

ORDINANCE NO. 2022-15

AN ORDINANCE OF THE TOWN OF REDINGTON BEACH, FLORIDA, CREATING A NEW ARTICLE VIII (SHORT-TERM RENTAL REGULATION) OF CHAPTER 12 (NUISANCES) OF THE TOWN CODE TO ESTABLISH A COMPREHENSIVE REGULATORY SCHEME REGARDING THE MARKETING AND OPERATION OF SHORT-TERM RENTALS WITHIN THE TOWN; CREATING CODUCT AND REPORTING REQUIREMENTS FOR HOSTING PLATFORMS, OWNERS AND OWNER AGENTS, AND GUESTS; CREATING AN APPLICATION AND ENFORCEMENT PROCESS; PROVIDING FOR PENALTIES FOR VIOLATION; CREATING RELATED DEFINITIONS; MAKING RELATED FINDINGS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

WHEREAS, since the founding of the Town of Redington Beach, the Town's zoning regulations have provided that the single-family homes in zoning districts 2 and 3 were "zoned for the construction of single-family dwelling houses and the use of such dwelling houses for single-family residential purposes"; and

WHEREAS, for decades, the Town and its residents understood this language to preclude treating homes in the Town as mini hotels; and

WHEREAS, in the early 2000s, the Town discovered that some owners were occasionally renting their homes to vacationers for short terms; and

WHEREAS, to clarify that the Town's then-existing zoning did not allow for this kind of renting, on February 6th 2008, the Town Commission adopted Ordinance 08-01; and

WHEREAS, Ordinance 08-01 clarified that any use which was not specifically identified as being a permitted/accessory use or a special exception was a prohibited use, expressly clarified that "short-term rental" was a form of prohibited use under the code, and defined "short-term rental" as a rental for a period of less than six months; and

WHEREAS, § 20 of the Town's Charter provides:

No amendment, repeal or change whatsoever or exception of any kind to those certain zoning ordinances of the Town of Redington Beach restricting, providing and establishing certain zones and zoning of the Town of Redington Beach, Florida shall be made or affected unless a resolution is duly passed and adopted by the Board of Commissioners of the Town of Redington Beach proposing such change and calling for an election, either at a special or general election or other specific election, whereupon, all of the registered voters of the Town shall vote upon the question for affirmation or approval or disaffirmation or disapproval of the resolution and the proposition contained therein respecting any amendment, repeal or change of any nature in the present zoning laws and ordinances of the Town of Redington Beach. Amendment, repeal or change or any exception of any kind must be approved by at least two-thirds (2/3) of the voters voting on such amendment, repeal or change; and

WHEREAS, when the Town adopted Ordinance 08-01, it did not conduct a referendum based on advice of counsel that no referendum was needed since the ordinance did not repeal or change any zoning category and merely clarified the pre-existing code that short-term renting was never allowed; and

WHEREAS, in 2011, the Florida Legislature adopted Florida Statutes § 509.032(7)(b) which preempted local governments from banning the short-term renting of residential housing, but which allowed ordinances which were in place prior to June 1st 2011 to remain in place; and

WHEREAS, Florida Statutes § 509.032(7)(b) provides that a local law, ordinance, or regulation may not prohibit vacation rentals, or regulate the duration or frequency of rental of vacation rentals; and

WHEREAS, since the Town believed its 2008 ordinance was effective, it did not believe the adoption of this statute impacted it; and

WHEREAS, around 2014, the Town learned of instances wherein owners of residential properties in the Town were short-term renting their homes to vacationers; and

WHEREAS, the Town, citing its zoning code, sought enforcement against these owners; and

WHEREAS, in two court cases in the 2015-16 period, the circuit court for Pinellas County ruled that while the Town's code did preclude short-term renting, it didn't clearly do so until 2008, and since the owners of these properties proved they were renting prior to that date, those owners could continue renting under a "grandfathering" theory; and

WHEREAS, while the referendum question was not raised in these cases, the Town took from these opinions that the courts were recognizing the validity of the code since grandfathering would not be required if the code were not effective; and

WHEREAS, some property owners in the Town nevertheless continued to question the Town's right to enforce Ordinance 08-01 due to the fact a referendum had not been conducted; and

WHEREAS, to quell this doubt, the Commission authorized the Town Attorney to file a declaratory judgment suit, case no.: 19-1290-CI-20 against one such property; and

WHEREAS, the suit asked the court to declare that Ordinance 08-01 was valid and no referendum was needed as the Ordinance was only clarifying what the Town believed had always been the case; and

WHEREAS, the circuit court's final declaration found that the Town should have conducted a referendum under the Charter language, and that since it did not, the ordinance was unenforceable; and

WHEREAS, the Town Commission appealed this declaration on December 2nd 2021, but also scheduled a referendum vote of the residents for them to ratify or reject the terms of Ordinance 08-01 so as to meet the criticism of the court's declaratory judgment; and

WHEREAS, on March 15th 2022, 86% of the Town's residents voted to ratify the 2008 ordinance; and

WHEREAS, the Town requested that the appeals court judicially recognize the outcome of the referendum vote; and

WHEREAS, on November 16th 2022, the appeals court denied the Town's motion for judicial recognition of the referendum results, and also affirmed the lower court's declaratory judgment without opinion; and

WHEREAS, since the referendum had not occurred as of the date the lower court ruled in the Town's initial declaratory judgment action, and since the appellate court refused to recognize the outcome of the referendum which had occurred during the pendency of the appeal, the Town has filed a new declaratory judgment action asking for a declaration that the referendum vote satisfied the Charter requirement, and that Ordinance 08-01 is therefore enforceable; and

WHEREAS, since this new suit will likely take some months to be decided, with a subsequent appeal likely, and since currently the Town must deal with the initial declaratory judgment that Ordinance 08-01 cannot be enforced, the Town must provide interim regulations to govern the operation of short-term rentals within the Town so as to preserve to the fullest extent possible the traditional residential, non-commercial nature of the Town of Redington Beach; and

WHEREAS, Florida Statutes § 509.013, provides a distinction between "transient public lodging establishments" which are rented, or advertised or held out for rental to guests more than three (3) times in a calendar year for periods of less than thirty (30) days or one (1) calendar month, whichever is less; and "nontransient public lodging establishments" which are rented, or advertised or held out for rental to guests for periods of at least thirty (30) days or one (1) calendar month, whichever is less; and

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

WHEREAS, it is not the intent of this Ordinance to prohibit vacation rentals, nor to regulate the duration or frequency of rental of vacation rentals but rather it is the intent of this Ordinance to regulate vacation rentals as defined by Florida Statutes, which are located in the Town and which are being operated due to the court's declaratory judgment in case no.: 19-1290-CI-20; and

WHEREAS, it is also not the intent of this Ordinance to abandon the Town's position that, in keeping with the court's declaration in case no.: 19-1290-CI-20 that Ordinance 08-01 could not be enforced without a referendum, and that now that a referendum has been conducted, the court should rule that the Town has the authority to enforce Ordinance 08-01; and

WHEREAS, the Town Commission finds that while the Florida Legislature has equated short-term "vacation" renting with traditional long-term occupation of a residence by families who actually live, work, recreate, and raise families in the community, the reality is that the practice of

short-term “vacation” renting of residential homes situated next to and among homes occupied by actual families who live in those homes creates negative effects suffered by those families; and

WHEREAS, those negative effects engaged in by vacation renters include regular noise disturbances, vandalism, trespass, public urination, and failure to obey parking, solid waste, and litter rules; and

WHEREAS, even if a home is only rented to a limited number of “vacation renters”, it is not uncommon for those renters to then invite others to the property who are not on the official guest list, which then causes more cars to be drawn into the residential neighborhood taking up valuable parking resources and which results in occupancy of a home well above the number of persons the home is designed to accommodate; and

WHEREAS, residents residing within their residential dwellings are inherently familiar with the local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from their residential dwellings, thereby minimizing potential risks to themselves and their families; and

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

WHEREAS, a residential dwelling is typically the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of vacation rentals; and

WHEREAS, according to census data, the median property value in the Town was \$516,000 in 2020, 2.25 times larger than the national average of \$229,800; and

WHEREAS, between 2019 and 2020 the median property value in the Town increased 13% from \$456,700 to \$516,000; and

WHEREAS, the homeownership rate in the Town is 88.9%, which is higher than the national average of 64.4%, and there are an average of two persons per household in the Town; and

WHEREAS, vacation rental use and longer term residential use and ownership are generally incompatible, due to rapid turnover associated with short term vacation residential use and its disruptive effect on the peaceful use and enjoyment of residential areas; and

WHEREAS, given the existence of Ordinance 08-01 in the Town Code, and the lack of legal authority undermining the historical state of Town law that short-term renting was not allowed in Districts 2 and 3, the primary reasonable investment-backed expectation of owners of residential dwelling units in those districts is the use that is a residence and not a vacation rental; and

WHEREAS, vacation renting is a use that is more in the nature of, and is best accommodated by, hotels and motels; and

WHEREAS, the regulation of vacation rentals will contribute to the stability of the Town's existing residential neighborhoods; and

WHEREAS, the regulation of vacation rentals will protect visitors to the Town by assuring that fire and safety inspections are periodically conducted, that they receive necessary information about the dwelling which they have rented, and notifying them of the owner of the dwellings obligation to provide for their safety and welfare; and

WHEREAS, even though the Florida Legislature's assessment that vacation rental use is equivalent to normal occupancy by families who actually live in the Town, vacation rental properties are often marketed as, and used for, large events such as weddings, reunions, corporate retreats, and birthday celebrations; and

WHEREAS, such events are actually more akin to commercial businesses which, in addition to drawing more cars and people to a property and structure which were not designed to regularly accommodate such events, also attracts party buses, bands, DJs and catering vehicles; and

WHEREAS, the experience of residents when attempting to confront vacation renters often results in hostile responses from vacation renters who are not invested in the community and therefore do not care about the impact their conduct has on occupants of homes which are proximate to the short-term rental at which they are staying; and

WHEREAS, these negative interactions, and the underlying conduct causing the interactions, are often caused in part by vacationers who are consuming alcohol; and

WHEREAS, many of the worst violations of law or Town code, and many of the worst negative interactions between residents and vacationing renters, occurs in the evening, late at night, or during the weekend when the Town's limited code enforcement resources are not present to respond; and

WHEREAS, until the Town's new declaratory judgment suit can be finally determined by the courts so as to confirm the Town's authority to enforce Ordinance 08-01, and in light of the existing declaration in case no.: 19-1290-CI-20 that Ordinance 08-01 could not be enforced, the Town Commission finds that it is in the best interests of the Town and its residents that to the extent short-term renting must be allowed due to the declaration in case no.: 19-1290-CI-20, substantial regulations on short-term renting must be adopted to protect the quality of life of the Town's residents; and

WHEREAS, the regulations adopted by this Ordinance will result in additional costs to the Town related to the administration of a registration and inspection process, as well as to the need for additional code enforcement resources including both as to added coverage by deputies as well as the code enforcement magistrate process; and

WHEREAS, Florida Statutes § 166.221 provides that a municipality may levy reasonable business, professional, and occupational regulatory fees, commensurate with the cost of the

regulatory activity, including consumer protection, on such classes of businesses, professions, and occupations, the regulation of which has not been preempted by the state or a county pursuant to a county charter; and

WHEREAS, the Commission finds that it is necessary to create a registration fee for short-term rental properties in the Town which will be periodically established by the Commission, and which will be commensurate with the cost to the Town of the regulatory activities required by this Ordinance; and

WHEREAS, since the limited dollar amounts established by the Florida Legislature in Florida Statutes Chapter 162 related to normal code enforcement fines may be insufficient to serve as a deterrent to a vacation rental unit owner's allowing or failing to correct repeated events of conduct which violate the provisions of this Ordinance, the Commission finds that the a mechanism should be created wherein repeated violations will result in the loss, after required due process is provided, of the ability of a vacation rental property to be used for vacation rental purposes for a period of time; and

WHEREAS, the regulation of vacation rentals is necessary in order to protect the public health, safety and welfare of the Town, its residents and its visitors; and

WHEREAS, the Commission finds that it is in the interest of the Town and its citizens to adopt the regulatory provisions set forth in this Ordinance.

NOW, THEREFORE BE IT ORDAINED by the Board of Commissioners of the Town of Redington Beach, Florida, that:

Section 1. A new Article VIII (Short Term Rental Regulations) of Chapter 12 (Nuisances) of the Redington Beach Town Code is hereby created as follows:

ARTICLE VIII. – SHORT TERM RENTAL REGULATIONS

DIVISION 1. GENERAL PROVISIONS

Sec. 12-150. – Definitions.

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

Bedroom means any room in a vacation rental which has a bed or other place for sleeping and a separate closet that is an integral part of the permanent construction within the bedroom or an ensuite bathroom, and which has been reflected as a bedroom on the construction plans approved by the town's building official, and which complies with the Florida Fire Code and Florida Life Safety Code as a bedroom, but shall not include a bathroom, a kitchen, a dining room, a family room, a sunroom, a closet, a utility room, a laundry room, or any main living area. If a room has been added, altered, or converted without any required building permit having been granted, such room shall not be deemed a bedroom.

Town Code shall mean the town's codified code of ordinances including the zoning code, all uncoded ordinances, the town's comprehensive plan, and the future land use map.

Living area. The area under roof designated primarily for habitation and specifically excluding garages. As used in this article, the total living area shall be computed as follows: The exterior dimensions of all enclosed spaces within the framework of the building unit (length and width), multiplied and totaled, as follows:

- (1) Any room or area accessible from any other room or area within the framework shall constitute living area.
- (2) A room or area must be totally enclosed by walls and covered by roofing.
- (3) A room or area must be protected from the elements.
- (4) A utility room within the framework of the main building and accessible within the main living area constitutes living area.

Occupant means any person who occupies a vacation rental.

Overnight means being present in the vacation rental at any time between the hours of 9 p.m. and 7 a.m.

Owner occupied means the vacation rental is then occupied by person(s), at the vacation rental owner's consent, who do not pay rent for the occupancy of the vacation rental, when such persons are members of the family of the vacation rental owner. Family member shall mean spouses, former spouses, non-cohabitating partners, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who have a child in common regardless of whether they have been married or have resided together at any time.

Peer-to-peer platform/entity shall mean any person, service, business, company, marketplace, or other entity that, for a fee or other consideration, provides property owners and responsible parties a platform or means to offer vacation rentals to transient occupants whether through the internet or other means.

Responsible person shall mean the owner, or the natural person designated by the owner of the vacation rental to be called upon to answer for the maintenance of the vacation rental and the conduct and acts of vacation occupants of residential properties. A corporation, partnership, or other legal entity cannot be a responsible person.

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

Vacation rental is collectively a vacation rental as defined under state law, and any transient public lodging establishment which is located in the town.

Vacation rental owner is the fee simple owner of the vacation rental, whether an individual, partnership, corporation, limited liability company, trust, or other entity. In the event the vacation rental owner is not an individual, the vacation rental owner shall designate a responsible natural person to perform the functions and duties of a vacation rental owner herein. The duties and functions of a vacation rental owner may, at the option of the vacation rental owner, be performed by an agent of the vacation rental owner, so long as the vacation rental owner notifies the town in

writing, on a form provided by the town, of the identity and contact information of such agent, and the specific duties that the agent will be performing for the vacation rental owner. The vacation rental owner may change the designation of agent at any time through the filing of a new form and the payment of an administrative fee in an amount as set by resolution by the town commission. The vacation rental owner shall be held responsible for all actions of such designated agent with respect to the applicable vacation rental.

Sec. 12-151. – Enforcement.

Violations of this article shall be enforced in the manner set forth in article III of chapter 2 of the code, and shall include, in addition to the imposition of daily fines, the suspension of the vacation rental's ability to operate under the conditions set forth in this article.

Sec. 12-152. – Appeals.

Any decision of the special magistrate finding a violation of this article may be appealed as provided for in § 2-49 of the code.

DIVISION 2. VACATION RENTAL REGISTRATION

Sec. 12-160. – Registration required.

As of February 1st 2023, a vacation rental registration shall be required to operate a vacation rental within the town, utilizing forms promulgated by the town. The registration may, at the town's option, be by paper form or by use of an online process. The town clerk may extend the date that such registration is required by notice on the town's website should the town not publish forms and fees for registration by January 20th 2023. Prior to the issuance of a vacation rental registration, the responsible person has the affirmative duty to ensure that the dwelling unit and property in or on which the vacation rental is or will be located, is in full compliance with the town code, Florida Statutes Chapter 509, the Florida Building Code, the Florida Administrative Code, and the Florida Fire Prevention Code. A separate vacation rental registration shall be required for each vacation rental. The operation of a vacation rental without registration after the date registration is required shall be a violation of this article, except in the instance of providing accommodations to fulfill a rental contract existing as of December 21st 2022.

Sec. 12-161. – Vacation rental registration.

- (a) A vacation rental registration application must be filed and signed by the vacation rental owner. An owner may apply through an agent, but in such case, the owner must execute a separate affidavit attesting that the agent is authorized by the owner to complete and submit the application on the owner's behalf. Such affidavit must be submitted along with the application.
- (b) A registration application must be submitted by using the forms promulgated by the town for such purpose. Application forms shall be submitted to the town clerk for processing. All applicable registration and inspection fees established by the town shall be submitted at the same time as the application form.
- (c) A registration application shall, at a minimum, include the following:

- (1) Address of the vacation rental property being registered, along with proof of ownership, which may be in the form of a deed or copy of the property appraiser's website information on the property;
- (2) Name, address, phone number, and e-mail of the property owner and the date upon which the owner took title to the property;
- (3) Name, address, e-mail, and emergency contact phone number of responsible person for the vacation rental, which shall be a twenty-four (24) hour, seven (7) days a week contact number;
- (4) The vacation rental's current and active license number as a transient public lodging establishment with the Florida Department of Business and Professional Regulation (DBPR);
- (5) A copy of the vacation rental's current and active certificate of registration with the Florida Department of Revenue and Pinellas County for sales and tourist development tax collection, respectively, if the registrant has such certificates or accounts; unless a peer-to-peer platform entity through which the vacation rental is booked will be remitting all such taxes associated with the vacation rental on the responsible person's behalf;
- (6) Business tax receipt from the town, in accordance with article III of chapter 20 of the code;
- (7) Statement attesting to the number of bedrooms and paved off-street parking spaces available on the property with affirmation that "no on-street parking" will be allowed and that the parking plan submitted by the owner will be followed by the owner's guests;
- (8) Exterior site plan. An exterior plan of the vacation rental property produced by an architect, engineer or professional draftsman shall be provided. The plan shall depict and identify the outer boundaries of the property, and all structures, docks, sheds, paved parking areas, pools, spas, hot tubs, and fencing. For purposes of the plan, off-street parking spaces allowed by the code to be used for parking shall be delineated so as to enable a fixed count of the number of spaces provided.
- (9) Interior structural plan by floor. An interior structural plan of the vacation rental structure by floor, produced by an architect, engineer or professional draftsman, shall be provided. The interior structural plan shall depict a floor layout identifying all spaces on each floor, and shall label each space as a bedroom (as defined by this article), bathroom, kitchen, office, den, dining room, family room, sunroom, closet, utility room, laundry room, hallway, stairway, or any other spatial element of the structure.
- (10) Acknowledgement signed by the owner, or owner's authorized agent, acknowledging and agreeing to initial and ongoing compliance with this article and all other town codes and federal, state and county laws which are applicable to the owner's ownership, maintenance, repair, modification, and use of the vacation rental property;
- (11) An application must provide the phone number associated with the landline telephone required by § 12-176;

- (12) A listing of the occupancy limit established by this article, calculated in the manner set forth in this article, and an acknowledgement that the owner will ensure compliance with the occupancy limit;
 - (13) A narrative parking plan acknowledging that no more than three passenger vehicles (cars, pickup trucks, wagons, suvs) may park on the vacation rental property at any one time, and outlining where vehicles will be parked and how guests will be made aware of the parking rules, including the prohibition against guests parking off-site;
 - (14) A copy of the conduct rules adopted by the owner which will apply to the conduct of the owner's guests, and a narrative statement setting forth how the owner will ensure each guest are provided a copy of, and made to acknowledge, these rules; and
 - (15) A statement attesting that the owner has made all structural revisions to the vacation rental property, and all operational policies have been adopted to ensure compliance with the Americans with Disabilities Act's requirements for places of public accommodation.
 - (16) A narrative statement setting forth how the owner will ensure each guest is provided a copy of, and make to acknowledge, the town rules which must be disclosed to each guest, including the town's rules related to solid waste storage, setting out solid waste on correct collection days, the noise restrictions associated with the vacation rental's use, the parking restrictions, and the quiet hour rules, all as are set forth in this article and as otherwise set forth in the code.
- (d) Forms must be fully completed, incomplete applications will not be processed. The town clerk does not have discretion to deny a registration application which is found to be complete, and which is found to satisfy the requirements of this article. If a registration application is found by the town clerk to be incomplete, or that the information submitted (such as the parking plan) does not satisfy a requirement of this article, the clerk will notify the applicant in writing setting forth the deficiencies to be addressed. The applicant will then be allowed fifteen (15) days to provide any missing information or to otherwise revise the application to make it compliant with this article. If an applicant disagrees with a determination of the clerk as to the completeness of an application, or an application's compliance with this article, the applicant may, within fifteen (15) days of the date of the clerk's determination, file a written appeal to the town commission. The appeal must set forth the specific factual and legal reasons supporting the applicant's appeal.

Sec. 12-162. – Modification/change of ownership of vacation rental registration.

- (a) An amendment of a vacation rental registration application and affidavit of compliance shall be required, with payment of the appropriate fee, in the event that any of the following changes to the vacation rental are proposed:
- (1) An amendment to the owner's safety or parking plans.
 - (2) An amendment to the owner's conduct rules to be followed by guests.
 - (3) A change in the designated responsible person.
- Such amendments will be approved by the town upon a finding by the town clerk that the changed plans, rules or designation otherwise continue to comply with the requirements of this article.

- (b) A change of ownership, including transfers between legal entities under common control, shall require a new application, and shall be accompanied by the applicable application fee.

Sec. 12-163. – Duration of vacation rental registration.

A vacation rental registration shall be valid for one (1) year from the date the application is approved. An approved registration shall constitute permission to operate the vacation rental.

Sec. 12-164. – Renewal of vacation rental registration.

A vacation rental owner must renew its registration annually prior to the expiration date of the previous vacation rental registration and is subject to an annual inspection and applicable fees.

Sec. 12-165. – Inspection of vacation rentals.

- (a) To verify compliance with the Florida Building, Fire, and Life Safety Codes applicable to the vacation rental property, and to verify the interior and exterior plans submitted with the application accurately depict the conditions on and in the property, and to ensure all required safety equipment such as phone line and fire extinguishers are properly installed, and to verify the guest conduct information is properly displayed, each vacation rental shall, in conjunction with its initial or annual renewal application, be inspected by the town building official. The town will endeavor to coordinate an inspection date with the owner and complete the inspection process prior to the expiration of an existing registration period. However, only as to renewing applicants, if the availability of the building official causes a delay in that process, the town clerk is authorized to allow the vacation rental to continue operating on an interim basis for up to thirty days. Newly-registering vacation rentals may not begin operating until the application process, including the associated inspection, is completed.
- (b) If instances of noncompliance are found, all such instances of noncompliance shall be handled either as violations of the Florida Building, Fire, or Life Safety Codes are otherwise handled by the building official under state law and town code or, if the violation is not related to a code under the jurisdiction of the building official, it shall be referred to code enforcement and handled as a code violation.
- (c) Initial and annual inspections required under this section shall be made by the building official through coordinating an appointment with the vacation rental owner or the owner's authorized agent or responsible person. If an inspection date is set but the building official is, due to an action or inaction of the owner, the responsible person, or occupant, denied or otherwise unable to make entry onto the property to conduct the inspection on the date set, the owner must re-apply for an inspection and pay an additional inspection fee. The re-inspection fee shall be paid prior to scheduling the re-inspection. Failure of a vacation rental owner agent, or responsible person, as applicable, to make the vacation rental available for an inspection within twenty (20) days after notification by the town in writing that the town is ready to conduct the annual inspection shall constitute a violation of this article. Such violation shall continue until the inspection is accomplished.

Sec. 12-166. – Sale of vacation rental property.

When title to a registered vacation rental is transferred due to sale or otherwise, the new owner shall file a new registration application within thirty (30) days from the date title changes to the new owner. A new owner may not continue to operate a currently-registered vacation rental if an

application is not filed within the thirty-day period and any existing approved registration will expire on the thirty-first day from the date title changes.

Sec. 12-167. – Vested rights; waiver; estoppel.

Approval of a vacation rental registration shall not be construed to establish any vested rights or entitle the registered vacation rental to any rights under the theory of estoppel, nor shall it be construed as a waiver of any other requirements contained in the town code. It is not an approval of any other code requirement outside this article. The registration of a vacation rental is not an approval of a use or activity that would otherwise be illegal under state law or the Florida Building, Fire, or Life Safety Codes, or a violation of the code. In the event the town regains, either through judicial or legislative action, the authority to enforce Ordinance 08-01, the town will terminate all vacation rental registrations. In that event, the town will coordinate with registered owners to develop an orderly cessation of operations.

Sec. 12-168. – False information.

It shall be unlawful for any person to give any false or misleading information in connection with any application for registration, modification, or renewal of a vacation rental as required by this article. Vacation rental applications shall be sworn to under penalty of perjury. Any false statements made in an application shall be a basis for the revocation of any license issued pursuant to such application.

Sec. 12-169. – Duties of vacation rental owner and responsible person.

- (a) Every vacation rental owner, or responsible person if one is designated, shall be available by phone at the listed phone number twenty-four (24) hours a day, seven (7) days a week to respond to sheriff's department, fire department, or other emergency personnel requests. Otherwise, response to contact by the town's regulatory personnel shall be required only Monday through Friday, except holidays, 8:00 a.m. to 7:00 p.m. Failure of the vacation rental owner or responsible person to comply with this requirement shall be a violation of this article.
- (b) Responsible person. If a vacation rental owner does not directly manage the registered vacation rental property owned by the owner, the owner shall designate a responsible person.

 - (1) The responsible person shall be available twenty-four (24) hours per day, seven (7) days a week, for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of these regulations. This person must have authority to immediately address and take affirmative action, within one (1) hour of notice from the town, on violations concerning life-safety, noise, violent confrontations, trespassing, capacity limit violations, and parking violations. A record shall be kept by the town of the complaint and the responsible person's response.
 - (2) An owner may change his or her designation of a responsible person temporarily, up to thirty (30) cumulative days during any consecutive twelve (12) month period, or permanently; however, there shall only be one designated responsible person for each vacation rental property at any given time.

- (3) It shall be the sole responsibility of the property owner to appoint a reliable responsible person and to inform the manager of his or her correct mailing address. Failure to do so shall not be a defense to a violation of this section. Service of notice on the responsible person shall be deemed service of notice on the property owner, guest, occupant and violator.
- (c) A vacation rental owner or responsible person is responsible for ensuring sexual offenders/predators as defined in Florida Statutes §§ 775.21, 943.0435, 944.607, or 985.4815 register at the Pinellas County Sheriff's office following the process set forth in Florida Statutes § 775.21, forty-eight (48) hours prior to arrival at a vacation rental, regardless of the length of stay.
- A vacation rental owner and/or responsible person shall comply with Florida Statutes § 775.215 pertaining to the distance separation of homes with a sexual offender/predator residing within the vacation rental and any business, school, child care facility, park, playground, or other places where children regularly congregate.
- Failure to comply with this section shall, in addition to the institution of a code violation action, result in the revocation of the vacation rental's business tax receipt and vacation rental registration.
- (d) The vacation rental owner or responsible person shall inquire at check-in if any guest of at the vacation rental is a sexual offender/predator as defined in Florida Statutes §§ 775.21, 943.0435, 944.607, or 985.4815. If any guest of a vacation rental public lodging is a sexual offender/predator as defined in those statutes, the operator shall immediately notify the Pinellas County Sheriff's Office.
- (e) The owner or responsible person shall provide the town and post in a conspicuous place in the premises, the name, address and day/evening telephone numbers of the responsible person and be available twenty-four (24) hours per day, seven (7) days a week for the purpose of promptly responding to complaints regarding conduct or behavior of vacation rental occupants or alleged violations of these regulations. Any change in the responsible person shall require written notification to the town on forms provided by the town and in a manner promulgated by the town upon payment of the applicable fees.
- (f) Complaints to the responsible person concerning violations by occupants of vacation rental units to this section shall be responded to within a reasonable time but in no instance greater than three (3) hours. A record shall be kept of the complaint and the manager's response for a period of at least three (3) months after the incident, which shall be available for inspection by the town during business hours.
- (g) An owner may change his or her designation of a responsible person; however, there shall only be one (1) responsible person for each vacation rental property at any given time. To change the designated agent or responsible person, the owner shall notify the town in writing of the name, contact information and other information required in this subsection for the new responsible person, along with a signed affidavit from the new responsible person acknowledging receipt of a copy of this article and agreeing to serve in this capacity and perform the duties set forth in this article. Any notice of violation or legal process which has

been delivered or served upon the previous responsible person, prior to the town's receipt of notice of change of the responsible person, shall be deemed effective service.

- (h) It shall be the sole responsibility of the property owner to appoint a reliable responsible person and to inform the responsible person 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 responsible person any person who does not expressly comply with the provisions of this section. The property owner and the responsible person shall jointly and severally be deemed to be the "violation" of this article as the term is used in Florida Statutes § 162.06. By designating a responsible person, a vacation rental owner is deemed to agree that service of notice on the responsible person at the address listed by the owner shall be deemed service of notice on the owner, responsible person, and violating guest. Copies of all code violation notices shall also be provided to the property owner in the manner set forth in Florida Statutes § 162.12. If, alternatively, a citation is issued by the code deputy, the citation process set forth in Florida Statutes § 162.21.

DIVISION 3. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

Sec. 12-175. – Generally.

The standards and requirements set forth in this article shall apply to the rental, use, and occupancy of vacation rentals in the town.

Sec. 12-176. – Minimum safety and operational requirements and limitations.

- (a) Each vacation rental shall comply with all requirements and standards under state law, including the Florida Building Code, the Florida Administrative Code, the Florida Swimming Pool Safety Act, and the Florida Fire Code and Life Safety Code.
- (b) Each vacation rental shall install, maintain and have ready for guest use at least one working landline telephone with the ability to call 911. This telephone shall be located in the common area on the first occupied floor of the vacation rental. The landline telephone number shall be registered at all times with Pinellas County Emergency Management for the purpose of receiving emergency alerts for items including, but not limited to, mandatory evacuations for hurricanes and requests to limit utility usage. Additionally, the landline telephone number shall be registered at all times with the Pinellas County utilities department for the purposes of receiving boil water alerts.
- (c) Each vacation rental shall post a copy of the town's rules required by § 12-161 either on the interior of the front door of the vacation rental, or on a wall within five feet of the front door. The rules shall be rendered in English, using a non-script font such as times new roman or arial, and shall be in a font no smaller than 14-point. If the town publishes rules applicable to vacation rentals on the town's website, the posted rules must, at a minimum, contain those rules.
- (d) Since vacation rentals are places of public accommodation, all vacation rentals shall be structurally modified in such a manner as to be compliant with the Americans with

Disabilities Act and the Florida Accessibility Code. Owners shall ensure their operational policies and hosting platforms comply with the requirements of the Americans with Disabilities Act.

- (e) Each vacation rental shall post a copy of the owner's conduct rules required by § 12-161 either on the interior of the front door of the vacation rental, or on a wall within five feet of the front door. The rules shall be rendered in English, using a non-script font such as times new roman or arial, and shall be in a font no smaller than 14-point.
- (f) Each vacation rental shall post the occupancy capacity limit for the vacation rental. The occupancy capacity limit for the vacation rental shall be posted either on the interior of the front door of the vacation rental, or on a wall within five feet of the front door. The occupancy capacity limit shall be rendered in English, using a non-script font such as times new roman or arial, and shall be in a font no smaller than 20-point.
- (g) Each vacation rental shall post the name, email and phone number of the owner or designated responsible person. This information shall be posted either on the interior of the front door of the vacation rental, or on a wall within five feet of the front door, shall be rendered in English using a non-script font such as times new roman or arial, and shall be in a font no smaller than 14-point.
- (h) A vacation rental may not, either directly or through a third party or hosting platform, allow or provide for reservation of rented ad-ons such as the delivery to the vacation rental of boats, golf carts, jet skis, kayaks.
- (i) No vacation rental may be advertised or used as an event venue. Events which draw or invite persons other than the occupant guests who have rented the property from the owner, including weddings, family reunions, movie shoots, and corporate retreats, are prohibited.
- (j) No persons other than the occupants who have rented the property from the owner may remain in or on the property between the quiet time hours of 9 p.m. and 7 a.m.
- (k) No pool, spa, jacuzzi, or outdoor sport courts on the property of a vacation rental may be used by any person between the quiet time hours of 9 p.m. and 7 a.m.
- (l) Amplified music or other sound, including spoken voices, is strictly prohibited from being played at any time on the property of a vacation rental, except where such amplified music or sound is played within the residential structure, over speakers located only within and not on the exterior of the residential structure, and where the windows and doors of the vacation rental are closed.

Sec. 12-177. – Maximum occupancy based on site capacity/limitations.

- (a) The maximum occupancy of a vacation rental shall be stated in the vacation rental registration form, and shall be limited to two (2) occupants (as defined herein) per bedroom (as defined in this article), but with a maximum capacity of twelve (12) persons.

- (b) The maximum occupancy restriction as set forth above shall not apply when the property is owner-occupied by the vacation rental owner, if the owner is a natural person.

Sec. 12-178. – Parking, solid waste disposal, legal compliance, evacuations, miscellaneous provisions.

- (a) All vehicles associated with the vacation rental, including the vehicles of temporary visitors present between the hours of 7 a.m. and 9 p.m., must be parked in compliance with the town's parking regulations and must be parked within the legal boundaries of the property and on a paved or bricked parking surface depicted in the registration application's parking diagram. Vehicles associated with the vacation rental are strictly prohibited from parking in any other manner or location within the town, including on any town sidewalk, street, right-of-way, swale, or grass parking. Recreational vehicles (RVs), boats, jet skis and similar watercraft, campers, and trailers may not be parked at vacation rentals. Commercial motor vehicles, as defined in § 21-1 may not be parked at vacation rentals.
- (b) Solid waste disposal (household garbage, recycling, and yard trash) created at vacation rentals shall be stored and put out for pick up in compliance § 18-30 through § 18-41 of the code, and on the day(s) of the week set out in the town's solid waste franchise agreement.
- (c) All persons renting and occupying a vacation rental shall comply with all local, state and federal laws applicable to their conduct at all times, including those related to illegal activities, the creation of nuisances, disturbances of the peace, and responses to emergency declarations.
- (d) Vacation rental occupants are required to participate in all mandatory evacuations due to hurricanes, tropical storms or other threats to resident safety, as required by state and local laws.
- (e) To the extent the town may in the future adopt a special events permitting program, neither a vacation rental property, nor a person renting or occupying a vacation rental, shall be eligible for a special event permit to be conducted on the vacation rental property.
- (f) No temporary storage containers may be stored on the vacation rental premises. The term "temporary storage container" shall mean any container, structure, box, cylinder, or crate made of any material not permanently affixed to real property, that is enclosed or capable of being enclosed on all sides, top and bottom, that is stored, placed, located or put on any real property within the town for the purpose of storing personal property, construction material, trash, refuse, garbage, debris, or other material or matter. Provided, however, with prior authorization from the building department a temporary storage container may be authorized during valid construction permit activity for this location. For purposes of this section, a garbage can or a recycling container, as those terms are defined in § 18-2 of the code, are not temporary storage containers.
- (g) No accessory structure, vehicle, recreational vehicle, trailer, camper, or similar apparatus shall be utilized or rented as a vacation rental.

Sec. 12-179. – Additional required local information provided in a vacation rental.

- (a) In addition to the information required to be posted in each vacation rental pursuant to § 12-176, there shall also be provided, in a prominent location on the inside of the vacation rental, the following written information:

- (1) The official street address and landline telephone phone number of the vacation rental.
- (2) A copy of a document to be supplied by the town which includes excerpts from town code provisions of general application relevant to vacation rentals to include solid waste pick-up regulations, noise regulations, and regulations related to sea turtles and sea turtle lighting.
- (3) The maximum number of vehicles that will be allowed to park at the vacation rental, along with a sketch of the location of the paved off-street parking.
- (4) The days and times of trash and recycling pickup.
- (5) Phone number and address of HCA Florida St. Petersburg Hospital and HCA Florida Pasadena Hospital, and directions from the vacation rental to each hospital.
- (6) Emergency and nonemergency phone numbers for the Pinellas County Sheriff's Office and Madeira Beach Fire Department.
- (7) Emergency evacuation instructions and routes.
- (8) Rip currents are prevalent in the Gulf of Mexico, information from the National Weather Service, available via from <http://weather.gov> shall be provided to occupants on the dangers of rip currents that occur in the Gulf of Mexico.
- (9) Notice of the need for respect for the peace and quiet of neighborhood residents, especially between the quiet hours of 9 p.m. and 7 a.m. established in this article, and a statement that all occupants are prohibited from playing amplified music or sound outside of the vacation rental structure, and from making excessive or boisterous noise in or on the vacation rental property, at all times.
- (10) There shall be posted, next to the interior door of each bedroom, and the exterior doors exiting the vacation rental a legible copy of a building evacuation map—Minimum eight and one-half inches (8-1/2") by eleven inches (11").

Sec. 12-180. – 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 Florida Statutes Chapter 515 Residential Swimming Pool Safety Act.
- (b) Smoke and carbon monoxide (CO) detection and notification system. There shall be a smoke and carbon monoxide detection system, installed and maintained in compliance with the requirements of Florida Building Code Residential, Sections R314 Smoke Alarms R315 Carbon Monoxide Alarms.
- (c) Fire extinguisher. Each vacation rental shall install and maintain a working AFFF (aqueous film-forming foam) or FFFP (film-forming fluoroprotein) fire extinguisher rated for use on both Class A and Class B fires on each floor. The fire extinguishers shall not be installed inside of a closet or cabinet, but rather must be installed on a wall in an area clearly visible to guests. Each fire extinguisher shall be installed and maintained in compliance with NFPA 10.
- (d) Battery powered emergency lighting. Battery powered emergency lighting, which illuminates automatically for at least one (1) hour when electricity is interrupted, is required at each building exit.

DIVISION 4. EXEMPTIONS

Sec. 12-185. – Exemption for pre-existing rental agreements.

Notwithstanding any other provision of this article, a rental agreement with prospective occupants for vacations rentals that were entered as of December 21st 2022 (hereinafter “pre-existing agreement”) is exempt from the provisions of this article to the extent any term of this article conflicts with a term of the pre-existing agreement.

If a vacation rental is cited for a violation of this article, (that would not be a violation if it were not for this article), when the vacation rental is occupied under the terms of a pre-existing agreement, the vacation rental owner may defend such violation based on the fact that the vacation rental was exempt from this article due to it being occupied pursuant to a pre-existing agreement. Such defense shall be determined based upon the following information, and upon any additional information supplied by the vacation rental owner or otherwise determined by the fact finder:

- (1) Copy of deposit or payment information evidencing that the agreement was a pre-existing agreement;
- (2) Copy of e-mail or other communication evidencing a binding pre-existing agreement;
- (3) Information from the occupant confirming that there was a binding agreement in a time-frame to make the agreement a pre-existing agreement under this chapter; or
- (4) Written vacation rental agreement dated prior to December 21st 2022.

If it is reasonably determined by the code enforcement deputy, and confirmed by the town’s special magistrate, that any information supplied to the town in support of an application for exemption or in support of a defense based upon pre-existing agreement was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a code enforcement proceeding and prosecution under Florida Statutes § 837.06.

Sec. 12-186. – Exemption for owner occupied vacation rentals

The provisions of this article shall not apply to owner occupied vacation rentals or property which is homestead under the Florida Constitution and Florida law from forced sale under any process of law. Any person desiring to qualify for the exemption herein shall file an affidavit in substantially the following form:

“Affidavit of Exemption”

State of _____

County _____

Before me the undersigned authority personally appeared _____ (hereinafter the "Owner") who upon oath deposes and states:

1. I am over the age of 18 and competent to make this Affidavit.
2. I own the following real property in the Town of Redington Beach, Brevard County, State of Florida:

(Legal description and Street Address)

3. Check one or both as applicable:

() I currently occupy the property described in paragraph 2 above and have resided on this property continuously and uninterruptedly from (date) to the date of this Affidavit.

or

() I have applied for and received the homestead tax exemption as to the above-described property, that _____ is the tax identification parcel number of this property, and that the undersigned has resided on this property continuously and uninterruptedly from (date) to the date of this Affidavit.

4. The purpose of this Affidavit is to qualify for exemption from the Town of Redington Beach Vacation Rental Ordinance.

Sworn and subscribed before me by _____ this _____ day of _____ 20 _____

Notary"

Section 2. For purposes of codification of any existing section of the Redington Beach Code herein amended, words **underlined** represent additions to original text, words **~~stricken~~** are deletions from the original text, and words neither underlined nor stricken remain unchanged.

Section 3. If any section, subsection, sentence, clause, provision or word of this Ordinance is held unconstitutional or otherwise legally invalid, same shall be severable and the remainder of this Ordinance shall not be affected by such invalidity, such that any remainder of the Ordinance shall withstand any severed provision, as the Board of Commissioners would have adopted the Ordinance and its regulatory scheme even absent the invalid part.

Section 4. The Codifier shall codify the substantive amendments to the Redington Beach Town Code contained in Section 1 of this Ordinance as provided for therein, and shall not codify the exordial clauses nor any other sections not designated for codification.

Section 5. Pursuant to Florida Statutes § 166.041(4), this Ordinance shall take effect immediately upon adoption.

ADOPTED ON FIRST READING on the 7th day of December, 2022, by the Board of Commissioners of the Town of Redington Beach, Florida.

ADOPTED ON SECOND AND FINAL READING on the 21st day of December, 2022, by the Board of Commissioners of the Town of Redington Beach, Florida.

Attest:

David Will, Mayor

Adriana Nieves, CMC
Town Clerk