

ORDINANCE NO. 3093

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF BRADENTON TO ADD A NEW ARTICLE III TO CHAPTER 22, ENTITLED "VACATION RENTALS;" MAKING LEGISLATIVE FINDINGS REGARDING THE NEED TO REGULATE VACATION RENTALS; PROVIDING FOR THE REGULATION OF VACATION RENTALS CONSISTENT WITH STATE LAW; REQUIRING REGISTRATION AND REQUIRING A CERTIFICATE OF REGISTRATION; PROVIDING REQUIREMENTS FOR REGISTRATION, INCLUDING THE DESIGNATION OF A RESPONSIBLE PARTY FOR EACH VACATION RENTAL, PROPERTY INSPECTIONS, MINIMUM SAFETY REQUIREMENTS AND MINIMUM POSTING REQUIREMENTS; PROVIDING FOR MAXIMUM OCCUPANCY LIMITS; ESTABLISHING PENALTIES FOR VIOLATIONS; PROVIDING FOR FEES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2(b) of the Florida Constitution and Chapter 166 Florida Statutes provides municipalities with the authority to exercise any power for municipal purposes except when prohibited by law; and

WHEREAS, Section 509.032(7)(b) Florida Statutes, prohibits municipalities from enacting a local law, ordinance or regulation to prohibit "vacation rentals" and further provides that a municipality may not regulate the duration or frequency of guest stays in a vacation rental; and

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

WHEREAS, Section 509.242(1)(c), Florida Statutes, further classifies transient public lodging establishments into seven categories, including hotels, motels and bed and breakfast inns; and

WHEREAS, one of these 7 categories is called "vacation rental" which is defined to mean "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, vacation rentals are designated by the Florida Statutes as public lodging establishments, the same as hotels, motels and bed and breakfasts; and

WHEREAS, rental of houses or dwelling units to transient visitors can result in adverse impacts to nearby residential units, including, but not necessarily limited to, increased noise at all hours of the day or night, problems with garbage collection, litter, and parking; and

WHEREAS, the owners of vacation rentals often do not live in the neighborhood of the properties they rent to visitors and do not personally experience the negative impacts that may be associated with unregulated vacation rentals in those areas; and

WHEREAS, vacationing occupants of vacation rentals tend to act more freely away from their normal daily home and work routine, which can lead to excessive, intrusive, raucous or rowdy behavior disturbing the nearby residents' right to the quiet and peaceful enjoyment of their homes; and

WHEREAS, as a local government, the City is limited in its ability to enter private property to address unruly, inconsiderate or otherwise inappropriate behavior, leaving a broad range of activities to occur within vacation rentals that would not be tolerated in traditional public lodging establishments such as a hotel, an inn, or a bed and breakfast under on site management; and

WHEREAS, Florida law recognizes that some guests in public lodging establishments inevitably become intoxicated, profane, lewd, unruly, possess or deal in illegal drugs or act in a manner that unreasonably disturbs the peace and comfort of other guests and consequently authorizes the operator of the establishment to immediately require such a guest to leave or be arrested for a second degree misdemeanor (See Section 509.141, Florida Statutes); and

WHEREAS, Florida law also recognizes the "appointed agent" of the owner of a public lodging establishment, including a vacation rental, to exercise all of the owner's rights to eject undesirable guests, to refuse service to an undesirable guest and to be immune from criminal or civil liability for false arrest of a disorderly guest (See Sections 509.013(2); 509.141; 509.142; and 509.143, Florida Statutes); and

WHEREAS, vacation rental occupants, due to the transient nature of their occupancy may be unfamiliar with the location of fire extinguishers, pool and home safety features and other similar safety features; and

WHEREAS, vacation rentals have proliferated across the state in recent years, particularly in coastal areas, resulting in similar regulations being enacted by local jurisdictions in the area of the City of Bradenton; and

WHEREAS, vacation rentals are currently being operated throughout the City of Bradenton; and

WHEREAS, according to the 2010 U.S. Census, the City of Bradenton has an average household size of 2.54 persons; and

WHEREAS, vacation rentals within the City are currently being advertised for occupancies up to 20 persons per household, creating a significant disparity in potential adverse impacts as compared to owner-occupied residential units; and

WHEREAS, the City Council for the City of Bradenton, Florida, desires to be proactive in its regulation of vacation rentals to protect the public safety and welfare of the City of Bradenton; and

WHEREAS, it is necessary, appropriate and in the best interests of the public health, safety and welfare to monitor and to provide a reasonable means for residents of the City of Bradenton to mitigate adverse impacts of vacation rentals on neighboring residential uses; and

WHEREAS, the regulation of vacation rentals in the manner herein provided will help to achieve a greater level of compatibility between resident occupied homes and visitor occupied vacation rentals; and

WHEREAS, this ordinance does not prohibit vacation rentals and does not regulate the frequency or duration of guest stays in vacation rentals; and

WHEREAS, an ordinance regulation vacation rentals in the City is in the best interest of the citizens of the City of Bradenton.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA:

Section 1. The foregoing whereas clauses are hereby adopted as findings of fact.

Section 2. Legislative Findings. The above Whereas clauses are hereby adopted as legislative findings of the City Council in support of the ordinance.

Section 3. Amended Code Language.

A. A new Article III shall be added to Chapter 22 of the Code of Ordinances as follows:

Chapter 22 - BUSINESSES

ARTICLE III VACATION RENTALS

Sec. 22-50. - Statement of Intent.

It is the intent of this Article to regulate vacation rentals as defined by the Florida Statutes which are located in all zoning areas of the City.

The general purposes of this Article is to ensure to the City's residents the tranquility and peaceful enjoyment of their homes and their neighborhoods; to

mitigate incompatibilities between vacation rentals and resident occupied homes and to protect the safety of occupants of vacation rentals and their guests. The City intends to address complaints associated with unsupervised vacation rentals in the manner set forth herein, including, but not limited to establishing a mandatory annual registration system for vacation rentals; specifying maximum occupancy limits; requiring inspections; requiring the owner of a vacation rental to designate an individual to be responsible for the vacation rental; to be aware of the condition and use of the vacation rental and to be able to quickly respond to complaints and immediate problems associated with the vacation rental.

Sec. 22-51. - Definitions.

For purposes of this Article, the following terms, words and phrases shall have the meaning set forth in this Article. Whenever applicable, the singular shall include the plural.

(a) *Bedroom* means any room in a vacation rental that contains a minimum of one hundred (100) square feet; which has a bed or other place for sleeping; and which has either a separate closet that is an integral part of the permanent construction within the bedroom or an en suite bathroom. This definition does not include a bathroom, a kitchen, a dining area or any main living area. If a room has been added, altered or converted without required building permits having been issued, such room shall not be deemed a bedroom.

(b) *Certificate of Registration* means the document that is issued by the City in accordance with Sec. 22-53 to show that the vacation rental described on the certificate is currently registered with the City as required by Sec. 22-52.

(c) *Designated Responsible Party* means the owner of a vacation rental or a natural person who has been designated by the owner to be called upon to answer for the maintenance of the vacation rental property and to respond to inquiries or complaints regarding the conduct of the occupants of the vacation rental and their guests as provided in Sec. 22-64.

(d) *Guest* means any person physically within the vacation rental or on its grounds with the knowledge of an occupant.

(e) *Maximum Occupancy* means the maximum number of persons who may be occupants of a vacation rental at the same time.

(f) *Occupant* means any person who occupies a vacation rental overnight.

(g) *Owner or Vacation Rental Owner* means a natural person or legal entity holding all or a portion of the fee simple title to a vacation rental, whether an individual, partnership, corporation, limited liability company, trust, or other

entity. In the event that the vacation rental owner is not an individual, each and every person who owns an equitable interest in the vacation rental shall be considered an Owner.

(h) *Owner Occupied* means a vacation rental that is the primary and permanent residence of the owner of the property.

(i) *Pre-existing Rental Agreement* means a written agreement with prospective occupants allowing them to stay in a vacation rental which agreement was fully executed as of the effective date of this Article.

(j) *Vacation Rental* shall have the meaning as defined in Chapter 509, Florida Statutes, as may be amended, except that for purposes of this Ordinance, condominiums with three units or more shall be excluded from the definition of *vacation rental* and, thereby, excluded from the provisions of this Ordinance.

Sec. 22-52. - Mandatory registration.

(a) No Vacation Rental shall be rented or offered for rent without a current valid Certificate of Registration. Failure to possess a current valid Certificate of Registration while renting or occupying a Vacation Rental is a violation of this Section. Every Vacation Rental Owner, either personally, or through an agent, shall apply to the City for an initial Certificate of Registration, utilizing forms promulgated by the City by no later than August 1, 2022, and shall obtain a Certificate of Registration by no later than January 1, 2023. Every Vacation Rental Owner, either personally or through an agent, shall apply to the City for an initial or renewed Certificate of Registration, utilizing forms promulgated by the City, each successive year thereafter no earlier than August 1st and by no later than October 1st. A separate Certificate of Registration shall be required for each Vacation Rental. The operation of a Vacation Rental without a Certificate of Registration after January 1, 2023, shall be a violation of this Section. Every day of such operation without registration shall constitute a separate violation.

(b) An application for a Certificate of Registration shall contain a statement from the Vacation Rental Owner, under penalty of perjury, that the Owner represents that the information provided on the application and the information submitted with the application is true and accurate to the best of the Owner's knowledge and belief. The application shall be accompanied by the following materials and information:

(1) A completed application for Vacation Rental Certificate of Registration form supplied by the City. At a minimum, the application form shall include the street address of the Vacation Rental, the legal description of the property on which the Vacation Rental is located; the name, address, electronic mail address and telephone number of the

vacation rental owner(s); and the name, address, electronic mail address and telephone number of the Designated Responsible Party if different from the owner.

(2) Proof of current ownership of the Vacation Rental property.

(3) Payment of the annual registration fee.

(4) A form supplied by the City entitled "Designation of Responsible Party" signed by the Owner of the Vacation Rental or authorized representative, naming a Designated Responsible Party who shall have the duties listed in Sec. 22-63. The Vacation Rental Owners may appoint himself or herself as the Designated Responsible Party or shall otherwise designate someone to act as the Designated Responsible Party on his or her behalf.

(5) A written acknowledgement form signed by the Designated Responsible Party acknowledging that he or she is aware of the provisions of this Article and that he or she agrees to serve in the capacity of Designated Responsible Party for the Vacation Rental being registered and that he or she agrees to discharge the duties of a Designated Responsible Party as set forth in Sec. 22-63.

(6) A copy of the business tax receipt showing payment of the City of Bradenton local business tax for the Vacation Rental for the current fiscal year or other proof of payment.

(7) Evidence that the Vacation Rental has a current and active account with the Manatee County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Manatee County Tax Collector.

(8) A copy of a current and active license for the Vacation Rental issued by the State of Florida Department of Business and Professional Regulation showing that the Vacation Rental is licensed as a transient public lodging establishment.

(9) A copy of the current and active Certificate of Registration with the State of Florida Department of Revenue for the Vacation Rental showing that the Vacation Rental is registered for the purposes of collecting and remitting sales taxes, transient rental taxes and any other taxes required by law to be submitted to the Florida Department of Revenue.

(10) The number of Bedrooms in the Vacation Rental.

(11) The number of full bathrooms (sink, toilet, and bathtub or shower) in the Vacation Rental.

(12) The square footage of temperature-controlled living space within the Vacation Rental.

(13) An exterior site sketch of the Vacation Rental facility. The sketch shall show and identify all structures, pools, hot tubs, spas, fencing and uses, including areas provided for off street parking. For purposes of the sketch, off street parking spaces shall be delineated as to enable a fixed count of the number of spaces provided in accordance with Sec. 22-62. At the option of the Vacation Rental Owner, such sketch may be hand drawn and need not be professionally prepared, but shall be sufficient for staff to determine compliance with this Article. Photographs of the exterior of the site may be submitted in lieu of a sketch, provided such photographs shall be sufficient for staff to determine compliance with this Article.

(14) An interior building sketch for each floor in the Vacation Rental showing the floor plan layout and identifying all bedrooms, other rooms, exits, hallways and stairways and elevators as may be applicable. At the option of the Vacation Rental Owner, such sketch may be hand drawn and need not be professionally prepared, but shall be sufficient for staff to determine compliance with this Article. Photographs of the interior of the building may be submitted in lieu of a sketch, provided such photographs shall be sufficient for staff to determine compliance with this Article.

(15) A blank sample of the rental lease agreement to be used for the Vacation Rental.

(16) An affidavit executed by the Owner on a form provided by the City, representing that he or she is aware of the City of Bradenton rules regulating Vacation Rentals.

(17) If the application for registration is being submitted on behalf of the Owner of the property by his or authorized representative, a letter of authorization from the Owner representing that the representative is authorized to act on his or her behalf.

(18) A copy of all Pre-existing Rental Agreements for the Vacation Rental.

(19) Any other information which may be reasonably requested by the City to verify compliance with the terms of this Article.

(c) Submission of an incomplete application for registration or a submission not accompanied by all of the applicable requirements of this Section shall result in rejection of the application. If the submission for registration is incomplete, the applicant shall be notified of the deficiencies and shall be allowed twenty (20) calendar days to provide any missing information, to pay any unpaid registration or inspection fees, or to address code compliance penalties. If the missing information is not provided or fees or penalties not paid within the twenty (20) day period, the application shall be deemed withdrawn. If the information is timely provided and any delinquent fees are timely paid, the application shall be processed.

Sec. 22-54. - Certificate of Registration.

(a) A Certificate of Registration for a Vacation Rental shall be issued if each of the following conditions has been satisfied.

(1) The application for a Certificate of Registration is complete and the applicant has submitted all documents and information required by Sec. 22-52.

(2) The applicant has paid all required fees and any fines or penalties previously imposed on the Vacation Rental unit.

(3) The Vacation Rental has been inspected as required by Sec. 22-58 and the inspection shows that the Vacation Rental is in compliance with the Florida Building Code, the Florida Fire Prevention Code and is in compliance with the provisions of this Article, specifically including, but not limited to, the minimum safety requirements of Sec. 22-60 and the posting requirements of Sec. 22-61, and is in compliance with other applicable City ordinances.

(b) All Certificates of Registration shall be issued on a calendar year basis and shall be considered current and valid until the end of the calendar year for which they were issued unless suspended in accordance with this Article.

(c) Each Vacation Rental shall require a separate Certificate of Registration. The Certificate of Registration shall contain the street address of the Vacation Rental, the name of the Vacation Rental Owner, the name and telephone number of the Designated Responsible Party, the expiration date of the certificate and shall also state the Maximum Occupancy of the Vacation Rental.

(d) If the violation history of the Vacation Rental identified in the initial application for a Certificate of Registration shows any violations of City Codes with associated unpaid penalties or unsatisfied liens, the initial Certificate of Registration shall not be issued until all outstanding penalties or liens are first paid or satisfied.

Sec. 22-54. - Renewal of Registration.

(a) All Certificates of Registration shall expire on December 31 of each year. An Owner or authorized representative shall renew the registration annually and obtain a new Certificate of Registration prior to December 31 of each year after the initial registration. An application for renewal shall be filed no earlier than August 1 and by no later than October 1 each year and all inspections shall be conducted and a determination of compliance shall be made by December 31. If no changes have occurred to the Vacation Rental since the issuance of the most recent Certificate of Registration, then no additional submittals of the items enumerated in paragraphs (1) through (19) in Sec. 22-52(b) above shall be required with the application for a renewed Certificate of Registration.

(b) A Certificate of Registration shall not be issued or renewed if there are any outstanding fines or liens for violations of this Article or any provision of the City of Bradenton Code of Ordinances pertaining to the Vacation Rental unless all outstanding fines, penalties or liens have been paid or satisfied.

Sec. 22-55. - Amendment of Certificate of Registration.

An amendment of the Certificate of Registration shall be required in the event that any of the following changes to the Vacation Rental occur.

- (a) An increase in the number of Bedrooms in the Vacation Rental.
- (b) An increase in the square footage of temperature-controlled living space within the Vacation Rental.
- (c) An increase in the maximum occupancy of the Vacation Rental.
- (d) An increase or decrease in the number of parking spaces or a change in the location of parking spaces for the Vacation Rental.

Sec. 22-56. - Change in Ownership of the Vacation Rental.

When a Vacation Rental is sold or ownership is otherwise transferred, the new Owner shall apply for a new Certificate of Registration with the City within fifteen (15) days from the date of the sale or transfer, and shall obtain a new Certificate of Registration. If the new Owner fails to apply for a new Certificate of Registration as provided in this Article, any Certificate of Registration previously issued for that Vacation Rental shall become null and void on the sixteenth (16th) day following such sale or transfer. An inspection of the

Vacation Rental is required whenever there is new Certificate of Registration application due to a change of ownership.

Sec. 22-57. - No Vested Rights, Estoppel of Waiver.

The issuance of a Certificate of Registration as required by Sec. 22-53 above shall not be construed to create any vested rights or entitle the Owner of the registered Vacation Rental to any rights under the theory of estoppel. The issuance of a Certificate of Registration shall not be construed as a waiver of any other requirements contained within the City of Bradenton Code of Ordinances.

Sec. 22-58. - Inspections of Vacation Rentals.

(a) Upon the filing of an application for a Certificate of Registration and prior to issuance, the Vacation Rental shall be subject to an initial inspection to verify compliance with the Florida Building Code and the Florida Fire Prevention Code and to confirm that the Vacation Rental is in compliance with this Article and with all applicable provisions of the City's Code of Ordinances, including the International Property Maintenance Code. The Designated Responsible party shall schedule and confirm all inspections required by this Article with the City.

(b) Once a Vacation Rental has received a Certificate of Registration, subsequent renewals shall not require an inspection unless the Vacation Rental has not been inspected within the five (5) years immediately preceding the renewal date. Renewals requiring re-inspection shall be filed with the City a minimum of ninety (90) days prior to the expiration of the Certificate of Registration.

(c) If instances of non-compliance with the Florida Building Code or Florida Fire Prevention Code or other provisions of this Article or the City's Code of Ordinances are discovered upon inspection, such non-compliance shall be corrected and the Vacation Rental re-inspected within thirty (30) calendar days after written notice of such violation(s) is provided to the Designated Responsible Party.

(d) If the inspector is denied admittance by the Designated Responsible Party or if the inspector is otherwise unable, following at least three (3) attempts, to complete an initial or a subsequent inspection of the Vacation Rental, the inspector shall provide a notice of inability to conduct the inspection to the Vacation Rental Owner or to the Designated Responsible Party at the address shown on the application for registration or on the Certificate of Registration. In such circumstances no Certificate of Registration shall be issued or renewed until the inspection has been conducted. The issuance of a notice of inability to conduct an inspection after the third failed attempt shall be deemed a violation

of this Article and shall be subject to enforcement remedies as provided in this Article.

Sec. 22-59. - Schedule of Fees.

A schedule of fees shall be adopted by resolution of the City Council and maintained by the City Clerk.

Sec. 22-60. - Minimum Safety Requirements.

(a) A swimming pool, spa or hot tub shall comply with the current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes.

(b) The Vacation Rental shall have a functioning smoke and carbon monoxide detection and notification system which shall be installed and continually maintained consistent with the requirements of Section R314, Smoke Alarms and Section R315, Carbon Monoxide Alarms of the Florida Building Code-Residential.

(c) 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 Vacation Rental. The extinguisher shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location.

(d) Battery powered emergency lighting, which illuminates automatically for at least one (1) hours when electricity is interrupted is required at each building exit.

Sec. 22-61. - Minimum Posting Requirements.

(a) The following information shall be posted in a conspicuous location on an interior wall inside the Vacation Rental for the safety and convenience of the occupants:

- (1) The location of the nearest hospital.
- (2) The non-emergency police telephone number.
- (3) The dates and approximate times of trash and recycling pick up.
- (4) The street address and land line telephone number of the Vacation Rental.
- (5) The name and phone number of the Designated Responsible Party.

(6) Emergency evacuation instructions.

(b) The following additional information shall also be posted in a conspicuous location on an interior wall inside the vacation entry in close proximity to the main entrance:

(1) The Maximum Occupancy of the Vacation Rental.

(2) The maximum number of vehicles that are permitted to park at the Vacation Rental based on the number of off-street parking spaces on site, including enclosed spaces as determined by City staff.

(3) A notice of the need to respect the peace and quiet of neighboring residents which shall state as follows: "You are vacationing in a residential area. Please be a good neighbor by not making excessive noise or engaging in boisterous behavior, especially after 11:00p.m. Such behavior can deprive your neighbors of the peaceful enjoyment of their homes."

(4) A statement that sound that is audible beyond the property lines of the Vacation Rental unit is regulated by the City's Noise Ordinance and that violation of the Noise Ordinance could result in fines to the occupants.

(5) A statement that dogs which are not within a fenced area must be on leash pursuant to County ordinance, and failure to adhere to such requirements could result in fines.

(c) A copy of the Certificate of Registration for the Vacation Rental shall be posted next to or on the interior side of the primary door to the Vacation Rental.

Sec. 22-62. - Parking.

All vehicles associated with the Vacation Rental shall be parked within a driveway or parking area located on the premises and in compliance with all applicable City ordinances. The Owner shall provide one space of off-street parking for every four persons of occupancy permitted pursuant to Sec. 22-64. Where structures existing as of the effective date of this Article are unable to provide off-street parking, the Vacation Rental shall be permitted a maximum occupancy of four persons, unless otherwise limited pursuant to Sec. 22-64.

Sec. 22-63. - Designated Responsible Party.

(a) The duties of the Designated Responsible Party, whether the Owner or the Owner's authorized representative, are as follows:

- (1) To be available by land line or mobile telephone at one of the listed phone numbers provided to the City in the application for registration twenty four (24) hours a day, seven days a week, and to be capable of handling any issues arising from the use of the Vacation Rental.
- (2) To be available twenty four hours a day, seven (7) days a week for the purpose of promptly responding to complaints regarding the conduct or behavior of Vacation Rental occupants or their guests, or regarding alleged violations of this Article. The Designated Responsible Party shall have the authority to immediately address and take action, within one (1) hour of notice from the City, to address complaints, including but not limited to, safety issues, noise or parking.
- (3) To come to the Vacation Rental within one (1) hour following notification from an occupant, the Owner, or the City, with authority to address and to coordinate solutions to problems or issues associated with the Vacation Rental.
- (4) To receive service of any legal notice on behalf of the Owner for violations of this Article or other law or ordinance.
- (5) To exercise all rights of the Owner under Section 509.141, 509.142, and 509.143, Florida Statutes, to deal with unruly occupants and their guests in the Vacation Rental.
- (6) To maintain continuous compliance with the interior posting requirements of Sec. 22-61.
- (7) To maintain the Vacation Rental premises free of garbage and litter, provided that this subsection does not prohibit the storage of garbage and litter in authorized receptacles for collection.
- (8) To otherwise monitor the Vacation Rental at least once a week when rented to check upon the condition of the unit and the occupants' compliance with this Article.
- (9) To be informed as to the names, addresses and email addresses and phone numbers of all occupants and as to the number of occupants during each rental period.
- (10) To provide the City with notice of resignation as Designated Responsible Party in writing at least one week in advance of the effective date of the resignation.

(b) A Designated Responsible Party must have authority to consent to allow all inspectors access to the Vacation Rental property to conduct inspections.

(c) It shall be the sole responsibility of the Owner to appoint a reliable Designated Responsible Party and to inform the City of his or her contact information as a part of the applicable for registration as provided in Sec. 22-52(b) above. Failure to do so shall not be a defense to an alleged violation of this Article.

(d) An Owner may change his or her Designated Responsible Party temporarily or permanently. However, there shall only be one Designated Responsible Party for each Vacation Rental property at any one time. To change the Designated Responsible Party, the Owner shall notify the City in writing on a form to be provided by the City at least one week in advance.

(e) Personal service on, or mailing or emailing of a notice of violation or other notices to, the Designated Responsible Party shall be deemed valid service and notification of the Owner or occupant.

Sec. 22-64. - Maximum Occupancy.

(a) The Maximum Occupancy of a Vacation Rental shall be stated in the Vacation Rental registration form, and shall be limited to the lessor of:

(1) Two persons per Bedroom, plus two (2) additional persons; or

(2) One person per 150 square feet of temperature-controlled living space within the Vacation Rental; or

(3) Twelve (12) persons.

(b) The Maximum Occupancy restriction as set forth above shall not apply when the property is occupied by the Vacation Rental Owner.

(c) Notwithstanding the Maximum Occupancy provisions of this Article, a Vacation Rental that was operating as a Vacation Rental as of the effective date of this Ordinance at an occupancy higher than would be allowed under this Article, may apply for grandfathered status for a period of five (5) years, as to occupancy limitations, and with grandfathered occupancy for this 5-year period to be based upon the following criteria and procedures.

(1) A grandfathered Vacation Rental shall have its Maximum Occupancy based upon a maximum of two persons per Bedroom plus four (4) additional persons, and subject to proof of existing use at or above the requested occupancy as of the effective date of this

Ordinance. A change in the number of Bedrooms at the Vacation Rental shall cause such Vacation Rental to lose its grandfathered status.

(2) The Vacation Rental Owner, or agent, as applicable (“Grandfathering Applicant”), shall complete an application for grandfathering (“Grandfathering Application”) as prescribed by the City, which shall be submitted under oath and upon penalty of perjury, and provide verifiable written proof of the number of Bedrooms as herein defined in the Vacation Rental and the existing use of the Vacation Rental at or above the requested occupancy, as of the effective date of this Ordinance.

(3) The Grandfathering Application and supporting proof shall be submitted to City for review by City staff, and such staff shall make a written determination as to the Maximum Occupancy of such grandfathered Vacation Rental.

(4) All Grandfathering Applications shall be submitted by no later than the time of application for a Certificate of Registration for the Vacation Rental, but in no event later than January 1, 2023. If a Vacation Rental has received a Certificate of Registration, but a final determination as to the Grandfathering Application has not yet been made, such Vacation Rental may allow occupancy up to the maximum occupancy requested in the Grandfathering Application until such time as a final determination as to occupancy has been made.

(5) If a valid Certificate of Registration does not exist as to a Vacation Rental for a period exceeding thirteen (13) continuous months, any grandfathered occupancy shall be deemed abandoned, and shall no longer be applicable to that Vacation Rental.

Sec. 22-65. - Exemption from Maximum Occupancy Limits for Pre-existing Rental Agreements.

(a) The Maximum Occupancy limits contained in Sec. 22-64 shall not apply to a Pre-existing Rental Agreement entered into and fully executed prior to the effective date of this Ordinance. Notwithstanding any other provision of this Article, occupancy pursuant to Pre-existing Rental Agreements are exempt from the Maximum Occupancy limits of this Article.

(b) At the time of submittal of an application for a Certificate of Registration, the Owner or agent shall submit proof of any Pre-existing Rental Agreements, which should include the following information and any additional information which would support the request:

- (1) Copy of deposit or payment information evidencing that the agreement was an agreement that pre-dated the effective date of this Ordinance (i.e., a Pre-existing Rental Agreement).
- (2) Copy of emails or other written communication evidencing a Pre-existing Rental Agreement.
- (3) Information from the occupant confirming that there was a binding agreement in a time frame to make the agreement qualify as a Pre-existing Rental Agreement.
- (4) A written Vacation Rental agreement executed and dated prior to the effective date of this Article.

Sec. 22-66. - Advertising.

Any advertising of the Vacation Rental shall conform to the information submitted with the application for registration of the Vacation Rental and to the information shown on the Certificate of Registration for the Vacation Rental, specifically including, but not limited, to Maximum Occupancy. It shall be a violation of this Article for the Owner to advertise the Vacation Rental as being available for occupancy at a level that exceeds the Maximum Occupancy established for the Vacation Rental under this Article. The existence of advertising through any medium which describes the Vacation Rental as being available for occupancy at a level that exceeds the Maximum Occupancy established for the Vacation Rental under this Article shall create a rebuttable presumption that the Vacation Rental identified in the advertising or advertisement was used in violation of this Section.

Sec. 22-67. - Violations of this Article.

(a) Non-compliance with any provision of this Article shall constitute a violation of this Article. Violations of this Article shall specifically include, but not be limited to, the following unlawful conduct:

- (1) It is unlawful to rent out a Vacation Rental without a current Certificate of Registration issued by the City in accordance with this Article.
- (2) It is unlawful to advertise or otherwise offer a Vacation Rental for rent without a current Certificate of Registration issued by the City in accordance with this Article.
- (3) It is unlawful to rent a Vacation Rental for occupancy in excess of the applicable Maximum Occupancy.

(4) It is unlawful to be an occupant of a Vacation Rental at any time that the number of occupants of the Vacation Rental exceeds its Maximum Occupancy.

(5) It is unlawful to fail to post a copy of the Certificate of Registration in a Vacation Rental as required by this Article or to fail to post any of the information required to be posted in the Vacation Rental under this Article.

(6) It is unlawful to provide any false or misleading information in connection with any application for a Certificate of Registration, or for modification or renewal of a Certificate of Registration, as required by this Article. Any knowing and intentionally false statements made in any such application, or any intentionally misleading information submitted in connection with an application, may subject the applicant to a fine, revocation of the Certificate of Registration and such further penalties as described herein or otherwise provided by law.

(b) Each day a violation exists shall constitute a separate and distinct violation.

Sec. 22-69. - Enforcement and Remedies.

(a) Code enforcement related to violations of this Article shall be undertaken in accordance with Chapter 162 of the Florida Statutes, the City of Bradenton Code of Ordinances and this Article.

(b) The City may utilize Chapter 162, Part 1, Florida Statutes, to prosecute a violation of this Article or other code violations with respect to a Vacation Rental and in such cases, the code enforcement board shall be authorized to hold a hearing, to assess penalties and to order other relief in accordance with Article VI of the Code of Ordinances and this Article.

(c) Nothing herein shall prevent the City from seeking all other available remedies which may include, but shall not be limited to, suspension of a Certificate of Registration, injunctive relief, liens and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.

Section 3. In the event that any word(s), phrase(s), portion(s), section(s), subsection(s) of this Article is (or are) contrary to law, or against public policy, or shall for any reason whatsoever be held invalid, illegal or unconstitutional by any court of competent jurisdiction, such word(s), phrase(s), portion(s), section(s), subsection(s) of this Article shall be null and void and shall be deemed severed and shall be a separate, distinct and independent provision from the remaining provisions of this Article; and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sections or subsections of this Article, which shall remain in full force and effect.

Section 4. This Ordinance shall take effect as provided by Florida law.

FIRST READING	January 12, 2022
PUBLICATION DATE	January 14, 2022
SECOND READING	January 26, 2022

PASSED AND DULY ADOPTED, BY THE CITY COUNCIL OF THE CITY OF BRADENTON, FLORIDA, with a quorum present and voting, this 9th, day of February, 2022.

CITY OF BRADENTON, FLORIDA



Gene Brown, Mayor

ATTEST:

By:


Tamara Melton, City Clerk



APPROVED AS TO FORM:

By:


Scott Rudacille, City Attorney