

ORDINANCE NO. 2015 - __

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

WHEREAS, prior to 2011 Florida's cities and counties regulated local land use issues and decisions under the Home Rule authority granted them by the Florida Constitution; and

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

WHEREAS, the preemption bill provided for very little oversight from the State for short term vacation rentals, for example, did not provide for staffing for mandatory or randomized inspection of the short-term vacation rental units and applied relaxed

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 **WHEREAS**, multi-unit condominium buildings with short-term vacation rental
46 units are typically constructed to more stringent building code requirements and other

1 fire/life safety measures that single and two family homes often do not have to meet,
2 including sprinkler systems, interconnected fire alarm systems, fire alarm panels,
3 emergency lighting, exit signs, fire extinguishers, and fire wall separation between
4 occupancies; and

5
6 **WHEREAS**, multi-unit condominium short-term vacation rentals are routinely
7 (often annually) inspected for fire/life safety code compliance to include inspections for
8 the fire sprinkler system, interconnected fire alarm systems, fire alarm panels, fire
9 pumps, emergency lighting, exit signs, backflow prevention, elevator operation,
10 elevator keys and communication; and

11
12 **WHEREAS**, many multi-unit condominium short-term vacation rentals have on
13 site property managers and employees or other contracted vendors that oversee the
14 maintenance, upkeep, security and/or operation of the property on a frequent basis; and

15
16 **WHEREAS**, the majority of complaints the County has received to date have
17 been from single and two family neighborhoods and not from multi-unit condominium
18 short-term vacation rentals; and

19
20 **WHEREAS**, multi-unit condominium short-term vacation rentals are not regulated
21 locally at this time, but may be in the future if deemed necessary by the Flagler County
22 Board of County Commissioners under the County's home rule authority granted within
23 the Florida Constitution; and

24
25 **WHEREAS**, the areas west of U.S. Highway 1 of the unincorporated County are
26 primarily rural in nature and are typically separated by large setbacks with development
27 typically on larger acreage lots; and

28
29 **WHEREAS**, in the areas west of U.S. Highway 1, very few short-term vacation
30 rental units are known to exist with the exception of hunting camps which are in remote,
31 rural locations and often directly supervised or used by the operator on site; and

32
33 **WHEREAS**, the majority of complaints the County has received to date have
34 been from single- and two-family neighborhoods east of U.S. Highway 1; and

35
36 **WHEREAS**, the unincorporated areas located west of U.S. Highway 1 will not
37 be regulated locally for short-term vacation rental units at this time, but may be in the
38 future if deemed necessary by the Flagler County Board of County Commissioners
39 under the County's home rule authority granted by the Florida Constitution; and

40
41 **WHEREAS**, whenever at least one property owner permanently resides at a
42 short-term vacation rental located within the same structure the number of renters is
43 minimized and the owner can directly manage the property when it is under a short term
44 rental; and

1 **WHEREAS**, an onsite owner permanently residing at a short-term vacation rental
2 which also serves as the owner’s principal residence will likely manage any vacation
3 rental more restrictively than any local regulation because the owner has a direct,
4 vested interest in how the property the owner resides in is used and maintained; and
5

6 **WHEREAS**, owner occupied short-term vacation rental units are not the norm in
7 the County and will not be regulated locally for short-term vacation rental units at this
8 time, but may be in the future if deemed necessary by the Flagler County Board of
9 County Commissioners under the County’s home rule authority granted by the Florida
10 Constitution; and
11

12 **WHEREAS**, permanent residents within residential neighborhoods often
13 establish long-term friendships, social norms and a sense of community which often
14 leads to mutual respect among property owners on an ongoing basis; and
15

16 **WHEREAS**, a single-family dwelling home is typically the largest investment a
17 family will make in their lifetime, with the home held sacred in popular culture as the
18 heart and the center of the family unit; and
19

20 **WHEREAS**, permanent residents within established residential neighborhoods
21 deserve the right to tranquility and peaceful enjoyment of their home without over
22 intrusion by an excessive number of transient occupants in the neighborhood; and
23

24 **WHEREAS**, Flagler County promotes tourism, including appreciation and
25 enjoyment of the County’s abundant preserved natural areas, historic sites, rural pristine
26 beaches, and walking and bicycling paths that make Flagler County unique among
27 Florida’s coastal counties; and
28

29 **WHEREAS**, some municipalities in Flagler County, and many local jurisdictions
30 in the State of Florida, and across the nation have standards in place to minimize the
31 negative impacts caused by short-term vacation rentals; and
32

33 **WHEREAS**, prior to the enactment of House Bill 883, short-term vacation rentals
34 in Flagler County seemed to be more compatible and coexisted in a fairly compatible
35 manner within established neighborhoods with relatively few conflicts and complaints to
36 the County; and
37

38 **WHEREAS**, prior to the enactment of House Bill 883, the City of Flagler Beach
39 had adopted regulations providing for the siting and approval of short-term vacation
40 rentals within established neighborhoods, with relatively few conflicts resulting from the
41 regulatory framework that has now been effect for several years; and
42

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

1
2 **WHEREAS**, although family sizes per residence can vary widely from residence
3 to residence, according to the recently completed 2010 U.S. Census, Flagler County's
4 average family size is 2.82 persons; and

5
6 **WHEREAS**, the 2010 U.S. Census data also indicates the average household
7 size in Flagler County of 2.42 persons; and

8
9 **WHEREAS**, the operation of some short-term vacation rentals in established
10 neighborhoods in the County create a huge disparity in short-term vacation rental
11 impacts with up to nine times the average occupancy of an existing single-family
12 residence, making the higher occupancy of the rental homes incompatible with
13 established neighborhoods; and

14
15 **WHEREAS**, utility usage by short-term vacation rentals may exceed the usage
16 levels anticipated at the time of initial permitting as a single-family residence, creating a
17 disparity between the impact and connection fees paid and the system impacts caused
18 by their increased demand; and

19
20 **WHEREAS**, at least one utility provider has provided user information showing
21 that some short-term vacation rentals can utilize over ten times the capacity of a typical
22 single-family residence; and

23
24 **WHEREAS**, at least one utility provider has taken steps to charge additional
25 impact/system capacity fees based on the increased usage from short-term vacation
26 rentals; and

27
28 **WHEREAS**, the State of Florida through its existing regulatory framework
29 provides for licensing, maintenance, and inspection of hotels and motels; however no
30 similar regulatory framework exists for short-term vacation rentals; and

31
32 **WHEREAS**, according to the State of Florida records, vacation rentals have
33 flourished for decades while solely under local control; and

34
35 **WHEREAS**, according to the State of Florida Department of Business and
36 Professional Regulation the number of vacation rental home units has actually
37 decreased from 10,602 units in 2010 to 10,362 units in 2013, since the State
38 preemption into this local community land use decision; and

39
40 **WHEREAS**, current vacation rental industry practice is to set maximum limits
41 upon the number of transient occupants within a short-term vacation rental unit, but
42 lacking provisions for verification and enforcement when overcrowding occurs; and

43
44 **WHEREAS**, current vacation rental industry practice is to charge a flat rental fee
45 for the term of the lease, regardless of the transient occupant count, which incentivizes
46 the common practice for lessees of oversized structures used as short-term vacation

1 rentals to increase the transient occupant count so as to spread out the cost burden for
2 the rental term among as many payers as possible; and
3

4 **WHEREAS**, the County desires to encourage short-term vacation rentals that are
5 safe, fit in with the character of the neighborhood, provide positive impacts for tourism,
6 increase property values, and achieve greater neighborhood compatibility; and
7

8 **WHEREAS**, Flagler County seeks to balance respect for private property rights
9 and incompatibility concerns between the investors/short-term vacation rentals and
10 families/permanent single-family residences in established residential neighborhoods
11 through the use of reasonable development standards; and
12

13 **WHEREAS**, while Flagler County's average family size is 2.82 persons, the
14 County is desirous of providing for as many as ten transient occupants in a single-family
15 residence – almost four times the County's average family size – within a short-term
16 vacation rental subject to a reasonable regulatory framework; and
17

18 **WHEREAS**, these regulations are deemed necessary by the Flagler County
19 Board of County Commissioners to preserve property values and to protect the health,
20 safety, and general welfare of permanent residents, lot/parcel owners, investors and
21 transient occupants and visitors alike; and
22

23 **WHEREAS**, these regulations are being promulgated by the Flagler County
24 Board of County Commissioners to supplement, but not to replace, any existing federal
25 or state law or regulation, or other controls within established residential neighborhoods
26 served by a homeowners' association; and
27

28 **WHEREAS**, through these regulations, Flagler County is seeking to regulate
29 another type of commercial use of a single- and two-family dwelling, similar to the
30 County's provisions for home occupations, which permit limited commercial use of an
31 owner-occupied dwelling subject to initial inspection requirements, ongoing compliance
32 with specific home occupation regulations as provided in the Land Development Code,
33 and issuance and annual renewal of a business tax receipt for the home occupation;
34 and
35

36 **WHEREAS**, these regulations do not regulate duration or frequency of rentals,
37 but are intended to address the frequent change of many transient occupants housed
38 within a single-family dwelling within an established residential neighborhood; and
39

40 **WHEREAS**, the application of minimum life/safety requirements to short-term
41 vacation rentals, along with other minimum standards, ensures that transient occupants
42 are provided the same minimum level of protection as is required by the current statutes
43 and codes for single- and two-family residences utilized as hotels, motels, and
44 dormitories; and
45

1 **WHEREAS**, the County has established a maximum occupancy of 16 persons
2 within any zoning district because an occupancy exceeding 16 persons falls into a
3 commercial-type classification as a hotel or dormitory for purposes of the National Fire
4 Protection Association (NFPA) 101 Life Safety Code; and
5

6 **WHEREAS**, for purposes of compliance with the National Fire Protection
7 Association (NFPA) 101 Life Safety Code, residential occupancies of 16 or fewer
8 persons may be provided within one- and two-family dwellings without consideration as
9 a hotel or dormitory and provision of related life-safety requirements; and
10

11 **WHEREAS**, the minimum residential safety standards, as adopted by the Florida
12 Legislature as the Residential Swimming Pool Safety Act and now in place, include
13 provision of swimming pool, spa, and hot tub barriers or alarms so as to reduce the
14 likelihood of child and elder drowning; and
15

16 **WHEREAS**, sleeping rooms as so designated within short-term vacation rental
17 units shall be recognized in the same manner as bedrooms within single-family
18 residential homes, with the same requirements as are currently provided within local,
19 state, and federal regulations, as applicable; and
20

21 **WHEREAS**, because of the high occupancy and transient nature of occupants
22 within many short-term vacation rentals, fire safety becomes important; and
23

24 **WHEREAS**, where interconnected, hard-wired smoke and carbon monoxide
25 alarm systems are not in place, then at a minimum, these systems will be installed to
26 provide for sufficient warning for evacuation so as to minimize loss of life within an
27 occupied short-term vacation rental unit; and
28

29 **WHEREAS**, where a fire sprinkler system is not in place, then at a minimum, the
30 placement of a multi-purpose dry chemical fire extinguisher on each floor of a short-term
31 vacation rental will provide a basic level of fire protection based on the class of fire and
32 fire loading anticipated to be encountered in an occupied short-term vacation rental unit;
33 and
34

35 **WHEREAS**, in the event of an emergency, the presence of posted building exit
36 routes can reduce the risk to transient occupants who are unfamiliar with the short-term
37 vacation rental unit; and
38

39 **WHEREAS**, site-specific short-term vacation rental standards, like minimum
40 parking standards, solid waste handling and containment, and the establishment of
41 quiet hours, serve to maintain the decorum that exists among owners in established
42 neighborhoods and are better assured by having these same standards conveyed to
43 transient occupants through the duration of their rental; and
44

45 **WHEREAS**, short-term vacation rentals operate as commercial enterprises,
46 subject to additional regulatory requirements beyond those normally required of single-

1 family and two-family residences, including business licensing by the State of Florida
2 Division of Hotels and Restaurants, obtaining a local business tax receipt, and collecting
3 and remitting various sales taxes to state and local government; and
4

5 **WHEREAS**, a vacation rental is a commercial lodging activity with some homes
6 being used exclusively as rentals by investors/owners; and
7

8 **WHEREAS**, the establishment of minimum business practices, such as the
9 provision of both lease-specific and property-specific information to lessees, and the
10 designation of a local Short-Term Vacation Rental Responsible Party, ensures that the
11 private property rights of the short-term vacation rental owner are balanced with the
12 needs of the County to protect visitors and tourists and to preserve the general welfare
13 through its limited regulatory power; and
14

15 **WHEREAS**, the County, through its existing regulatory framework, will issue
16 certificates to short-term vacation rentals conforming to these standards, which will in
17 turn provide a level playing field amongst all providers of short-term vacation rental
18 units; and
19

20 **WHEREAS**, this ordinance additionally establishes an enforcement mechanism
21 for those short-term vacation rentals which do not adhere to the standards on an initial
22 or continuing basis, with the overall goal of the short-term vacation rental program being
23 compliance with the standards and not punitive in its scope; and
24

25 **WHEREAS**, the Flagler County Planning and Development Board held a duly
26 noticed public hearing on October 29, 2014 and recommended approval of this
27 ordinance; and
28

29 **WHEREAS**, the Flagler County Board of County Commissioners held a duly
30 noticed public hearing on November 3, 2014 and approved this ordinance on first
31 reading; and
32

33 **WHEREAS**, the Flagler County staff has held at least 15 different meetings with
34 potentially affected individuals to hear, discuss, and consider their concerns regarding
35 the ordinance; and
36

37 **WHEREAS**, public notice of this action has been provided in accordance with
38 Section 125.66, Florida Statutes and in accordance with the Flagler County Land
39 Development Code.
40

41 **NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY**
42 **COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AS FOLLOWS:**
43

44 **SECTION 1. FINDINGS**

45 A. The above Recitals are incorporated herein as Findings of Fact.
46

1
2 B. The Board of County Commissioners further finds as follows:
3

- 4 1. The proposed amendment will provide for the orderly development of Flagler
5 County and complies with applicable Comprehensive Plan goals, objectives and
6 policies; and
7
- 8 2. The proposed amendment will serve to protect the health and safety of residents
9 or workers in the area and will be complementary to the use of adjacent
10 properties or the general neighborhood.
11

12 **SECTION 2. LAND DEVELOPMENT CODE AMENDMENT**
13

14 A. Appendix C, Land Development Code, Article III Zoning Districts, is hereby amended
15 as follows:
16

- 17 1. Creation of new Section 3.06.14, *Short-term vacation rentals*, to read as follows:
18

19 ****

20 3.06.14. – Short-term vacation rentals.
21

22 A. *Applicability.* This section shall apply to short-term vacation rental as a
23 commercial business, as defined in section 3.08.02, of a single-family
24 dwelling and a two-family dwelling. This section shall not apply to short-
25 term vacation rentals within a multi-family residential building, or a group
26 of multi-family residential buildings, which includes three or more
27 individual dwelling units within such building or group of buildings. This
28 section shall also not apply to unincorporated areas west of U.S. Highway
29 1 and to any facilities that are occupied on a full-time basis by the owner
30 as an on-premises permanent resident.
31

32 B. *Short-term vacation rental minimum requirements.* Short-term vacation
33 rentals shall be permitted in all residential zoning districts provided they
34 are in compliance with this section. No person shall rent or lease all or any
35 portion of a dwelling unit as a short-term vacation rental as defined in
36 section 3.08.02 without initially and then on a continuing basis:
37

- 38 1. Obtaining a short-term vacation rental certificate from Flagler County
39 pursuant to this section; and
40
- 41 2. Obtaining a business tax receipt from Flagler County pursuant to
42 chapter 19 of the Code of Ordinances; and
43
- 44 3. Obtaining a Florida Department of Revenue certificate of registration
45 for purposes of collecting and remitting tourist development taxes,
46 sales surtaxes, and transient rental taxes; and

1
2 4. Obtaining a Florida Department of Business and Professional
3 Regulation license as a transient public lodging establishment; and
4

5 5. Maintaining initial and ongoing compliance with the Short-term
6 Vacation Rental Standards contained herein, plus any other applicable
7 local, state, and federal laws, regulations, and standards to include, but
8 not be limited to, Chapter 509, Florida Statutes, and Rule Chapter 61C,
9 Florida Administrative Code.

10
11 C. Short-term Vacation Rental Standards. The following standards shall
12 govern the use of any short-term vacation rental as a permitted use:
13

14 1. Minimum life/safety requirements:

15
16 a. Swimming pool, spa and hot tub safety – A swimming pool, spa or
17 hot tub shall comply with the current standards of the Residential
18 Swimming Pool Safety Act, Chapter 515, Florida Statutes.

19
20 b. Sleeping rooms – All sleeping rooms shall meet the single- and
21 two-family dwelling minimum requirements of the Florida Building
22 Code.

23
24 c. Smoke and carbon monoxide (CO) detection and notification
25 system – If an interconnected and hard-wired smoke and carbon
26 monoxide (CO) detection and notification system is not in place
27 within the short-term vacation rental unit, then an interconnected,
28 hard-wired smoke alarm and carbon monoxide (CO) alarm system
29 shall be required to be installed and maintained on a continuing
30 basis consistent with the requirements of Section R314, Smoke
31 Alarms, and Section R315, Carbon Monoxide Alarms, of the Florida
32 Building Code – Residential.

33
34 d. Fire extinguisher – A portable, multi-purpose dry chemical
35 2A:10B:C fire extinguisher shall be installed, inspected and
36 maintained in accordance with NFPA 10 on each floor/level of the
37 unit. The extinguisher(s) shall be installed on the wall in an open
38 common area or in an enclosed space with appropriate markings
39 visibly showing the location.
40

41 2. Maximum occupancy. The following specific site considerations in
42 subsections a., b., and c. shall limit any short-term vacation rental
43 occupancy to whichever is less, but not to exceed the permitted
44 maximums provided in subsections d. or e., as applicable, below:
45

- 1 a. One person per 150 gross square feet of permitted, conditioned
2 living space, or
3
- 4 b. The maximum number of occupants allowed shall be restricted in
5 accordance with any septic tank permit and the assumed
6 occupancy/conditions the permit was issued under by the Flagler
7 County Health Department, or
8
- 9 c. Two persons per sleeping room, meeting the requirements for a
10 sleeping room, plus two additional persons that may sleep in a
11 common area.
12
- 13 d. In the R-1, R-1b, R-1c, R-1d, R-2, MH-1, MH-2, and R/C zoning
14 districts and any PUD development or specific portion thereof
15 developed as a single- or two-family neighborhood, the maximum
16 occupancy shall be limited to ten occupants per short-term vacation
17 rental unit.
18
- 19 e. In all other zoning districts and developments predominantly
20 developed with greater than two-family dwelling units, the maximum
21 occupancy shall be limited to 16 transient occupants per short-term
22 vacation rental unit.
23
- 24 3. Solid waste handling and containment. Based on the maximum
25 transient occupancy permitted, one trash storage container shall be
26 provided per four transient occupants or fraction thereof. Appropriate
27 screening and storage requirements for trash storage containers shall
28 apply per any development approval or local neighborhood standard,
29 whichever is more restrictive, and be incorporated into the certificate.
30 For purposes of this section, a trash storage container shall be a
31 commercially available 35 gallon or greater capacity container with a
32 lid that securely fastens to the container so as to prevent spills and
33 animal access, with the container to be placed at curbside on the day
34 of solid waste pickup and to be removed from curbside no later than
35 sunrise the following day.
36
- 37 4. Minimum Short-Term Vacation Rental Lease wording. The Short-Term
38 Vacation Rental Lease agreement shall contain the minimum
39 information as provided for in subsection 3.06.14.H.
40
- 41 5. Minimum short-term vacation rental information required postings. The
42 short-term vacation rental shall be provided with posted material as
43 required by Flagler County as prescribed in subsection 3.06.14.I.
44

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

4
 5 7. Designation of a short-term vacation rental responsible party capable
 6 of meeting the duties provided in subsection 3.06.14.G.

7
 8 8. Septic tank wastewater disposal. If wastewater service is provided
 9 through a private home septic system, then the owner shall provide
 10 Flagler County a valid Health Department septic permit and the
 11 application it is based upon for the property, demonstrating the
 12 capacity for the short-term vacation rental occupancy requested.

13
 14 9. Advertising. Any advertising of the short-term vacation rental unit shall
 15 conform to information included in the Short-Term Vacation Rental
 16 Certificate and the property's approval, particularly as this pertains to
 17 maximum occupancy.

18
 19 10. Other standards. Any other standards contained within the Flagler
 20 County Land Development Code to include but not be limited to:
 21 parking, noise, setbacks, stormwater, and similar provisions.

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

37
 38 E. Application for a Short-Term Vacation Rental Certificate. Each property
 39 owner seeking initial issuance of a Short-Term Vacation Rental Certificate,
 40 renewal, transfer, or modification of a vacation rental certificate, shall
 41 submit a Flagler County Short-Term Vacation Rental Application in a form
 42 specified by the County, along with an application fee in an amount to be
 43 determined by resolution of the Board of County Commissioners.

- 1 1. A complete application for the initial or modification of a Short-Term
2 Vacation Rental Certificate shall demonstrate compliance with the
3 standards above through the following submittals:
4
5 a. A completed application and applicable fees.
6
7 b. Exterior site sketch. An exterior sketch of the facility demonstrating
8 compliance with the standards contained herein shall be provided.
9 The sketch provided shall be drawn to scale, and showing all
10 structures, pools, fencing, and uses, including areas provided for
11 off-street parking and trash collection. For purposes of the sketch,
12 off-street parking spaces will be delineated so as to enable a fixed
13 count of the number of spaces provided; however, no parking shall
14 be permitted within a public right-of-way or private roadway tract.
15
16 c. Interior building sketch by floor. A building sketch(s) shall be
17 provided by floor showing a floor layout and demonstrating
18 compliance with the standards contained herein. The sketch shall
19 be drawn to scale, showing all bedrooms and sleeping areas, exits,
20 smoke and carbon monoxide detectors, and fire extinguishers etc..
21
22 d. Required short-term vacation rental postings. Copies of required
23 postings shall be provided.
24
25 e. A draft Short-Term Vacation Rental Lease showing required lease
26 terms. A blank sample to be provided.
27
28 f. A Health Department septic tank permit and the application on
29 which the permit is based, if applicable.
30
31 g. Any other required information necessary to demonstrate
32 compliance with the Short-Term Vacation Rental Standards herein.
33
34 2. Certificate renewals or transfers - The application for renewal or
35 transfer of a Short-Term Vacation Rental Certificate shall demonstrate
36 compliance with the following:
37
38 a. If no changes have occurred since the issuance of the most recent
39 Short-Term Vacation Rental Certificate, then no additional
40 submittals are required to accompany the renewal/transfer Short-
41 Term Vacation Rental Certificate application except as subsection
42 3.06.14.E.2.b below may be applicable.
43
44 b. If minor changes not involving the specific modifications described
45 below in subsection 3.06.14.E.3 have occurred since the issuance
46 of the most recent Short-Term Vacation Rental Certificate, then

1 additional submittals specific to the minor changes shall be required
2 to accompany the application as necessary to demonstrate
3 compliance with the standards herein.

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

7
8 3. Modification of certificate. An application for modification of a Short-
9 Term Vacation Rental Certificate is necessary where any of the
10 following apply:

11
12 a. The gross square footage of the dwelling unit has increased; or

13
14 b. The number of sleeping areas/bedrooms is proposed to increase;
15 or

16
17 c. The occupancy is otherwise proposed to increase.

18
19 For the inspection of a modification to a vacation rental certificate, the
20 modification in facility usage may not occur until after a successful
21 County inspection; however, pending such successful inspection the
22 current certificate will still apply.

23
24 F. Initial and routine compliance inspections of short-term vacation rentals.

25
26 1. An inspection of the dwelling unit for compliance with this section is
27 required prior to issuance of an initial Short-Term Vacation Rental
28 Certificate. If violations are found, all violations must be corrected and
29 the dwelling unit must be re-inspected prior to issuance of the initial
30 Short-Term Vacation Rental Certificate as provided herein. An
31 exception to the correction of violations as required in this subsection
32 is made for any short-term vacation rental seeking vested rights
33 pursuant to subsection 3.06.14.N. to the extent that a vesting
34 determination specifically provides such exemption.

35
36 2. Once issued, a short-term vacation rental unit must be properly
37 maintained in accordance with the Short-Term Vacation Rental
38 Standards herein and will be re-inspected annually if possible, but at
39 least once every two years by the County. For an inspection, all
40 violations must be corrected and re-inspected within 30 calendar days.
41 Failure to correct such inspection deficiencies in the timeframes
42 provided shall result in the suspension of the vacation rental certificate
43 until such time as the violation(s) is/are corrected and re-inspected.

44
45 3. The inspections shall be made by appointment with the short-term
46 vacation rental responsible party. If the inspector(s) has made an

1 appointment with the responsible party to complete an inspection, and
2 the responsible party fails to admit the officer at the scheduled time,
3 the owner shall be charged a "no show" fee in an amount to be
4 determined by resolution of the Board of County Commissioners to
5 cover the inspection expense incurred by Flagler County.
6

7 4. If the inspector(s) is denied admittance by the short-term vacation
8 rental responsible party or if the inspector(s) fails in at least three
9 attempts to complete an initial or subsequent inspection of the rental
10 unit, the inspector(s) shall provide notice of failure of inspection to the
11 owner to the address shown on the existing Short-Term Vacation
12 Rental Certificate or the application for Short-Term Vacation Rental
13 Certificate.
14

15 a. For an initial inspection, the notice of failure of inspection results in
16 the Certificate not being issued; the Short-Term Vacation Rental is
17 not permitted to operate without a valid Certificate.
18

19 b. For a subsequent inspection, the notice of failure of inspection is
20 considered a violation pursuant to subsection 3.06.14.F.2. above
21 and is subject to enforcement remedies as provided herein.
22

23 G. Short-term vacation rental responsible party.
24

25 1. The purpose of the responsible party is to respond to routine
26 inspections and as well non-routine complaints and other more
27 immediate problems related to the short-term vacation rental of the
28 property.
29

30 2. The property owner may serve in this capacity or shall otherwise
31 designate a short-term vacation rental responsible party to act on their
32 behalf. Any person 18 years of age or older may be designated by the
33 owner provided they can perform the duties listed in subsection
34 3.06.14.G.3 below.
35

36 3. The duties of the short-term vacation rental responsible party whether
37 the property owner or an agent are to:
38

39 a. Be available by landline or mobile telephone at the listed phone
40 number 24 hours a day, seven days a week and capable of
41 handling any issues arising from the short-term vacation rental use;
42 and
43

44 b. If necessary, be willing and able to come to the short-term vacation
45 rental unit within two hours following notification from an occupant,

1 the owner, or Flagler County to address issues related to the short-
2 term vacation rental; and

3
4 c. Authorized to receive service of any legal notice on behalf of the
5 owner for violations of this section; and

6
7 d. Otherwise monitor the short-term vacation rental unit at least once
8 weekly to assure continued compliance with the requirements of
9 this section.

10
11 4. A property owner may change his or her designation of a short-term
12 vacation rental responsible party temporarily or permanently; however,
13 there shall only be one short-term vacation rental agent for each short-
14 term vacation rental at any given time. To change the designated
15 agent, the property owner shall notify Flagler County in writing via a
16 completed form provided by the County.

17
18 H. Short-term vacation rental/lease agreements minimum provisions. The
19 rental agreement must contain the following information at a minimum:

20
21 1. Maximum occupancy of the short-term vacation rental unit as permitted
22 on the Short-Term Vacation Rental Certificate for the property.

23
24 2. The name and ages of all persons who will be occupying the unit;

25
26 3. The license tag numbers for all vehicles that the occupant(s) will be
27 parking at the unit, with a total number not to exceed the number of off-
28 street parking spaces at the unit as designated on the Short-Term
29 Vacation Rental Certificate;

30
31 4. A statement that all transient occupants must evacuate from the short-
32 term vacation rental upon posting of any evacuation order issued by
33 local, state, or federal authorities.

34
35 I. Required posting of the following short-term vacation rental unit
36 information.

37
38 1. On the back of or next to the main entrance door or on the refrigerator
39 there shall be provided as a single page the following information:

40
41 a. The name, address and phone number of the short-term vacation
42 rental responsible party;

43
44 b. The maximum occupancy of the unit;

- c. Notice that quiet hours are to be observed between 10:00 p.m. and 8:00 a.m. daily or as superseded by any County noise regulation;
- d. The maximum number of vehicles that can be parked at the unit, along with a sketch of the location of the off-street parking spaces;
- e. The days of trash pickup and recycling;
- f. If the short-term vacation rental unit is located on the barrier island, notice of sea turtle nesting season restrictions and sea turtle lighting usage; and
- g. The location of the nearest hospital.

- 2. If the short-term vacation rental unit includes three or more occupied floors, on the third floor above ground level and higher floors 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" in size.

J. Offenses/violations.

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

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

- 1. Warnings - Warnings shall be issued for first-time violations and have a correction/compliance period associated with it. Such warnings may include notice to other agencies for follow up by such agencies, such as the Department of Business and Professional Regulation, the Department of Revenue, the Flagler County Tax Collector and the Flagler County Property Appraiser, as applicable.

1 2. Fines per violations shall be set by resolution by the Board of County
 2 Commissioners of Flagler County for first, second, third and further
 3 repeat violations. The County may utilize Part 1 of Florida Chapter 162
 4 to prosecute a code violation and in such case a special magistrate
 5 shall be authorized to hold hearings, assess fines and order other relief
 6 in lieu of any code enforcement board. Alternatively, the County may
 7 utilize Part 2 of Florida Chapter 162 and pursue violations by way of a
 8 civil citation system as provided in its Code of Ordinances. The
 9 County may also rely on an appropriate enforcing agency at the state
 10 or local level.

11
 12 3. Additional remedies - Nothing contained herein shall prevent Flagler
 13 County from seeking all other available remedies which may include,
 14 but not be limited to, suspension or revocation of a Short-Term
 15 Vacation Rental Certificate, injunctive relief, liens, and other civil and
 16 criminal penalties as provided by law, as well as referral to other
 17 enforcing agencies.

18
 19 L. Suspension of Short-Term Vacation Rental Certificate. In addition to any
 20 fines and any other remedies described herein or provided for by law, the
 21 County may suspend a Short-Term Vacation Rental Certificate for multiple
 22 violations of the maximum occupancy in any continuous 36 month period,
 23 in accordance with the following:

24
 25 1. Suspension timeframes.

26
 27 a. Upon a fourth violation of the maximum occupancy the vacation
 28 rental certificate shall be suspended for a period of seven calendar
 29 days.

30
 31 b. Upon a fifth violation of the maximum occupancy the vacation rental
 32 certificate shall be suspended for a period of 30 calendar days.

33
 34 c. For each additional violation of the maximum occupancy the
 35 vacation rental certificate shall be suspended for an additional 30
 36 calendar days up to a maximum period of 12 months. For example
 37 the sixth violation shall be for 60 calendar days; the seventh
 38 violation shall be for 90 calendar days, and so on.

39
 40 2. Suspension restrictions - A short-term vacation rental may not provide
 41 transient occupancy during any period of suspension of a Short-Term
 42 Vacation Rental Certificate.

43
 44 a. The suspension shall begin immediately following notice,
 45 commencing either:

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

2
3 2. within 30 calendar days, whichever date commences earlier, or
4 as otherwise determined by the County.

5
6 3. Number of violations - For purposes of this section only, violations shall
7 be considered per the rental period or per every 7 days, whichever is
8 less and for only those violations in which a code enforcement citation
9 or criminal charge was issued.

10
11 N. Vesting. Existing, legally-established short-term vacation rentals located
12 in zoning districts and developments described in subsection 3.06.14.A as
13 of January 1, 2015 may become vested in the ways described below,
14 provided they are otherwise in compliance with all other requirements
15 contained herein.

16
17 To qualify for any vesting existing short-term vacation rentals shall have
18 until April 15, 2015 to make a full and complete application for a short-term
19 vacation rental certificate and until July 1, 2015 to receive a Short-Term
20 Vacation Rental Certificate to come into compliance with the County's
21 requirements.

22
23 1. Rental agreement vesting – It is recognized that likely there are
24 existing rental agreements for short-term vacation rentals in existence
25 at the time of passage of the ordinance enacting this section which
26 may not be in compliance with the terms of this ordinance. Rental
27 agreements that were entered into prior to February 19, 2015, for the
28 period to up to February 28, 2016 shall be considered vested. No
29 special vesting process or fee shall be required to obtain this vesting
30 benefit other than demonstrating eligibility through the normal Short-
31 Term Vacation Rental Certificate process. Such lease(s) shall not be
32 required to be submitted to the County to retain this vesting.

33
34 Any rental agreement(s) entered into prior to February 19, 2015, for
35 the period after March 1, 2016 shall be required to be submitted to the
36 County for verification and go through a vesting hearing process for a
37 final determination. All rental agreements entered into after February
38 19, 2015 and for any rental period beyond January 1, 2017 shall
39 comply with the provisions of the ordinance enacting this section.

40
41 2. Temporary vesting of certain safety requirements - Some existing
42 short-term vacation rentals may not meet the life safety standards
43 (3.06.14.C.1) required herein. Correcting these measures make take
44 some time to secure a licensed contractor, obtain the necessary
45 permits, and complete the work. All short-term vacation rentals shall
46 have six months from the effective date of the ordinance enacting this

1 section to come into compliance with these standards. A provisional
 2 Short-Term Vacation Rental Certificate may be issued for up to a
 3 maximum of six months past the adoption of the ordinance enacting
 4 this section granting this time for the facility to comply with the physical
 5 changes required. No special vesting process or fee shall be required
 6 to obtain this vesting benefit other than demonstrating eligibility
 7 through the normal Short-Term Vacation Rental Certificate process.

- 8
 9 3. Maximum occupancy vesting – In applying the standards of section
 10 3.06.14 to the short-term vacation rentals in existence prior to February
 11 19, 2015, it is understood that there are properties that may otherwise
 12 physically qualify for larger occupancies if the maximum occupancy
 13 were set higher. In an effort to recognize investment backed
 14 expectations and yet balance and protect the interest of other single-
 15 family and two-family properties who are not rental properties, there
 16 shall be a phasing in of maximum occupancy.

17
 18 The maximum occupancy for these properties may be temporarily
 19 allowed to be capped at no more than 14 transient occupants providing
 20 all other requirements of Section 3.06.14 can be met. This maximum
 21 density may be retained through February 28, 2020 in which case it
 22 shall be reduced by 2 thereafter. The maximum density of 12 transient
 23 occupants shall then be retained through February 28, 2025 and then
 24 shall be reduced by 2 to reach the maximum occupancy herein. No
 25 special vesting process or fee shall be required to obtain this vesting
 26 benefit other than demonstrating eligibility through the normal Short-
 27 Term Vacation Rental Certificate process.

- 28
 29 4. For those owners that desire a higher vesting occupancy and/or
 30 different vesting schedule, the owner of the property may make
 31 application for consideration of an alternative vesting benefit. The
 32 alternative vesting process shall require the following information at a
 33 minimum, although the actual application and review process may
 34 request additional information:

- 35
 36 a. Submittal of a complete vesting application to include applicable
 37 fee.
 38
 39 b. Issuance of Short-term Vacation Rental Certificate on the property
 40 otherwise meeting all other requirements herein.
 41
 42 c. A written narrative and any tabulation/evidence showing what
 43 potential financial impacts the reduction in occupancy will create.
 44
 45 d. Any prospectus, financial pro forma, or other information relied
 46 upon to make the investment into the property.

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- e. Actual short-term vacation rental leases on the property for the last three years showing the number of occupants for the short-term vacation rental unit per rental.
- f. Profit and loss statement for the property certified accurate by a Certified Public Accountant for the last 3 years.
- g. Detailed gross and net revenues/expenses for the property to include but not be limited to: management fees, maintenance fees, utility costs, and similar expenses.
- h. Purchase price for the property and/or structure. If constructed by the owner, the construction costs of the facility.
- i. Any mortgage or debt on the property along with any monthly debt service payments.
- j. All other information the applicant believes is relevant in establishing any vested rights claim and to demonstrate an extraordinary consideration that should be considered by the County.

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

18. Vacation rentals.

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

7. Vacation rentals.

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

6. Vacation rentals.

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

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4. Vacation rentals.

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

19. Vacation rentals.

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

16. Vacation rentals.

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

17. Vacation rentals.

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

16. Vacation rentals.

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

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

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

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

SECTION 3. CODIFICATION AND SCRIVENER’S ERRORS

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

SECTION 4. SEVERABILITY

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

SECTION 5. EFFECTIVE DATE

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

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA THIS 19TH DAY OF FEBRUARY, 2015.

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS

Frank Meeker, Chairman

ATTEST:

APPROVED AS TO FORM:

1 Gail Wadsworth, Clerk of the
2 Circuit Court and Comptroller

Al Hadeed, County Attorney

DRAFT