

ORDINANCE 15-788

AN ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA, AMENDING CHAPTER 70, GENERAL PROVISIONS, SECTION 70-1, DEFINITIONS AND RULES OF CONSTRUCTION; AMENDMENT TO CHAPTER 114, ZONING, SECTION 114-418, HOTEL, MOTEL, RENTAL UNITS AND RESTAURANT; ADDITION OF CHAPTER 74, BUILDINGS AND BUILDING REGULATIONS, ARTICLE XI, VACATION RENTAL UNIT, SECTION 74-272, VACATION RENTAL UNIT CERTIFICATION; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Anna Maria authorized by the Florida Constitution, Florida Statutes, and the City Charter to regulate use of land within the corporate boundaries; and

WHEREAS, in 2011, the Florida Legislature passed House Bill 883, precluding local governments from enacting regulations pertaining to short-term rental vacation accommodations (rentals less than 30 days in duration); and

WHEREAS, in 2014, the Florida Legislature passed Senate Bill 356 (Chapter 2014-71, Laws of Florida) which repealed the previous restrictions on local governments to enact regulations pertaining to short-term vacation rental accommodations provided that the regulations or ordinances do not limit the duration or frequency of short-term vacation rentals; and

WHEREAS, Senate Bill 356 reinstated the ability of local governments to regulate short-term vacation rentals accommodations so as to make the short-term vacation rentals accommodations safer for the occupants, more compatible with surrounding neighborhoods and code compliant ; and

WHEREAS, Senate Bill 356 does not allow local governments to prohibit short-term vacation rental accommodations; and

WHEREAS, local governments in Florida regulate by resolution or ordinance standards for residential areas relating to emergency services, emergency evacuation plans, solid waste collection, water and wastewater service and landscape buffers; and

WHEREAS, residents residing permanently within their residential dwelling are inherently familiar with the local surroundings and local weather disturbances minimizing potential risks to themselves and their families; and

WHEREAS, occupants of short-term vacation rentals accommodations, due to their transient nature, are not familiar with local weather disturbances, local hurricane evacuation plans, residential dwelling exits increasing potential risks to themselves and their families ; and

WHEREAS, short-term vacation rentals accommodations within the City of Anna Maria are within the Residential and Residential/Office/Retail zone districts; and

WHEREAS short-term vacation rental accommodations, left unregulated, can create negative impacts within the residential neighborhood due to the extreme size and greater occupancy; and

WHEREAS, short-term vacation rental accommodations within residential neighborhoods can disturb the quiet nature of the residential neighborhood; and

WHEREAS, short-term vacation rental accommodations located within established residential neighborhoods can create negative compatibility impacts relating to extreme noise levels and on-street parking congestions, ; and

WHEREAS, a residential dwelling is generally the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and

peaceful enjoyment of their neighborhood without excessive noise from occupants of short-term vacation accommodations ; and

WHEREAS, subsequent to the passage of House Bill 883, the City of Anna Maria saw an increase in the construction of new residential dwelling containing six or greater sleeping areas for the purpose of functioning as a short-term rental vacation accommodation with as many as 24 or more occupants; and

WHEREAS, according to the 2000 U.S. Census, the City of Anna Maria has an average household size of 2.02 persons; and

WHEREAS, according to the 2000 U.S. Census, the City of Anna Maria has an average family size of 2.46 persons; and

WHEREAS, short-term vacation rental accommodations in single and two-family neighborhoods can create a great disparity in occupancy; and

WHEREAS, water and wastewater usage by short-term vacation rental accommodations may exceed the anticipated design capacity when permitted as a single-family residential dwelling, creating an additional demand on the water and wastewater systems and utility plants; and

WHEREAS, the City of Anna Maria desires short-term vacation rental accommodations which maintain life safety standards, are of comparable size of dwellings within the residential neighborhoods, providing for a positive vacation tourism experience while achieving a greater neighborhood compatibility; and

WHEREAS ; this ordinance amendment does not regulate the frequency or duration of short-term vacation rental accommodations but are intended to address life safety and compatibility concerns; and

Section Two. Amendment to Chapter 70, General Provisions, Section 70-1, Definitions and rules of construction

Section 70-1, Definitions and rules of construction of the Code of ordinances of the City of Anna Maria, is hereby amended by adding all language shown as underscored so as to read in its entirety as follows:

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.

Occupant means any lessee, tenant, or other person who, for consideration, occupies a residential dwelling pursuant to a vacation rental agreement.

Vacation rental unit, Any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family or two-family dwelling unit which is also a “transient public lodging establishment.” The term “vacation rental unit” is the same as a short-term vacation rental unit (VRU).

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 subject to the additional certification requirements if the transient public lodging establishment is additionally considered to operate as a short-term vacation rental unit.

Section Three. Amendment to Section 114-418, Hotel. Motel, rental units and restaurant

Section 114-418, Hotels, motels, rental units and restaurant, of the Code of ordinances of the City of Anna Maria, is hereby amended by adding all language shown as underscored so as to read in its entirety as follows:

(a) All rental units must conform to the requirements of the division of hotels and restaurants of the state department of business and professional regulation and the City of Anna Maria's Vacation Rental Unit Certification, Section 74-272, Vacation rental unit Certification.

Section Four. Creation of Chapter 74, Article XI, Section 74-272 Vacation rental unit Certification

Section 74-272, Vacation rental units Certification, of the Code of ordinances of the City of Anna Maria, is hereby amended by adding all language shown as underscored so as to read in its entirety as follows:

74-272, Vacation rental unit Certification

A. Intent and purpose. The intent and purpose if this section is to protect residential neighborhoods from the adverse impacts of vacation rental units such as excessive noise and the overtaxing of public utilities.

B. Applicability. This section shall apply to vacation rental units as defined in Section 70-1 of a single-family dwelling or a two-family dwelling.

C. Vacation rental unit certificates- Vacation rentals units may be permitted in the R-1/R-2 Residential District and the ROR, Residential/office/retail District as a short-term vacation rental unit as defined in Section 70-1:

1. Obtain a short-term vacation rental Certificate from the City of Anna Maria pursuant to this section; and

2. Obtain a business tax receipt from Manatee County; and

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

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

5. Maintain initial and ongoing compliance with the Vacation rental unit standards contained herein.

D. Short-term Vacation Rental Standards. The following standards shall govern the use of any vacation rental unit:

1. Minimum life/safety requirements:

a. Swimming pool, spa and hot tub safety – A swimming pool, spa or hot tub shall comply with the current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes. In addition, swimming pools, spas, and hot tubs used for VRU shall be screened by a six foot, one-hundred percent opacity fence. The fence shall be constructed with a vinyl acoustic material within the fence or along the interior side of the fence. The use of swimming pools, spas and hot tubs may only be used between the hours of 10:00 a.m. and 10:00 p.m.

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

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

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

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

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

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

a. Two persons per sleeping room, meeting the requirements for a sleeping room.

b. No VRU may contain more than five sleeping rooms. The maximum occupancy shall be limited to a maximum of eight occupants per VRU including day guests.

3. Parking standard. There shall be one off-street parking space for each bedroom in a VRU. One such required parking space for each dwelling unit shall be in a covered garage or carport. Dwelling units complying with Chapter 82, existing construction definition are exempt from the requirement of providing one parking space in a garage or carport. Recreational vehicles and accessory trailers shall only be permitted in driveways or other designated parking areas. No recreational vehicle or any other motor vehicle may be used for sleeping. Parking spaces shall not be tandem . On-street parking shall not be permitted.

6. Solid waste handling and containment. Based on the maximum transient occupancy permitted, one trash storage container shall be provided per three transient occupants or fraction thereof. Trash storage containers shall be screened with a six foot fence, with an opening for container removal. The VRU must contract with the waste management provider for side door pick-up service.

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

8. Quiet hours. Quiet hours for short-term vacation rentals units shall be from 10:00 p.m. to 8:00 a.m. daily with the exception of swimming pool, spa and hot tub use which use is limited to the hours of 10:00a.m. to 10:00 p.m.

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

10. Any advertising of the short-term vacation rental unit shall conform to information included in the VRU Certificate, particularly as this pertains to maximum occupancy.

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

F. Application for a Vacation Rental Unit Certificate. Each property owner seeking initial issuance of a Vacation Rental Unit Certificate, renewal, transfer, or modification of a vacation rental certificate, shall submit a City of Anna Maria Vacation Rental Unit Application in a form specified by the City, along with an application fee in an amount to be determined by resolution of the City Commissioners.

1. A complete application for the initial, renewal, transfer or modification of a Vacation Rental Unit Certificate shall demonstrate compliance with the standards above through the following submittals:

a. A completed application and applicable fees.

b. Exterior site sketch. An exterior sketch of the facility demonstrating compliance with the standards contained herein shall be provided. The sketch provided shall be drawn to scale, and showing all structures, pools, fencing, and uses, including areas provided for off-street parking and trash collection. For purposes of the sketch, off-street parking spaces will be delineated so as to enable a fixed count of the number of spaces provided; however, no parking shall be permitted within a public or private right-of-way.

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

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

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

ii. The number of sleeping areas is increasing; or

iii. The occupancy is proposed to increase.

e. A Short-Term Vacation Rental Certificate holder must apply annually for a renewal of the certificate one year from the date of the first Certificate approval.

F. Initial and routine compliance inspections of Vacation Rental Units.

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

2. Once issued, a short-term vacation rental unit must be properly maintained in accordance with the Vacation Rental Unit Standards herein and will be re-inspected at least once every two years by the City. For an inspection, all violations must be corrected and re-inspected within 30 calendar days, except life safety violations which must be corrected prior to the start of the next rental period. Failure to correct such inspection deficiencies in the timeframes provided shall result in the suspension of the Vacation Rental Unit certificate until such time as the violations is corrected and re-inspected. For the inspection of a modification to a Vacation Rental Unit certificate, the modification may not occur until after a successful City inspection, however the current certificate will still apply.

3. When possible the inspections shall be made by appointment with the rental agent. If the inspector(s) has made an appointment with the rental agent for the required inspection, and the City is unable to complete the inspection, the applicant shall be charged a "re-inspection" fee in an amount to be determined by resolution of the City Commissioners to cover the inspection expense incurred. The re-inspection fee must be paid prior to scheduling the re-inspection.

4. If the inspector(s) is denied admittance by the rental agent or if the inspector(s) fails in at least three attempts to complete an initial or subsequent inspection of the Vacation Rental Unit, the inspector(s) shall provide notice of failure of inspection to the rental agent to the address shown on the Vacation Rental Unit Certificate or the application for a Vacation Rental Unit Certificate. For an initial inspection, the notice of failure of inspection results in the Certificate not being issued.

5. The Vacation Rental Unit is not permitted to operate without a valid Certificate.

G. Short-term vacation rental agent.

1. The property owner shall designate a Vacation Rental Unit Agent on the Vacation Rental Unit Certificate application, modification or renewal, and provide the agent's contact information. In order to be designated as a short-term vacation rental agent, a person must first present the City with written certification that he or she agrees to perform the duties specified in subsection 114-431 (G) 2 below. The property owner may serve as the Vacation Rental Unit agent. Alternatively, the owner may designate as his or her agent any person 18 years of age or older, who is:

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

b. Actually resides within Manatee County.

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

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

b. Be willing and able to come to the Vacation Rental Unit within thirty minutes following notification from an occupant, the owner, or the City of Anna Maria for issues related to the Vacation Rental Unit; and

c. Conduct an on-site visit of the short-term vacation rental unit at least weekly to assure continued compliance with the requirements of this section.

3. A property owner may change his or her designation of a short-term vacation rental agent temporarily or permanently; however, there shall only be one short-term vacation rental agent for each short-term vacation rental at any given time. To change the designated agent, the property owner shall notify the City of Anna Maria in writing of the name, contact information and certifications required in subsection 114-431.G. above for the new Vacation Rental Unit Agent. Any notice of violation or legal process which has been delivered or served upon the previous Vacation Rental Unit Agent, prior to the City's receipt of notice of change of the Vacation Rental Unit Agent, shall be deemed effective notice.

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

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

a. The agent provides the City of Anna Maria with written authorization from each property owner represented; and

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

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

H. Vacation Rental Unit rental/lease agreements minimum provisions. The rental agreement must contain the following information:

1. Maximum occupancy of the Vacation Rental Unit.

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

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

4. The occupant(s)' agreement to abide by all the requirements of this section, and acknowledgement that his or her rights under the agreement may not be transferred or assigned in whole or in part to anyone else without a new agreement being entered into between the new occupant(s) and the owner; and

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

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

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

8. The right of reasonable entry by the City of Anna Maria enforcement officers into the vacation rental unit.

9. A copy of the noise, and trash regulations, including regulations related to sea turtle lighting , if applicable, as lease addendums.

I. Required posting of the following vacation rental unit information.

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

a. The name, address and phone number of the Vacation Rental Unit Agent;

b. The maximum occupancy of the unit;

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

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

e. The days of trash pickup;

f. The notice of sea turtle nesting season and sea turtle lighting regulations, if applicable; and

g. The location of the nearest hospital.

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

J. Offenses/violations.

1. Non-compliance with any provisions of this section shall constitute a violation of this section.

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 an enforcement program.

1. Warnings - Warnings shall be issued for all violations of this section

2. Fines per violations shall be set by resolution by the City of Anna Maria. The City may utilize Part 1 of Florida Chapter 162 to prosecute a code violation and in such case a special magistrate shall be authorized to hold hearings, assess fines and order other relief. Alternatively, the County may utilize Part 2 of Florida Chapter 162 and pursue violations by way of a civil citation system as provided in its Code of Ordinances.

3. Additional remedies - Nothing contained herein shall prevent the City of Anna Maria from seeking all other available remedies which may include, but not be

limited to, suspension or revocation of the Vacation Rental Unit Certificate, injunctive relief, liens, and other civil and criminal penalties as provided by law.

L. Suspension of Short-Term Vacation Rental Certificate. In addition to any fines and any other remedies described herein or provided for by law, the City of Anna Maria may suspend a Vacation Rental Unit Certificate for multiple violations which are admitted or adjudicated in any continuous 12 month period, in accordance with the following:

1. Suspension timeframes.

a. Upon a third violation of this section the vacation rental certificate shall be suspended for the remainder of the certificate term and the next twelve months.

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

c. If a rental agent has received a total of _____ violations, for all properties the rental agent manages, within a _____ period, the rental agent shall be removed as the rental agent for all properties managed. If the rental agent is associated with an agency or firm, no employee or associate of the agency or firm may be a rental agent for the managed properties. All Vacation Rental Unit Certifications shall be suspended till a new rental agent is appointed by the property owner.

2. Suspension restrictions - A vacation rental unit may not provide occupancy or advertise for occupancy during any period of suspension of a Vacation Rental Unit Certificate.

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

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

2. within 30 calendar days, whichever is less.

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

M. Ongoing inspections and right of entry. In order to ensure ongoing compliance with the provisions of this section, it may be necessary to inspect short-term vacation rental properties more frequently than the more routine initial and subsequent inspections previously described. Inspections related to complaints/observations of non-compliance are expected to be necessary from time to time:

1. In the application for a Vacation Rental Unit Certificate the owner is required to grant the City of Anna Maria the right of reasonable entry into the premises for compliance inspection purposes. In addition, such issuance of the vacation rental unit certificate shall be conditioned upon and subject to the City's right of reasonable entry into the premises for inspection purposes.

2. Whenever possible, the City shall provide a vacation rental unit agent two hours advance notice of a pending inspection.

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

N. Registration. Existing vacation rentals units, at the time of notice shall have until _____, 2015 to make application for a vacation rental certificate and until _____, 2015 to receive a certificate to come into compliance with the City's requirements.

Section Five. Repeal of Ordinances in Conflict. Repeal of Ordinances in Conflict. All Ordinances of the City of Anna Maria in direct conflict with this Ordinance are hereby repealed to the extent of such conflict.

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

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

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

I approve this Ordinance:

Dan Murphy, Mayor
_____, 2015

ATTEST:

Diana Percycocoe, City Clerk