

**TUESDAY, AUGUST 27, 2024
CITY COMMISSION WORK SESSION
@ 4:00 P.M.**

**The Indian Rocks Beach City Commission
welcomes any comments or suggestions.**

**Please send an Email to the City:
cityhall@irbcity.com**

**Your Email will be forwarded to the entire
City Commission.**



City of Indian Rocks Beach

1507 Bay Palm Boulevard, Indian Rocks Beach, Florida 33785
www.indian-rocks-beach.com

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Send an Email to the City; cityhall@irbcity.com.**

AGENDA

**CITY OF INDIAN ROCKS BEACH
CITY COMMISSION WORK SESSION
TUESDAY, AUGUST 27, 2024 @ 4:00 P.M.
CITY COMMISSION CHAMBERS
1507 BAY PALM BOULEVARD
INDIAN ROCKS BEACH, FLORIDA 33785**

**Call to Order
Pledge of Allegiance
Roll Call**

- 1. Discussion of Ordinance No. 2023-02 – Vacation Rental Regulations.**
 - 2. Public Comment. [3-minute time limit per speaker.]**
(Any member of the audience may come forward, give their name and address, and state any comment or concern that they may have regarding any matter over which the City Commission has control, EXCLUDING AGENDA ITEMS. All statements made to the City Commission shall be made to the City Commission as a whole, not directed to any individual City Commission Member, and no personal, impertinent, or slanderous remarks shall be permitted. No speaker shall be interrupted, and no debate shall occur between the speaker and the City Commission.)
 - 3. Adjournment.**
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APPEALS: Any person who decides to appeal any decision made, with respect to any matter considered at such hearing, will need a record of the proceedings and, for such purposes, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based, per s. 286.0105, F.S. Verbatim transcripts are not furnished by the City of Indian Rocks Beach, and should one be desired, arrangements should be made in advance by the interested party (i.e., Court Reporter).

In accordance with the Americans with Disability Act and s. 286.26, F.S., any person with a disability requiring reasonable accommodation to participate in this meeting should contact the City Clerk's Office with your request, telephone 727/595-2517 lkornijtschuk@irbcity.com, no later than FIVE (5) days before the proceeding for assistance.

POSTED: August 16, 2024

**NEXT REGULAR CITY COMMISSION MEETING
TUESDAY, SEPTEMBER 10, 2024 @ 6:00 P.M.**

AGENDA ITEM NO. 1

Discussion of Ordinance No. 2023-02

Vacation Rental Regulations.



THOMAS J. TRASK, B.C.S.*
JAY DAIGNEAULT, B.C.S.*
ERICA F. AUGELLO, B.C.S.*
RANDY D. MORA, B.C.S.*
ROBERT M. ESCHENFELDER, B.C.S.*
NANCY MEYER*
MEGAN HAMISEVICZ

* Board Certified by the Florida Bar in
City, County and Local Government Law

MEMORANDUM

DATE: August 15, 2024

TO: City Commission, City of Indian Rocks Beach

FROM: Randy Mora, Esq., City Attorney

CC: City Manager, City of Indian Rocks Beach
City Clerk, City of Indian Rocks Beach

RE: IRB Short Term Rental Ordinance – Proposed Revisions
August 27, 2024 Work Session re: Proposed Ordinance

On May 9, 2023, the City Commission adopted Ordinance 2023-02, establishing a comprehensive process for the regulation and registration of short-term rentals (the “Ordinance”) in the City of Indian Rocks Beach (the “City”).

I. INITIATION OF LITIGATION AGAINST THE CITY

Beginning in approximately August 2023, a series of individuals and entities filed suit against the City challenging the validity and constitutionality of the Ordinance. There are presently seven separate suits challenging the Ordinance, each of which is pending before Judge Merryday in the U.S. District Court for the Middle District of Florida. While many of the lawsuits raise substantially similar arguments, they are not all identical. Even so, the plaintiffs’ claims aim to invalidate all or substantial portions of the Ordinance.

The seven suits presently pending against the City (the “Federal Actions”) are styled as:

1. *715 Gulf, LLC v. City of Indian Rocks Beach*, Case No. 8:23-cv-02087-SDM-NHA
2. *AP 6 LLC v. City of Indian Rocks Beach*, Case No. 8:23-cv-01986-SDM-CPT
3. *Florida Dreamscape Vacation Rentals LLC v. City of Indian Rocks Beach*,
Case No. 8:23-cv-02131-SDM-TGW
4. *Harbor Vista Ventures LLC v. City of Indian Rocks Beach*,
Case No. 8:23-cv-02137-SDM-J_S
5. *Peak Ventures LLC v. City of Indian Rocks Beach*, Case No. 8:23-cv-02223-SDM-AEP
6. *Shearer v. City of Indian Rocks Beach*, Case No. 8:23-cv-02089-SDM-J_S
7. *IRB Connect LLC, et al. v. City of Indian Rocks Beach*, Case No. 8:23-cv-02030-SDM-CPT

The Phelps Dunbar law firm represents the plaintiffs in the first six suits above, while the Smolker Mathews law firm represents the plaintiffs in the seventh.

II. LITIGATION POSTURE & MEDIATION

After removing each of the seven cases to the U.S. District Court for the Middle District of Florida, the City responded to the complaints by filing motions to dismiss. In an attempt to address the City's legal arguments, the plaintiffs amended their respective complaints. The City responded to the amended complaints by filing motions to dismiss directed to the amended complaints.

Before substantively ruling on any of the pending motions to dismiss, on or about October 19, 2023, Judge Merryday consolidated the lawsuits for the purpose of mediation, and directed the parties to mediate the cases before January 12, 2024. On January 9, 2024, the parties conducted an all-day global mediation of the Federal Actions.

The January 9th mediation concluded with the parties reaching tentative settlement terms. The tentative settlement terms are wholly contingent upon the City Commission's consideration and potential adoption of proposed amendments to the Ordinance. As a result, on January 11, 2024, the parties filed a Joint Motion to Stay the Federal Actions to allow the parties sufficient time to draft and present the negotiated amendments to the City Commission for its review and consideration. The next day, Judge Merryday entered orders administratively closing the Federal Actions and deferring all deadlines until further order.

Over the past several months, counsel for the parties negotiated and agreed-upon suggested revisions to the Ordinance that, if adopted, would lead to the resolution of all of the Federal Actions (the "Proposed Ordinance"). The City's legal counsel ensured that City administration was involved in the drafting and review of the Proposed Ordinance. Similarly, the plaintiffs' lawyers have consulted with their respective clients concerning the Proposed Ordinance's terms. The settlement terms do not include any settlement payments or monetary terms.

The Federal Actions remain administratively closed during the City Commission's consideration of the Proposed Ordinance.

III. THE PROPOSED ORDINANCE & LEGISLATIVE SESSION

In addition to the time committed to drafting and negotiating the Proposed Ordinance, the public presentation and consideration of the Proposed Ordinance was delayed by the Florida Legislature's adoption of Committee Substitute for Senate Bill 280: An Act Relating to Vacation Rentals ("CS/SB 280"). CS/SB 280 sought to modify the scope of the Legislature's preemption of the regulation and registration of short-term rentals, the terms of which could have directly impacted the terms of the Proposed Ordinance. Though adopted by the Legislature on March 7, 2024, it was not presented to the Governor until June 17, 2024.

On June 27, 2024, the Governor vetoed CS/SB 280. In vetoing CS/SB 280, the Governor opined that:

[b]eyond creating new bureaucratic red tape the locals must comply with, CS/SB 280 prevents local governments from enforcing existing ordinances or passing any new local measure which would exclusively apply to vacation rentals. . . . Going forward, I encourage the Florida Legislature and all key stakeholders to work together, with the understanding that vacation rentals should not be approached as a one-size-fits-all issue.

IV. CONCLUSION

The Proposed Ordinance represents a good faith effort by the various stakeholders in the City to work together to find a negotiated solution to this issue while resolving the Federal Actions. Owing to the temporal and financial costs associated with multi-suit litigation, it is my recommendation that the City Commission consider the draft Proposed Ordinance as a practical and global resolution to the suits pending against the City.

Respectfully submitted,

A handwritten signature in black ink, appearing to be the name "Randy" followed by a stylized surname, possibly "Randy". The signature is written in a cursive, flowing style.

ORDINANCE NO. 2024-XX

AN ORDINANCE OF THE CITY OF INDIAN ROCKS BEACH, FLORIDA, AMENDING THE COMPREHENSIVE REGULATORY SCHEME REGARDING THE MARKETING AND OPERATION OF SHORT-TERM RENTALS WITHIN THE CITY; AMENDING ARTICLE V, “VACATION RENTAL REGULATIONS,” WITHIN CHAPTER 18 – “BUSINESSES”; AMENDING THE ORDINANCE REGULATING THE REGISTRATION, INSPECTION, SAFETY, AND OPERATION OF VACATION RENTALS WITHIN SPECIFIED ZONING DISTRICTS IN THE CITY OF INDIAN ROCKS BEACH; AMENDING RELATED DEFINITIONS CONCERNING PERMISSIBLE OCCUPANCY; ALTERING REGISTRATION REQUIREMENTS; MODIFYING ENFORCEMENT PROVISIONS; AMENDING INSPECTION REQUIREMENTS; AMENDING THE DUTIES OF DESIGNATED RESPONSIBLE PARTIES; CLARIFYING LIFE SAFETY REQUIREMENTS; MAKING RELATED FINDINGS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND FOR AN EFFECTIVE DATE.

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

WHEREAS, the 2011 Florida Legislature enacted House Bill 883 (Florida Chapter 2011-119, Laws of Florida) (“HB 883”) which preempted the local regulation of a specific land use commonly called short term vacation rentals; and

WHEREAS, HB 883 prevented local communities from enacting new regulations necessary to address any consequential or negative impacts caused by short-term vacation rentals; and

WHEREAS, following the enactment of HB 883 the City of Indian Rocks Beach (the “City”) adopted Ordinance 2011-03, modifying its ordinances concerning the regulation of short term vacation rentals; and

WHEREAS, a little more than a year later the City adopted Ordinance 2012-08, further amending its restrictions regarding short term vacation rentals; and

WHEREAS, the 2014 Florida Legislature enacted Senate Bill 356 (Florida Chapter 2014-71, Laws of Florida) (“SB 356”) which rescinded HB 883’s preemption on local regulation of short term vacation rentals, but provided that local laws, ordinances or regulations adopted after June 1, 2011 may not prohibit short term vacation rentals or regulate the duration or frequency of rental of vacation rentals; and

WHEREAS, SB 356 returned some local control back to municipalities to mitigate the effects of short term vacation rentals in an attempt to make them safer, more compatible with existing neighborhood regulations, and accountable for their proper operation; and

WHEREAS, SB 356 does not allow local governments to prohibit short term vacation rentals in any community or zoning district; 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, single-family residential neighborhoods and their required infrastructure are generally designed to accommodate typical single-family residential homes with two (2) or (3) persons per household, on average; and

WHEREAS, local governments apply design standards tailored for their roads, driveways, emergency services planning, public shelters, solid waste collection, utilities, buffers, and are also tailored in assessing their infrastructure impacts; and

WHEREAS, short-term vacation rental occupants, due to the transient nature of their occupancy, are unfamiliar with local hurricane evacuation plans, the location of fire extinguishers, residence exit routes, pool and home safety features, and other similar safety measures that would ordinarily be provided to guests in traditional lodging establishments; and

WHEREAS, the occupants of short-term vacation rentals located within established neighborhoods can disturb the quiet enjoyment of the neighborhood; and

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

WHEREAS, many local jurisdictions in the State of Florida, and across the nation have standards in place to minimize the negative impacts caused by short-term vacation rentals; and

WHEREAS, the City Commission finds that while the Florida Legislature has equated short-term "vacation" renting with traditional long-term occupation of a residence by families who 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 families who live in those homes can and, though not universally, does create 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, residents living within their residential dwellings are inherently familiar with the local surroundings, local code restrictions, 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 code restrictions, 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, the regulation of vacation rentals will contribute to the stability of the City's existing residential neighborhoods as well as the health, safety, and welfare of the City's residents and guests; and

WHEREAS, the regulation of vacation rentals will protect visitors to the City 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, in September 2018, the City Commission adopted Ordinance 2018-01, initially regulating aspects of the operation of short term vacation rentals; and

WHEREAS, after multiple public work sessions and upon significant public comment by various interested shareholders that resided in, owned property, or visited the City, the City Commission in May 2023 adopted Ordinance 2023-02, which established a comprehensive regulatory scheme governing the operation of short term vacations rentals; and

WHEREAS, it was not the intent of Ordinance 2023-02, whether *de facto* or *de jure*, to prohibit vacation rentals, or to regulate the duration or frequency of rental of vacation rentals but instead to regulate vacation rentals in a manner that ensured their safe and lawful operation; and

WHEREAS, after adopting Ordinance 2023-02, the City was sued by multiple parties advancing legal and constitutional challenges to the Ordinance; and

WHEREAS, the City Commission now desires to amend Ordinance 2023-02 after further considering the interests of the community and the rights and interests of property owners, and in a manner that strives to reach an equitable balance considering the legal challenges directed to the Ordinance; and

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

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

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

NOW, THEREFORE BE IT ORDAINED by the City Commission of the City of Indian Rocks Beach, Florida, that:

SECTION 1. Chapter 18 of the City of Indian Rocks Beach Code is hereby amended to read as follows:

CHAPTER 18 - BUSINESSES

ARTICLE V. – VACATION RENTAL REGULATIONS

DIVISION 1. – GENERAL PROVISIONS

Sec. 18-200. – Definitions.

The following terms as used in this article 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 city's building official, and which complies with the Florida Building Code as a bedroom, but shall not include a bathroom, garage, 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, where applicable, such room shall not be deemed a bedroom. For purposes of this article, staff shall have discretion in the registration process to determine the number of bedrooms within traditional cottages that exist within the City, ~~but may not have a built-in closet owing to their historical design.~~

City Code shall mean the city's codified code of ordinances including the zoning code, all uncodified ordinances, the city's comprehensive plan, and the future land use map.

Code Compliance Magistrate shall mean any person or persons designated to adjudicate alleged violations of the City's Code of Ordinances, pursuant to Fla. Stat. § 162.01 *et seq.* The terms code compliance board, code enforcement board, or magistrate are used interchangeably within this article.

Dwelling Unit means any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating, whether such unit is occupied or vacant.

Habitable Living Space for Sleeping Purposes shall mean the square footage of any room or enclosed floor space used or intended to be used for living and sleeping purposes, which has a bed or other furniture for sleeping. This definition shall exclude bathrooms, water closet compartments, laundries, pantries, foyers, communicating corridors, closets, storage spaces, kitchens, dining rooms, utility rooms, garages, and unpermitted area below base flood elevation. For purposes of this article, in the registration process staff shall strictly adhere to the definitions of these spaces as they appear in the Residential Edition of the Florida Building Code, as amended from time to time, unless the term is specifically defined in a different manner in this Article, to determine the amount of habitable living space for sleeping purposes within any dwelling unit for the operation of a vacation rental.

~~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. There is a rebuttal presumption that, when the dwelling unit occupied is not the primary residence of the guest, the occupancy is transient.

Overnight means being present in the vacation rental at any time between the hours of 10 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 also 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. A property shall not be deemed owner-occupied where the owner of the property allows a friend, acquaintance, employee, or other person not considered a family member, as defined here, to occupy the property unaccompanied by a family member.

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 a natural person 18 years of age or older 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 the residential property. 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 shall mean a vacation rental as defined by Florida Statutes § 509.242(1)(c).

Vacation rental registration or "VRR" shall refer to the licensure or certification issued by the City of Indian Rocks Beach to a property owner authorizing the lawful operation of a transient public lodging establishment as a vacation rental within the City.

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 city in writing, on a form provided by the city, 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 city commission. The vacation rental owner shall be held responsible for all actions of such designated agent with respect to the applicable vacation rental.

Sec. 18-201. – Scope

This article shall apply to all structures used as vacation rentals within the single family ("S"), medium density ("RM 2"), medium density duplex residential ("RM 1"), and the high density commercial tourist ("CT") zoning districts.

To the extent applicable within the City's CT zoning district, this provision shall not extend to the operation of any legally established and permitted timeshare properties or timeshare units subject to a timeshare instrument, as those terms are defined in Fla. Stat. § 721.05, in existence ~~at the time of the adoption of this ordinance~~ as of May 9, 2023.

Sec. 18-202. – Enforcement.

- (a) **Generally.** Unless specified otherwise in this article, violations of this article shall be enforced in the manner set forth in Chapter 1, Section 1-14 of the code, and potential penalties shall include, ~~in addition to the imposition of daily fines, the suspension or revocation of the vacation rental's ability to operate under the conditions set forth in this article~~ liens, and all other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.
- (b) **Fines.** The Magistrate's decision whether to impose a fine and the amount of the fine shall remain subject to the provisions, considerations, and limitations set forth in Fla. Stat. 162.09, as well as the following factors:
- (1) the gravity of the violation;
 - (2) any action(s) taken by the violator or property owner to correct the violation;
 - (3) any previous violations committed by the violator;
 - (4) the property owner or designated responsible party's efforts to resolve or avoid the violation;
 - (5) the temporal duration of the violation;
 - (6) whether the violation was a function of the property owner's action or inaction, or those of their transient guests;
 - (7) any evidence of the property owner's adjudication or admission to violations of a similar nature in the City;
 - (8) any evidence of deliberate misrepresentation by the owner(s) to the city or its agents in connection with the violation; and
 - (9) any documentation from an online rental platform of any warning, rebuke, censure, suspension, penalty, or prohibition of the property owner or owners' use of its platform for the purpose of offering properties as transient public lodging establishments as a violation of the platform's policies, procedures, or terms of service.
- ~~(c) **Rental Registration Suspension.** Upon a third adjudicated or admitted violation of the City's code of ordinances within a twelve (12)-month period at the same rental unit or property, the Magistrate shall have the discretion to temporarily suspend the property owner or owners' vacation rental registration for the property or unit at issue. The Magistrate's decision whether to suspend a vacation rental registration and for what duration shall remain subject to consideration of the same factors evaluated when determining the imposition of the initial fine.~~

~~Nothing in this provision shall be construed to permit the suspension of a registration based on mere complaint or, alleged and disputed or unadjudicated violations of the City's code of ordinances. The Magistrate's decision whether to suspend a vacation rental registration and for what duration shall be subject to the same considerations for the imposition of a fine as set forth in this article.~~

~~Upon the expiration of a suspension period imposed by the Magistrate, the city manager or his/her designee shall reinstate the property or unit's vacation rental registration. A suspended~~

~~vacation rental registration shall not, however, be reinstated while any fine imposed as against property owner as a result of an admitted or adjudicated determination of a violation of the City's code of ordinances at the subject property for which reinstatement is sought remains due and owing.~~

- ~~(d) **Rental Registration Revocation.** Upon a third imposed and legally sustained suspension within a three (3) year period, the Magistrate shall have the discretion to revoke a property owner or owners' vacation rental registration for the property or unit at issue. The Magistrate's decision of whether to revoke a rental registration for a property shall be subject to the same considerations for the imposition of a fine and suspension of a vacation rental registration.~~

~~Any revoked vacation rental registration for a specific unit or property shall not be re-issued for the same unit or property to the property owner(s) who had his/her/its registration revoked, or to any entity in which he/she/it has any financial or ownership interest.~~

- ~~(c) (e) **Reservation of Rights.** Nothing herein shall prevent the city from seeking all other available remedies which may include, but shall not be limited to, suspension or revocation of a vacation rental registration upon adequate due process, injunctive relief, liens, and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.~~

Sec. 18-203. – Appeals.

An aggrieved party, including the local governing body, may appeal a final administrative order of the Magistrate to the circuit court, in the manner set forth in Fla. Stat. § 162.11. Any such appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.

DIVISION 2. – VACATION RENTAL REGISTRATION, RESPONSIBLE PERSONS, AND ADVERTISEMENTS

Sec. 18-204. – Registration required.

~~As of July 3, 2023, a vacation rental registration shall be required to operate a vacation rental within the city, utilizing forms promulgated by the city. The city manager may extend the date that such registration is required by notice on the city's website should the city not publish forms and fees for registration by June 16, 2023.~~

Prior to the issuance of a vacation rental registration, the owner or primary 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 city Code, Florida Statutes Chapter 509, the applicable Florida Building Code from the time of permitting for each dwelling unit, the Florida Administrative Code, and the Florida Fire Prevention Code, unless any of those codes include explicit language requiring the retroactive application of a provision, or the subsequent modification of the dwelling unit or structure otherwise triggers the conditional application of a provision within those codes. A separate vacation rental registration shall be required for each

vacation rental unit. 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 the effective date of this Ordinance.~~

Sec. 18-205. – Vacation Rental Registration Fee.

All fees to be charged under the provisions of this article shall be set forth in a resolution to be adopted by the City Commission. There shall be no differentiation in the fee required for an initial rental registration, renewed rental registration, or transferred rental registration. The Commission may require a reduced rental registration fee for a change of ownership or amended rental registration as set forth in 18-207 (a).

Sec. 18-206. – Vacation Rental Registration Process and Contents.

- (a) **Rental Registration Application Required.** A vacation rental registration application must be filed and signed by the vacation rental owner. In the event a rental registration is submitted by a corporate entity, the application must identify each shareholder in the corporate entity and be signed by each owner of the corporate entity.
- (b) **Rental Registration Submission.** A registration application must be submitted using the forms promulgated by the city for such purpose. Application forms shall be submitted to the city employee or official designated by the city manager for processing. All applicable registration and inspection fees established by the city shall be submitted at the same time as the application form.
- (c) **Rental Registration Contents.** A registration application shall, at a minimum, include the following:
 - (1) Address of the vacation rental property being registered, including any corresponding unit number, along with proof of ownership, which may be in the form of a copy of the deed or the property appraiser’s website information on the property; and
 - (2) Name, address, phone number, and e-mail of the property owner and the date upon which the owner took title to the property. No rental registration shall issue to a lessee, tenant, sub-lessee or sub-tenant of a property; and
 - (3) Name, address, e-mail, and emergency contact phone number of the primary responsible person(s), and any secondary or tertiary contact for the vacation rental. At least one of the designated responsible person(s) shall be available in the manner required in this article at the contact numbers provided in the rental registration submissions; and
 - (4) The vacation rental’s current and active license or registration number as a transient public lodging establishment with the Florida Department of Business and Professional Regulation (DBPR); and

- (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; and
- (6) Business tax receipt from the city, in accordance with chapter 58 of the city code; and
- (7) Statement attesting to ~~the number of bedrooms, as defined in this article~~ the amount of habitable living spaces in square feet and number of bedrooms, as defined in this article, and identifying the number and location of parking spaces available on the property, with affirmation that the owner will make its guests aware of the parking plan submitted by the owner will be followed by the owner's guests; and
- ~~(8) Exterior site plan. An exterior plan of the vacation rental property drawn to scale, identifying the structures and dimensions of those portions of the property outside of the primary residential structure. The submitted plan shall include the name and phone number of the person who prepared the drawing. The plan shall depict and identify the outer boundaries of the property, and all structures, docks, sheds, outdoor kitchens, paved parking areas, pools, spas, hot tubs, and fencing. The exterior site plan can be prepared by the property owner, and do not need to be prepared by a surveyor, architect, or engineer;~~
- ~~(9)~~ (8) Interior structural plan by floor. An interior structural plan of the vacation rental structure by floor, drawn to scale, shall be provided. The submitted plan shall include the name and phone number of the person who prepared the drawing. The interior structural plan shall depict a floor layout identifying all spaces on each floor, and shall label each space as a ~~bedroom~~ habitable living space for sleeping purposes, (as defined in 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. The interior structural plans can be prepared by the property owner, and do not need to be prepared by an architect or engineer. The interior structural plan must specify the claimed square footage of any habitable living space for sleeping purposes; and
- ~~(10)~~ (9) Acknowledgement signed by each owner, acknowledging and agreeing to initial and ongoing compliance with this article and all other city codes and federal, including FEMA requirements, as well as state and county laws which are applicable to the owner's ownership, maintenance, repair, modification, and use of the vacation rental property; and
- ~~(11)~~ (10) A listing of the occupancy limit for the vacation rental established by this article, calculated in the manner set forth in this article, and an acknowledgement that the owner will use best efforts to ensure compliance with the occupancy limit; and
- ~~(12)~~ (11) A narrative parking plan, ~~and~~ outlining where vehicles will be parked and how guests will be made aware of the parking rules, including the prohibition against guests parking on the street or adjacent right of way. The parking plan can be prepared by the property owner; and

~~(13)~~ (12) A copy of any 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~~ is provided a copy of, and made to acknowledge, these rules;

~~(14) A narrative statement setting forth how the owner will ensure each guest is provided a copy of, and made to acknowledge, the city rules which must be disclosed to each guest, including the city'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) **Complete Submission Required.** Forms must be fully completed. Incomplete applications will not be processed.

(1) The city's administrative employees do not have the 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 a city employee or official to be incomplete, or that the information submitted does not satisfy a requirement of this article, the city employee or official 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.

(2) If an applicant disagrees with a determination of the city employee or official 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 employee or official's determination, file a written appeal to the Magistrate, submitted via contemporaneous e-mail and certified mail submissions to the direct attention of the city manager. The appeal must set forth the specific factual and legal reasons supporting the applicant's appeal. Any such hearing shall be noticed and convened within 21 days of the date of the appeal being noticed to the city manager.

(3) A completed vacation rental registration shall not be approved until the subject property or unit has completed and passed the inspection process set forth in this article.

Sec. 18-207. – Modification/change of ownership of vacation rental registration.

(a) **Amended Registration.** 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; or
- (2) A change in the designated responsible person(s).

- (3) Any structural change altering, whether increasing or decreasing, the amount of habitable living space for sleeping in the vacation rental.

Such amendments will be approved by the city upon a finding by the city employee or official, as designated by the city manager, that the changed plans, rules or designation otherwise continue to comply with the requirements of this article.

- (b) **Ownership Transfers Requiring Registration.** 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. 18-208. – Duration of vacation rental registration.

A vacation rental registration shall be valid for ~~one (1) year~~ two (2) years from the date the application is approved. An approved registration shall constitute permission to operate the vacation rental for which the registration is required.

Sec. 18-209. – Renewal of vacation rental registration.

Each vacation rental owner has a duty to ensure they renew their registration ~~annually~~ prior to the expiration date of the previous vacation rental registration. Each renewal shall render the rented property or unit subject to ~~an annual~~ a reinspection and payment of all applicable fees.

Sec. 18-210. – Inspection of vacation rentals.

- (a) **Inspection Required.** ~~To verify compliance with the latest adopted edition of the Florida Building Code and Florida Fire Prevention Code, to the extent applicable to a 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 fire extinguisher and required postings 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 city's code inspector, a representative of fire district servicing the city and, to the extent necessary, the City's building official or designated agent thereof.~~

Each vacation rental shall, in conjunction with its initial and renewal applications, be inspected by the city's code inspector, a representative of the fire district servicing the City and, to the extent necessary, the City's building official or designated agent thereof. The city's code inspector shall inspect the property for compliance with the provisions of this article and the City's code of ordinances. The City shall provide vacation rental owners with a check list identifying the items that will be inspected during such inspections. Any inspection conducted for the purpose of determining compliance with the Florida Building Code and the Florida Fire Prevention Code shall apply the versions of those codes that were in effect at the time of permitting approval for construction of the vacation rental structure, unless those codes include explicit language requiring the retroactive application of a provision, or subsequent

modification of the dwelling unit or structure otherwise triggers the conditional application of a provision within those codes.

The city will ~~endeavor to~~ coordinate an inspection date with the vacation rental 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 a required inspecting official causes a delay in that process, the city manager is authorized to allow the vacation rental to continue operating on an interim basis for up to thirty (30) days. Newly-registering vacation rentals may not begin operating until the application process, including the associated inspection, is completed. The City shall not unreasonably withhold or delay the inspection or review process.

- (b) **Code Compliance Violations.** If instances of noncompliance are discovered during or as a result of an inspection, all such instances of noncompliance shall be handled ~~either as violations of the applicable provisions of the most recently adopted version of the Florida Building Code, or Florida Fire Prevention Code are otherwise handled~~ by the city and its officials under state law and city code, including but not limited to referral to the Magistrate, Local Ordinance Violation Court, and any investigative, administrative, or enforcement agency with legal jurisdiction over the subject violation.
- (c) **Frequency of Inspections.** ~~Initial and annual~~ inspections required under this section shall be made by the city's code inspectors and, to the extent possible, a representative of fire district servicing the city 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 required officials are, 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. Any applicable 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 city in writing that the city is ready to conduct the annual inspection shall constitute a violation of this article. Such violation shall continue until the inspection is accomplished.

Sec. 18-211. – 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 (30) day period and any existing approved registration will expire on the thirty-first day from the date title changes.

Sec. 18-212. – 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 city 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 Prevention, or Life Safety Codes, or a violation of the code. In the event the city regains, either through judicial or legislative action, the authority to prohibit vacation rentals, or regulate their duration or frequency throughout the city or in specified zoning districts, the city reserves the right to terminate all vacation rental registrations. In that event, the city will coordinate with registered owners to develop an orderly cessation of operations.

Sec. 18-213. – False information.

It shall be unlawful for any person to ~~intentionally give~~ provide 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 suspension or revocation of any permit, registration, or license issued pursuant to such application, in addition to the prosecution of any related code enforcement violations.~~

Sec. 18-214. – Advertising.

(a) **No Advertising Gatherings.** No vacation rental may be advertised as an event venue for gatherings such as weddings, corporate retreats, or film productions, which are likely or intended to draw attendance in excess of the permissible occupancy as set forth in section 18-216, or parking in excess of the restrictions set forth in section 18-218 of this article.

(b) **Consistency with Rental Registration.** 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 vacation rental registration for the vacation rental, specifically including, but not limited to the maximum occupancy, available parking, and display the City of Indian Rocks Beach Vacation Rental Registration number, ~~and shall include the following statement:~~

~~"You are vacationing in a residential area. Please be a good neighbor by keeping the noise to a respectful level during the day and night. Excessive and unreasonable noise can deprive neighbors of the peaceful enjoyment of their private property."~~

(c) **Advertising Violations.** Advertisements that do not contain this information or that contain inaccurate information shall be deemed a violation of this section and subject to the penalties contained in section 18-202. The vacation rental registration number issued by the city shall be included on all advertising, including, but not limited to print and internet-based advertising. For advertisements published in newspapers, the owner or manager of the vacation rental unit may use an abbreviated version of the required advertising information provided that the newspaper ad refers readers to a website and posted notices in the vacation rental unit for a more detailed version of rules and regulations of booking a vacation rental unit.

Sec. 18-215. – Duties of vacation rental owner and responsible person.

(a) **Responsible Person.** If a vacation rental owner does not directly manage the registered vacation rental property it owns, the owner shall designate a responsible person.

(1) **Number.** A rental unit or property shall have no more than two (2) designated responsible persons for each rentable unit. One person must be identified as the primary designated responsible person, who shall serve as the principal contact. Any other person designated as a responsible property shall be considered a secondary contact, who will be contacted in the absence or unavailability of the primary designated responsible person.

(2) **Availability of Designated Responsible Person.** The responsible person(s) shall use best efforts to be available twenty-four (24) hours per day, seven (7) days a week, including holidays, for the purpose of promptly responding to complaints from city personnel, officers, or authorized agents regarding conduct or behavior of vacation rental occupants or alleged violations of these regulations, as well as communications from the sheriff's department, fire department, other emergency personnel, or by any other regulatory personnel of the city. This person must have authority to ~~immediately address and take affirmative action~~ speak on behalf of the owner of the vacation rental unit and shall use best efforts to respond to the city or other governmental agency within ~~one (1) hour~~ two (2) hours of notice from the city or other relevant governmental agency, on violations concerning life-safety, noise, violent confrontations, trespassing, capacity limit violations, and parking violations. A record shall be kept by the city of the complaint and the responsible person's response. As to parking violations, any citation issued by the City or law enforcement shall be issued to the owner of the vehicle, not the property owner.

A rebuttable presumption of a violation of this article shall be established as against the owner and the primary designated responsible person, jointly and severally, in the event of an event or complaint where the city or its designated agents are unable to reach or secure a response from the owner and any of the designated responsible person(s) within the time period set forth in this section. An alleged violation can be rebutted by evidence of unanticipated exigency, an act of gGod, or other exceptional circumstances justifying the unavailability of each identified responsible person notwithstanding measures taken to ensure compliance.

It shall be the sole responsibility of the property owner to appoint reliable responsible person(s) and to inform the city of his or her correct mailing address. Failure to do so shall not be a defense to a violation of this section.

(3) **Service.** Service of notice on the responsible person shall be deemed service of notice on the property owner, guest, occupant and violator.

(b) **Exterior Posting.** The owner and responsible party shall ensure a non-illuminated sign, that is one square foot in size on each side, is prominently displayed in the frontage of a vacation rental property. The sign must identify the business tax receipt number for the property and the

phone number of the primary designated responsible party. The sign's background shall be white in color, and the font shall be in black Times New Roman or Arial font, and in no smaller than 144 point typeface, or otherwise no smaller than an inch and a half (1 ½'') in height. The sign must be constructed of weather-resistant wood or plastic. An exterior posting shall not be required for properties within the city's CT zoning district.

- (c) **Interior Posting.** The owner or responsible person shall provide the city, and conspicuously post on the interior surface of the front door of the premises ~~or on a wall within five feet of the front door~~, 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 city on forms provided by the city and in a manner promulgated by the city upon payment of the applicable fees.
- (d) **Response Time.** ~~Complaints~~ Designated responsible persons must use best efforts to respond to complaints to the responsible person concerning violations by occupants of vacation rental units to this section. Complaints shall be responded to within a reasonable time but in no instance greater than ~~one (1)~~ two (2) hours. A record shall be kept of the complaint and the manager's response, by the manager, for a period of at least two (2) years after the incident, a copy of which shall be made available to the city upon request.
- (e) **Redesignation.** An owner may change his or her designated responsible person(s). To change the designated agent or responsible person, the owner shall notify the city in writing of the name, contact information and other information required in this article 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 city's receipt of notice of change of the responsible person, shall be deemed effective service.
- (f) **Legal Duties.** No property owner shall designate as a responsible person any person who does not expressly comply with the provisions of this article. 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 enforcement officer or deputy, the citation process set forth in Florida Statutes § 162.21.

DIVISION 3. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

Sec. 18-216. – Maximum occupancy based on site capacity/limitations.

(a) Generally. No person shall advertise, rent, or occupy any dwelling or dwelling unit intended to be used for the purpose of operating a vacation rental which does not comply with the requirements of this section. The maximum overnight occupancy of a vacation rental unit shall be stated in the vacation rental registration form, and shall be limited as follows:

~~(1) In the CT zoning district, the maximum overnight occupancy shall be limited to two (2) persons per bedroom, plus two (2) additional persons may sleep in a common area. Regardless of the number of bedrooms in or on the property, the overnight occupancy shall not exceed a maximum number of twelve (12) overnight occupants.~~

~~(2) In the single family ("S"), medium density ("RM 2"), and medium density duplex residential ("RM 1"), the maximum overnight occupancy shall be limited to two (2) persons per bedroom, plus two (2) additional persons may sleep in a common area. Regardless of the number of bedrooms in or on the property, the overnight occupancy shall not exceed a maximum number of ten (10) overnight occupants.~~

(b) Maximum Occupancy Restricted.

The maximum overnight occupancy of a vacation rental unit as applied to a particular property or dwelling unit shall be stated in the issued vacation rental registration. The approved maximum overnight occupancy shall be based on the data concerning the amount of habitable living space for sleeping purposes provided in the rental registration application and secured during the City's inspection.

(1) In all zoning districts to which this article applies, the maximum overnight occupancy of a vacation rental unit authorized in the vacation rental registration process shall be limited to the lesser of:

- i. fourteen (14) overnight occupants; or
- ii. the number of occupants permitted by the following calculus:
 - a) in every dwelling unit, every habitable living space occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space; and
 - b) every habitable living space occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each additional occupant beyond the first occupant; and
 - c) in addition to the occupancy limitations imposed by subsections ii. (a) and (b), above, the property shall be granted four additional occupants.

- d) Under no circumstances shall the calculus set forth in this subsection be construed, interpreted, or applied in a manner to allow for a maximum overnight occupancy in excess of fourteen (14) overnight occupants.

~~(b) Vesting:~~

~~(1) Notwithstanding the above, a property that was lawfully used as a vacation rental at the time of the enactment of this section may have a higher maximum occupancy limitation for a limited period of time, in accordance with this subsection (b). As to the application of the maximum occupancy limitation of subsection (a) to vacation rentals lawfully in existence as of the effective date of this provision, it is acknowledged that there are vacation rentals that could qualify for a higher maximum occupancy limit, if the limit were set higher, based on the number of bedrooms in the vacation rental. In an effort to recognize reasonable investment backed expectations and yet balance and protect the interests of residents in surrounding single family homes which are not vacation rental properties, there shall be a phasing in of maximum occupancy limits in accordance with the schedule below. No special vesting process or fee shall be required to obtain this vesting benefit other than demonstrating eligibility through the City's previously existing certificate of registration process.~~

~~(2) The maximum occupancy for vacation rentals lawfully in existence at the time of the enactment of this section shall temporarily be capped at no more than 14 occupants in the CT zoning district and 12 occupants in all other applicable zoning districts, provided that all the requirements to obtain a vacation rental registration in accordance with this article are satisfied and a certificate of registration is issued. This maximum occupancy limit shall remain in effect for two calendar years beginning on the effective date of this section's adoption.~~

~~(3) After the two year phasing in period contemplated in section (b)(2), above, the maximum overnight occupancy for vacation rentals lawfully in existence at the time of this section's enactment shall automatically be reduced to the established restricted number in subsection (a), provided that all requirements to obtain a vacation rental registration in accordance with this code are satisfied and a certificate of registration is issued.~~

~~(4) The maximum occupancy limitations set forth in section (b)(2) above shall immediately terminate upon the event of the vacation rental being sold or title to the vacation rental otherwise being transferred in a manner divesting any of the vested property owners of their ownership interest in the subject property or unit. In the event of such transfer or sale, the maximum occupancy shall immediately revert to the limits set forth in 18-216 (a).~~

(c) Owner-Occupied Exception. The maximum occupancy restrictions set forth in this section shall not apply when the property is owner-occupied by the vacation rental owner, ~~if the identified legal owner of the property is a natural person and not a trust or corporate entity.~~ This exception shall be deemed to apply upon submission and acceptance of an affidavit in the form set forth in this article.

Sec. 18-217. – Minimum safety and operational requirements and limitations.

(a) **Safety Codes Apply.** Each vacation rental shall comply with all applicable requirements and standards under state law, including the applicable provisions of the most recently adopted version of the Florida Building Code, the Florida Administrative Code, the Florida Swimming Pool Safety Act, and the Florida Fire Prevention Code.

(b) **Noise and Quiet Hours Limitations**

The following restrictions shall apply when a property or unit is in use as a vacation rental:

(1) **Nuisance Ordinances.** All City ordinances regulating noise, sound, vibration, and other similar nuisance activities are equally applicable to properties operated as vacation rentals. All terms in this section shall be construed in conformity with the definitions established in Section 26-31 of the city's code of ordinances.

(2) **Unreasonable Noise Prohibited.** Consistent with the City's restrictions on noise set forth in Sections 26-34 through 26-36, the following restrictions shall apply to properties operating as vacation rentals:

- i. No person shall create or permit any unreasonable noise, or excessive or unusually loud sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities.
- ii. The criteria which shall be considered in determining whether there exists unreasonable noise in violation of this section, shall include, but shall not be limited to, any of the following:
 - a. The volume of the noise.
 - b. The intensity of the noise.
 - c. The volume and intensity of the background noise, if any.
 - d. The nature and zoning of the area within which the noise impacts.
 - e. The time of the day or night the noise occurs.
 - f. The duration of the noise.
 - g. The proximity of the sound to residential sleeping facilities.
- iii. The evaluation of whether a violation of this section has occurred, will be determined where it is perceived, received, heard, or measured at or beyond the property line from which the sound emanates.

(3) Maximum Permissible Sound Levels.

- i. **Sound levels established.** In addition to the foregoing provisions, no person shall make, cause, allow, or permit the operation of any source of sound in such a manner as to create, when measured at or beyond the property line from which the sound emanates, a sound level that exceeds those levels specified in this section, inclusive of table 1. For the purpose of measuring the volume, intensity, and frequencies of sound, the measurement of sound shall be made with a decibel or a sound level meter operating on the "A" or "C" weighting scale of any standard design and quality meeting the standards prescribed by the American National Standards Institute. The instruments shall be maintained in calibration and good working order. Measurements recorded shall be taken so as to provide a proper representation of the sound source. The microphone used during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured sound. A wind screen for the microphone shall be used when required. Traffic, aircraft, and other background sounds shall not be considered in taking measurements except where such background sound interferes with the primary sound being measured.

TABLE 1
MAXIMUM SOUND LEVELS

Receiving Land Use Zoning	Maximum Sound Level 7:00 a.m. to 6:00 p.m. Monday through Saturday	Maximum Sound Level 6:00 p.m. to 7:00 a.m. Monday through Saturday and All Day Sunday
Residential (including S, RM 1, and RM 2)	60 dB(A)	55 dB(A)

- ii. **dB(C) octave band sound level limits.** In addition to the provisions of the city's code of ordinances and table 1 of this section, for any source of sound which can be detected on any parcel of property adjacent to the source of sound, the maximum allowable sound level limit for the individual octave bands whose centers are 31.5, 63, 125, 250, and 500 hertz shall not exceed 60 dB(C) or a five-decibel increase from the db(A) level stated in table 1, whichever is greater.

- (4) **Amplified Sound Restriction.** Using or operating for any purpose any amplified sound between the hours of 10:00 p.m. and 7:00 a.m. of any day, not in a completely enclosed permanent structure is prohibited if it produces or reproduces sound in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace, or safety of a reasonable person of normal sensibilities or is in excess of the decibel levels set forth in section 18-217 (b) (3). This provision shall not apply to amplified sound for which a permit pursuant to subsection 26-33(b) has been issued by the city.

(c) Required Postings At Unit Entrance.

All required postings 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 in size. Each vacation rental shall post a copy of the following either on the interior front door of the vacation rental, or on a wall within five feet of the front door:

- (1) **Owner's Conduct Rules.** Each vacation rental shall post a copy of the owner's conduct rules referenced in § 18-206, if any exist.
- (2) **Occupancy Limitation.** The overnight occupancy capacity limit for the vacation rental.
- (3) **Designated Responsible Party.** Each vacation rental shall post the name, email and phone number of the owner or designated responsible person(s).
- (4) **Noise Disturbances.** Notice of the city's ordinances regarding noise disturbances, including notice that the quiet hours are between 10 p.m. and 7 a.m. ~~There shall be sign posted on any exterior lounges, patios, porches, and patios stating:~~

~~"You are vacationing in a residential area. Please be a good neighbor by keeping the noise to a respectful level during the day and night. Excessive and unreasonable noise can deprive neighbors of the peaceful enjoyment of their private property."~~

- (5) **Building Evacuation.** There shall be posted, on the interior of the unit, next to ~~the interior door of each bedroom, and the exterior doors exiting the vacation rental~~ the door at the primary point of ingress and egress of the vacation rental, a legible copy of a building evacuation map conforming to the requirements of the Florida Fire Prevention Code, latest adopted edition.

- (d) **Additional Information.** In addition to the foregoing, 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 unit number, if applicable, of the vacation rental.
- (2) A copy of a document to be supplied by the city which includes excerpts from city 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 Largo Hospital and Morton Plant Hospital, and directions from the vacation rental to each hospital.
- (6) Emergency and nonemergency phone numbers for the Pinellas County Sheriff's Office and Pinellas Suncoast Fire and Rescue District.
- (7) Emergency evacuation instructions and driving 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.

Sec. 18-218. – Parking, solid waste disposal, legal compliance, evacuations, and miscellaneous provisions.

(a) Parking.

- (1) **Minimum Required Parking.** Vacation rental units within the city are required to provide on-site parking in the following manner:
 - i. Single-family and two -family dwellings: one on-site parking space per each bedroom, within each dwelling unit, as designated through the vacation rental registration process.
 - ii. Multifamily dwellings: two on-site parking spaces for dwellings containing one or two bedroom units, as designated through the vacation rental registration process. In the event a multifamily dwelling has units with more than two bedroom units, as designated through the vacation rental registration process, then the vacation rental shall be required to maintain one on-site parking space per each designated bedroom.

This provision shall not be construed to require the modification of any existing parking infrastructure of any condominium property in the city's CT zoning district or properties historically recognized as a cottage in the city, where the condominium property or cottage

contains units lawfully operating as short term vacation rentals. In such instance, the unit owner shall ensure any designated parking spot or allocation made for the subject unit remains vacant and accessible for its guest. Such spot or allocation shall be described and identified in the parking plan submitted with the rental registration.

(2) Permissible Parking Locations.

- i. All vehicles associated with the vacation rental, including visitors not residing at the vacation rental shall, to the extent possible, be parked within a driveway or parking area located on the premises and in compliance with the City of Indian Rocks Beach Code of Ordinances.
- ii. For purposes of calculating permissible parking spaces a property may include the capacity of the garage, provided the garage is sufficiently vacant to safely accommodate a compact car in the identified space. It shall be deemed a violation of this code if a rental owner identifies space in the garage as being available for parking in its rental registration, but the space is rendered unavailable by the owner or with the owner's knowledge during a rental tenancy.

(b) Solid Waste.

- (1) Solid waste disposal (household garbage, recycling, and yard trash) created at vacation rentals shall be stored and put out for pick up in compliance with Chapter 50 of this code, and on the day(s) of the week set out in the city's solid waste code of ordinances, franchise agreement, and official policies.
- (2) Any vacation rental operating within a condominium or multi-family structure shall ensure all solid waste is disposed of in the location and manner otherwise established for that structure.

(c) Legal Compliance. 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) Evacuation. 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) Temporary Use Permit. A vacation rental property, when rented or occupied by a vacation rental tenant, shall not be eligible for a temporary use permit for any event to be conducted on the vacation rental property. The owner of a property possessing a rental registration may apply for a special event permit, upon a sworn statement under penalty of perjury that the permit they seek is for their personal use as the property owner and not by a transient rental guest or occupant. It shall be unlawful for any person to give any false or misleading information in connection with any application for a special event permit as required by this article.

- (f) **Temporary Storage.** 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 city 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 used in sections 50-33, 50-61, and 50-62 of this code, are not temporary storage containers.
- (g) **Impermissible Rental.** No accessory structure, vehicle, recreational vehicle, trailer, camper, boat, yacht, or similar apparatus shall be utilized or rented as a vacation rental, or used to impermissibly provide sleeping quarters or otherwise accommodate more than the permitted number of overnight occupants on a property when used as a vacation rental.

Sec. 18-219. Residential Amenities - rentals prohibited.

- (a) The owner, tenant, or authorized agent of an owner or tenant of a single-family dwelling, duplex, duplex townhouse, or townhouse is prohibited from listing on any online marketplace for rent or lease, any amenity, feature, or accessory building or structure, appurtenant to or associated with such single-family dwelling, regardless of the purpose or length of time of said rental or lease, or otherwise renting or leasing individual amenities, features, or accessory buildings or structures on the property separate or apart from the primary structure.
- (b) For purposes of this section, the words “amenity, feature, or accessory building or structure” includes, but is not limited to, sheds, garages, docks, boat slips and lifts, driveways, rooftops, attics, pools, spas, saunas, fire pit, putting greens, sports courts, gardens, gazebos, outdoor kitchens, or front, rear or side yards.
- (c) This section does not apply to the renting or leasing of clubhouse rooms or spaces, storage closets, parking spaces or garages of condominiums, as that term is defined in § 110-1 of this code, when the rental or lease is between the condominium association and its residents or between a condominium resident and another condominium resident.

Sec. 18-220. – Minimum life/safety requirements.

- (a) **Swimming pool, spa, and hot tub safety.** A swimming pool, spa, or hot tub shall comply with the applicable standards of Florida Statutes Chapter 515 Residential Swimming Pool Safety Act.
- (b) Fire and Life Safety Requirements.** Each dwelling unit operated as a vacation rental shall comply with the applicable provisions of the Florida Fire Prevention Code and any modifications or amendments thereto adopted by the Pinellas Suncoast Fire & Rescue District

or any successor entity serving as the authority having jurisdiction to interpret, modify, and administer the Florida Fire Prevention Code.

- ~~(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, as interpreted and administered by the fire district servicing the City.~~
- ~~(c) **Exit Signage.** Each doorway operating as an exit to the property shall be designated by a sign stating "EXIT", that is illuminated or otherwise composed of reflective material such that it could be readily perceived with the assistance of a flashlight, in conformity with the applicable requirements of the Florida Fire Prevention Code~~
- ~~(d) **Fire extinguisher.** Each vacation rental shall install and maintain at least one working multi-purpose (ABC) dry chemical extinguisher on each floor of the rental property or unit. 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.~~
- ~~(e) **Battery powered emergency lighting.** Battery powered emergency lighting which is hard-wired, and illuminates automatically for at least ninety (90) minutes when electricity is interrupted, is required at each building exit.~~

Sec. 18-221. – 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 into prior to May 9, 2023, (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 newly-adopted terms of 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 article; or

- (4) Written vacation rental agreement establishing or evidencing it was entered into prior to the adoption and enactment of this section.

If it is reasonably determined by the code enforcement officer or deputy, and confirmed by the Magistrate, that any information supplied to the city 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. 18-222. – Exemption for owner occupied vacation rentals.

The provisions of this article shall not apply to owner occupied vacation rentals or property which is designated homestead under the Florida Constitution and Florida law from forced sale under any process of law. Before granting such exemption City staff shall verify that the identified property is afforded status as a homestead for the identified property owner, pursuant to the records maintained by Pinellas County. Any person desiring to qualify for the exemption herein shall file an affidavit in the format prepared and made available by the City's administration, 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 City of Indian Rocks Beach, Pinellas County, State of Florida: (Legal description and Street Address)~~

~~3. Check 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, and~~

~~() 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 City of Indian Rocks 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 City of Indian Rocks Beach’s 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 City of Indian Rocks Beach’s 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 ____ day of _____, 2024,
by the City Commission of the City of Indian Rocks Beach, Florida.

ADOPTED ON SECOND AND FINAL READING on the ____ day of _____, 2024, by City Commission of the City of Indian Rocks Beach, Florida.

[DRAFT]

Mayor-Commissioner

Lorin A. Kornijtschuk, City Clerk

AGENDA ITEM NO. 2
Public Comment

AGENDA ITEM NO. 3
ADJOURNMENT