shall be renewed annually.
- (3) The renewal application shall be received by the City 30 days prior to the expiration date of the license.
- (4) The owner of a property seeking a vacation rental property license shall complete a city of marathon vacation rental training session and obtain a certificate of completion ("vacation rental certificate").
- (5) The vacation rental certificate shall be renewed every two (2) years.
- (6) Only one (1) owner of a property seeking a vacation rental property license shall obtain a vacation rental certificate.
- (7) In lieu of obtaining a vacation rental certificate, a property owner seeking a vacation rental property license may contract with a person with a valid vacation rental agent license.

**(b) Vacation rental agent license.**

- (1) Any person authorized to act on behalf of a property owner with a vacation rental property license shall obtain and maintain a vacation rental agent license.
- (2) A vacation rental agent license shall be valid for a period of one (1) year and shall be renewed annually.
- (3) The renewal application shall be received by the City 30 days prior to the expiration date of the license.
- (4) One (1) vacation rental agent license may be used for the management of one (1) or more properties with a vacation rental property license.
- (5) A vacation rental agent shall complete a City of Marathon vacation rental training session and obtain a certificate of completion annually.

**(c) Fees.**

- (1) An application for new vacation rental property licenses and new vacation rental agent

licenses shall be accompanied by a nonrefundable application fee.

- (2) The vacation rental licensee or vacation rental agent shall submit a renewal application and pay an annual license renewal fee on or before 30 days prior to the expiration date of an existing and valid vacation rental property license or vacation rental agent license.
- (3) Any license not renewed when due and payable is delinquent and shall be automatically void. The holder of a void license shall apply to the City in the same manner as a new vacation rental property license or vacation rental agent license and pay the new application fee. Once a license is void, no rental activity may occur on the property, and the property may not be advertised as a vacation rental.
- (4) The City Council shall create and may amend the fee schedule for vacation rental property licenses and vacation rental agent licenses by resolution.

*(Ord. No. 2010-14, § 2(8-2), 1-11-2011)*

#### **Sec. 8-13. - Agency.**

The owner of the vacation rental is responsible for compliance with the provisions of this article, and the failure of a vacation rental agent to comply with this article shall be deemed noncompliance by the owner.

*(Ord. No. 2010-14, § 2(8-3), 1-11-2011)*

#### **Sec. 8-14. - General provisions.**

Any licensee or vacation rental agent shall comply with the following:

- (1) Vacation rental units shall be cleaned thoroughly before each tenancy. The floors of the unit shall be vacuumed and/or mopped before each new rental period.
- (2) All outside storage of trash and debris shall be in covered trash containers. Each vacation rental unit shall be equipped with at least four (4) covered trash containers for such purpose.
- (3) Serve as the local contact person for the vacation rental and shall be available 24 hours per day, seven (7) days per week for the purpose of responding promptly within one (1) hour to complaints regarding the conduct of the occupants of the vacation rental or to the questions and concerns of the registered tenants of the vacation rental unit. The name and phone number of the contact person shall be registered with the City of Marathon and provided to the Sheriff's Department.
- (4) Provide access to any authorized City employees to inspect the vacation rental unit.
- (5) Each licensed vacation rental shall not contain more than one (1) kitchen.
- (6) Maintain a list of registered tenants, the number of occupants which will be present during any occupancy, and the number, make and model of vehicles each tenant will have on site during each occupancy. This information shall be readily available upon request of any City employee or Sheriff's Deputy.
- (7) The owner shall provide off-street parking on property owned or lawfully leased by the owner of the property or the occupants for all vehicles, watercraft and trailers to be used by the tenants during any occupancy. The watercraft may be moored at either an existing on-site docking facility or stored on a trailer in an approved parking space. Vehicles, watercraft, and

trailers may be parked on the right-of-way within the limits of the vacation rental unit property lines if it is the common practice of those on the street where the vacation rental is located, and the placement of the vehicle, watercraft, or trailers would not impede the normal and safe flow of traffic on the street.

- (8) The total length of docked vessels shall not exceed the width of the property at the waterline. Docked vessels may not be rafted together so as to align two (2) or more vessels abeam of one another. No docked vessel may create a hazard to navigation. For the purpose of this article, a hazard to navigation shall mean that the dock and vessel measures in excess of 25 percent of the width of the water body adjacent to the property. No boat docked at a vacation rental property shall be chartered to a person other than registered guests of the vacation rental unit or used for live-aboards, sleeping or overnight accommodations.
- (9) Recreation vehicles shall not be used for sleeping or overnight accommodations at the vacation rental unit.
- (10) The occupancy of an individual dwelling shall conform to the occupancy limits of the Florida Fire Prevention Code and the Florida Building Code. Notwithstanding the foregoing, total occupancy in all cases shall be subject to the following:
  - a. The maximum overnight tenant occupancy load of any vacation rental unit shall not exceed two (2) persons for each bedroom in the vacation rental unit, plus two (2) persons.
  - b. Before the hours of 7:00 a.m. or dawn, whichever is earlier, and after 10:00 p.m., the occupancy load of the vacation rental may not exceed the maximum allowed number of overnight tenants.
  - c. The City may grant additional occupancy limits, upon the application by the property owner, if the City determines that the vacation rental unit is on a lot greater than one-half (½) acre in area, has sufficient parking to accommodate a greater number of tenants than prescribed by this article, greater occupancy limits will not have an adverse impact on traffic, and that the additional occupancy would not cause a threat to fire safety. In no event shall the occupancy limit exceed the occupancy limits of the Florida Fire Prevention Code and the Florida Building Code.
- (11) There shall be a written lease between a vacation rental dwelling owner and the tenant and it shall contain the tenant's agreements to the following:
  - a. Compliance with the regulations contained in this article.
  - b. Acknowledging responsibility for all occupants during the rental term to comply with such restrictions as a condition of the agreement, signed by such tenant prior to occupancy.
  - c. Violations of the posted occupancy and use restrictions may result in immediate termination of the rental agreement, eviction from the vacation rental unit by the vacation rental licensee or vacation rental agent and appropriate fines levied by the City.
- (12) Nothing in this article is intended to exclude the application of any other ordinance of the City of Marathon to the property or to the related parties.
- (13) Vacation rental units shall be registered, licensed and meet all applicable State requirements contained in Fla. Stat. Ch. 212 (Florida Tax and Revenue Act), Fla. Stat. Ch. 509 (Public Lodging Establishments), Chapter 69A-43 F.A.C. (Uniform Fire Safety Standards for Transient



Public Lodging Establishments), Chapter 61C-3.001 F.A.C. (Sanitation and Safety Requirements) and Chapter 69A-60 F.A.C. (The Florida Fire Prevention Code), as may be amended.

- (14) The vacation rental unit shall comply with all State of Florida Department of Health and Florida Department of Environmental Protection standards for wastewater treatment and disposal.
- (15) Complaints to the vacation rental licensee or vacation rental agent concerning violations by occupants of vacation rental units to this article shall be responded to within one (1) hour, on site if necessary. The person who made the complaint shall be contacted by telephone or in person and informed as to the results of the actions taken by the vacation rental licensee or vacation rental agent. A record shall be kept of the complaint and the vacation rental licensee's or vacation rental agent's response and reported to the City within two (2) hours of the notification of the complaint by contacting the City in the manner prescribed by the City.
- (16) No person, owner, tenant, broker, real estate agent, other agent or other representative of the owner may hold out or advertise a residential dwelling for vacation rental if the property has not been issued a vacation rental property license or hold out or advertise a residential dwelling for occupancy or uses not licensed by these regulations. Sufficient evidence to prove vacation rental uses of a dwelling unit shall include: (i) registration or licensing for short-term rental or transient rental use by the State under Fla. Stat. Chs. 212 (Florida Tax and Revenue Act), and 509 (Public Lodging Establishments); (ii) advertising or holding out a dwelling unit for vacation rental use; (iii) reservations, booking arrangements or more than one (1) signed lease, sublease, assignment, or any other occupancy or agreement for compensation, trade, or other legal consideration addressing or overlapping any period of 28 days or less; or (iv) the use of an agent or other third person to make reservations or booking arrangements.

*(Ord. No. 2010-14, § 2(8-4), 1-11-2011)*

#### **Sec. 8-15. - Advertisement of vacation rental.**

The City of Marathon vacation rental property license number and the vacation rental agent license number shall appear on all forms of vacation rental unit advertising. Where advertised on the internet, the PLR number shall appear on the "home page" of the advertisement.

*(Ord. No. 2010-14, § 2(8-5), 1-11-2011)*

#### **Sec. 8-16. - Noise.**

Vacation rental tenants shall not unnecessarily make, continue, or cause to be made or continued, any noise disturbance before 7:00 a.m. or dawn, whichever is earlier, and after 10:00 p.m.

*(Ord. No. 2010-14, § 2(8-6), 1-11-2011)*

#### **Sec. 8-17. - Sign and notification requirements.**

Each vacation rental shall have a clearly visible and legible notice posted within the unit on or adjacent to the front door containing the following information:

- (1) The name of the vacation rental licensee or vacation rental agent and a telephone number at which that party may be reached on a 24-hour basis;

- (2) The maximum number of occupants permitted to stay in the unit;
- (3) The maximum number of vehicles allowed to be parked on the property;
- (4) The number and location of on-site parking spaces and the parking rules prohibiting on-street parking;
- (5) The trash pick-up day and notification that trash and refuse shall not be left out on the right-of-way for pick-up except from 6:00 p.m. of the day prior to trash pick-up to the day designated for trash pick-up;
- (6) Notification that an occupant may be cited, fined and immediately evicted by the vacation rental licensee or vacation rental manager, pursuant to State law for creating a disturbance or for violating any provisions of this article;
- (7) The Vacation Rental License.

(Ord. No. 2010-14, § 2(8-7), 1-11-2011)

#### **Sec. 8-18. - Transferability.**

- (a) A vacation rental property license may not be assigned or transferred, pledged, sold, or otherwise transferred by the license holder to any other person, business, or entity. The license belongs solely to the vacation rental licensee and shall remain in the owner's name until such time that the owner ceases to use the property for a short-term rental purpose or sells the property.
- (b) In the event that a property with a vacation rental property license is sold, the new owner shall submit an application if the new owner wishes to continue to use the property as a vacation rental. An application, accompanied by a license transfer fee as established by resolution of the City Council, shall be made to the City within 30 days of the transfer of the property and 30 days before the first vacation rental of the property.
- (c) Notwithstanding the foregoing, if an owner or applicant can show a written lease or rental agreement where the owner is obligated to rent the property, which has a valid vacation rental property license, during the period of transfer and can show sufficient proof that the lease or rental agreement was in existence at the time of sale of the property, then this article shall be waived for the period of time the lease or rental agreement is in effect.

(Ord. No. 2010-14, § 2(8-8), 1-11-2011)

#### **Sec. 8-19. - Violations.**

- (a) Any violation of this article of the regulations by any person, owner, tenant, agent, broker real estate agent or other representative of an owner shall be punishable by a fine of up to \$500.00 per day, per unit, per violation.
- (b) The Code Compliance Department may also enforce the terms of this article by bringing a case before the Code Compliance Board pursuant to Chapter 10, City Code; Fla. Stat. § 162.21, (as may be amended).
- (c) Each day the violation continues or occurs shall constitute a separate offense. In addition to any other remedy available to the City, the City or any adversely affected party may enforce these regulations or the terms of this article in law or in equity. The City or any party adversely affected by any violation may seek injunctive relief from a court of competent jurisdiction to prevent a violation of this article.

- (d) Alleged violations of these regulations or the Marathon Code may be reported to the Code Compliance Department, the Monroe County Sheriff's Office, or other such provider of municipal law enforcement services, who shall issue an appropriate warning, notice of violation, citation, summons or notice to appear for a violation of these regulations pursuant to Section 1-7 of the Marathon Code. Any person who reports an alleged violation of these regulations shall identify the location of the violation, the vacation rental licensee or vacation rental agent, if known, the date and time of the incident, and the name and address and telephone number of the complainant.

(Ord. No. 2010-14, § 2(8-9), 1-11-2011)

**Sec. 8-20. - Revocation or suspension of vacation rental license.**

- (a) A property with three (3) violations of this article in any 12-month period shall have its vacation rental property license suspended for a period of 12 months. An owner may petition the City Council for reinstatement. The City Council shall consider the violations leading to the suspension before reinstatement.
- (b) A property which has had its Vacation Rental Property License suspended in the previous five (5) years and receives three (3) violations in any twelve-month period shall have its Vacation Rental Property License revoked.
- (c) Any Vacation Rental Agent who receives three (3) violations within any twelve-month period shall pay double the annual registration fee in the ensuing registration year. In the event of six (6) violations under this article within any 12-month period, the vacation rental agent shall have their vacation rental agent license suspended for no less than 12 months.
- (d) Any rental activity or advertisement of a property with a suspended or revoked vacation rental property license by a vacation rental licensee or vacation rental agent shall result in the immediate revocation of the property's vacation rental property license and/or the vacation rental agent's license for a period of no less than 60 months.
- (e) Failure to pay any fine imposed on a vacation rental licensee or vacation rental agent as a result of a citation or determination of violation by the Code Compliance Board shall result in the suspension of the vacation rental property license or vacation rental agent license until such time as the fine is paid.
- (f) Any property owner of a property which has had its vacation rental property license revoked shall not be issued a vacation rental property license in the event that the property owner transfers or otherwise conveys his/her/its interest to another entity in which the property owner has any financial or ownership interest.

(Ord. No. 2010-14, § 2(8-10), 1-11-2011)

**Sec. 8-21. - Appeal.**

A vacation rental licensee or vacation rental agent may appeal a citation issued by the City as provided in Chapter 10 of the City Code.

(Ord. No. 2010-14, § 2(8-11), 1-11-2011)

**Sec. 8-22. - License and fees not exclusive.**

Licenses and fees required by this article shall be in addition to any license, permit or fee required under any other chapter of the Marathon Code. The issuance of any license pursuant to this article

shall not relieve the owner of the obligation to comply with all other provisions of the Marathon Code pertaining to the use and occupancy of the vacation rental or the property on which it is located.

*(Ord. No. 2010-14, § 2(8-12), 1-11-2011)*

**Sec. 8-23. - Transitional provision.**

Owners of vacation rental units with a City of Marathon vacation rental license issued prior to February 13, 2007, shall conform with the provisions of this article within 90 days of the effective date of this article; otherwise the use shall be discontinued.

*(Ord. No. 2010-14, § 2(8-13), 1-11-2011)*

**Sec. 8-24. - Mandatory evacuation.**

All vacation rental units shall be evacuated as required upon the posting of a nonresident evacuation order issued by the City, County or State.

*(Ord. No. 2010-14, § 2(8-14), 1-11-2011)*