

CITY OF MARCO ISLAND

ORDINANCE NO. 15-01

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA CREATING A NEW ARTICLE AND NEW SECTIONS 8-100 THROUGH 8-104, INCLUSIVE, IN CHAPTER 8, BUSINESSES, IN THE MARCO ISLAND CODE OF ORDINANCES, CONCERNING THE REGISTRATION AND OPERATION OF SHORT-TERM RENTALS; PROVIDING APPLICABILITY; PROVIDING FOR REGISTRATION, INSPECTIONS AND FEES; PROVIDING FOR REQUIRED POSTINGS AND NOTICE; PROVIDING FOR INTERPRETATION AND ENFORCEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Marco Island finds that residential rental properties within the City are not being properly maintained or managed, creating a potential nuisance for neighboring properties; and

WHEREAS, the Council desires to ensure that residential properties available as short-term rentals are properly maintained and operated; and

WHEREAS, the Council finds that inadequately maintained and operated properties directly affect the surrounding neighborhoods and the City as a whole, and that the regular collection and maintenance of accurate information about rental properties will aid in ensuring compliance with this Ordinance and the Code in general; and

WHEREAS, the Council, therefore, desires to establish a registration program to educate rental property owners, their managers and tenants, on compliance with various statutory and Code requirements relating to the short-term rental of residential property; and

WHEREAS, intent of this Ordinance is to collect current and accurate information regarding rental properties and to encourage the appropriate management of those properties in order to protect the general health, safety and welfare of the residents of and visitors to the City of Marco Island.

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

SECTION 1. Recitals.

The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct

46 and reflective of the legislative intent underlying this Ordinance.

47
48 **SECTION 2.** The Code of Ordinances, Marco Island, Florida, is hereby amended by
49 creating Article V, entitled "Short Term Rentals" and adding a section to be numbered 8-100, which
50 section reads as follows:

51
52
53 **ARTICLE V. SHORT TERM RENTALS**

54
55 **Sec. 8-100. Applicability; Definitions.**

56
57 (a) The provisions of this Article shall apply to "short-term rentals" which include any
58 dwelling or group of dwellings units, as defined in Section 30-10 of the Code, including those units
59 in a condominium, cooperative, mobile home, or timeshare dwelling located in the City that is, at
60 any time, available for rent or lease for a period of less than 365 days. This Article does not apply
61 to motels or hotels as defined in Section 30-10 of the City of Marco Island Code of Ordinances. As
62 used in this sub-section, the term "available for rent or lease" means that the dwelling is actually
63 being offered for rent or lease or is rented or leased for varying periods of time.

64
65 (b) All owners of properties subject to the provisions of this Article shall, prior to
66 offering their property for rent or lease to the public, register each dwelling with the City.

67
68 (c) In addition to their tenants, the owner of all applicable properties subject to this
69 Article are at all times be ultimately responsible for compliance with the terms of this Article, and
70 the failure of any tenants, their guests, or agents of the owner to comply will be deemed
71 noncompliance by the owner.

72
73 (d) Definitions. As used herein, unless the context affirmatively indicates to the
74 contrary, the following terms are defined to mean:

75 (1) "City Manager" means the City Manager, or the person or persons designated
76 by the City Manager, to administer the provisions of this Article on behalf of the City.

77 (2) "Designated Contact" means a person, property manager, or entity designated
78 by the owner of a particular dwelling to serve as the contact for the purpose of immediately
79 addressing or resolving the concerns of the tenants, or responding to and resolving complaints by
80 the City or other persons, regarding property or the conduct of the occupants of a particular
81 dwelling subject to regulation pursuant to this Article. The designated contact must have the
82 authority granted by the owner and the tenant to consent to allow a police, fire or code enforcement
83 entry onto the property to conduct an inspection. The owner may serve as the designated contact.
84 Alternatively, the owner may designate as the designated contact any natural person 18 years of age
85 or older. Alternate designated contacts may also be designated by the owner as part of a regulation
86 application subject to this Article.

87 (3) "Dwelling" means any building, or part thereof, intended, designed, used or
88 occupied in whole or in part as the residence or living quarters of one or more persons, permanently
89 or temporarily, continuously or transiently, with cooking and sanitary facilities. See Section 30-10,
90 Marco Island Code of Ordinances.

91 (4) "Owner" means the current title holder or owner as reflected on the current
92 Collier County *ad valorem* tax rolls as reflected in the Collier County Property Appraiser's Records.

93 (5) "Short-term rental" means any dwelling or group of dwellings, including
94 those units in a condominium, cooperative, mobile home, or timeshare dwellings located within the
95 City that is, at any time, available for rent or lease for a period of less than 365 days. A short-term
96 rental does not apply to motels or hotels, as defined in Section 30-10 of the Marco Island Code of
97 Ordinances. As used in this definition, the term "available for rent or lease" means that the
98 dwelling is actually being offered for rent or lease or is rented or leased for varying periods of time.
99

100 **SECTION 3.** The Code of Ordinances, Marco Island, Florida, is hereby amended by
101 creating Article V, entitled "Short Term Rentals" and adding a section to be numbered 8-101, which
102 section reads as follows:
103

104 **Sec. 8-101. Registration, Inspections and Fees.**
105

106 (a) Rental Property Registration.

107 (1) Except as provided in paragraph (2), registration is required for every dwelling
108 subject to this Article. If a property contains more than one (1) dwelling, a separate registration
109 shall be required for each dwelling. Registration application shall be made to the City Manager.
110 The City Manager shall review the registration application to determine that it is for a dwelling
111 subject to this Article and that all required information has been submitted as a part of the
112 registration application. Upon a determination that the dwelling is subject to this Article and that
113 the registration applicant has submitted all required information, the City Manager shall issue a
114 certificate of registration, noting: (A) the effective date of registration; (B) the termination of the
115 registration; (C) the dwelling owner's name; (D) the address and legal description of the dwelling
116 that is subject to the registration certificate; and (E) the designated contact's name, address,
117 telephone number, and e-mail address. The City Manager shall make all determinations with regard
118 to whether a dwelling is subject to regulation pursuant to this article and with regard to registration.
119

120 (2) Condominium, cooperative, mobile home, or home owner associations
121 acting in accordance with Chapters 718, 719, 720, or 723, Florida Statutes, respectively, may obtain
122 a blanket registration or request an exemption from registration for a portion or all of the entire
123 property subject to the jurisdiction of the association, encompassing all affected dwellings;
124 provided that such registration or exemption request is supported by a majority of the total
125 ownership of said dwellings included within a registration application or exemption request and is
126 as evidenced by either: (A) a written consent executed by all owners of a dwelling unit, lot, or other
127 similar parcel of land; or (B) a majority vote of those association members voting at an association
128 meeting at which a voting quorum was present and at which the issue to file a blanket registration or
129 an exemption request from the provisions of this Ordinance other than a semi-annual report "opt
130 out" was presented for a vote as an official action of the association. Notwithstanding whether a
131 blanket registration or exemption is granted by the City, the association shall report semi-annually
132 to the City each calendar year which dwellings are currently being used as short-term rentals.
133 However, in the event the association has been found in violation of this Article three (3) times by
134 the City's Special Magistrate within any 365 day time period, the blanket registration shall be
135 revoked by the City, and the dwelling owner(s) shall be so notified in writing by the City and each

136 affected dwelling unit will be required to obtain an individual registration. Notwithstanding the
137 foregoing, individual dwellings owners have the option of registering independently of their
138 association. Any owner so registering shall be excluded from an association blanket registration.

139 (3) At the time of application for the issuance of a registration pursuant to this
140 Article, each owner of a dwelling must show evidence of having obtained the requisite license, if
141 available and if required by Florida law or administrative regulation, or a qualifying exemption,
142 from the Division of Hotels and Restaurants of the Florida Department of Business and Professional
143 Regulation; provided, however that the failure to exhibit a license from the Florida Department of
144 Business and Professional Regulation shall not preclude the operation or registration of a short-term
145 rental. The City reserves its right to report said short-term rental to the state of Florida or Collier
146 County, if City officials believe that the dwelling should be licensed or otherwise regulated by the
147 state or County.

148 (4) The following information must be included in any application for
149 registration: (A) name, address, telephone number, and e-mail address of the owner, any property
150 manager of the dwelling, and the designated contact for the dwelling regulated by this Article and
151 subject to the application must be included in any application for dwelling registration with the City
152 pursuant to this Article; (B) if the designated contact is other than the owner, an agreement signed
153 by both the owner and the designated contact in which the designated contact agrees to perform the
154 duties of being a designated contact for the specific dwelling subject to registration and in which
155 the designated contact is authorized on behalf of the owner to consent to a search of the dwelling by
156 Marco Island Police, Fire or code enforcement; (C) the owner's agreement to use his or her best
157 efforts to assure that the use of the dwelling will be consistent with the Code of Conduct Policy as
158 specified in Section 8-102(7) of this Article V; and (D) any such other relevant information deemed
159 pertinent to the registration. The application must be signed and contain the date of execution by
160 the owner.

161
162 (b) Duties of the owner or designated contact. The duties of the owner or designated
163 contact are to:

164 (1) Be available at all times at all times to handle any problems arising from
165 the dwelling registered pursuant to this Article;

166 (2) Be able and willing to email, text or telephone the tenant or guest pursuant
167 to this Article and notify the City of the results within one (1) hour following notification from
168 the City of issues related to the dwelling; and

169 (3) Receive service of any notice of violation of this Article.

170
171 (c) Inspections. Upon filing of a registration application with the City for a dwelling,
172 every short-term rental dwelling is subject to an initial inspection to ensure compliance with the
173 applicable Florida Building Code, and Fire Prevention Code provisions. Dwellings permitted prior
174 to March 1, 2002 shall be subject to annual re-inspection. Dwellings permitted after March 1, 2002
175 will be subject to biennial re-inspections until December 31, 2025 at which time such dwellings will
176 be subject to annual re-inspection.

177
178 (d) Term and Renewal. Initial registrations filed prior to January 1, 2016, are valid
179 through December 31, 2016. All subsequent registrations are valid for a term of one (1) calendar

180 year until the end of the calendar year in which the registration was issued. Renewal applications
181 that are not submitted in a complete and final form within 30 days of the expiration of the preceding
182 term may be treated similar to new registrations and subject to additional inspections and fees.

183 (e) Fees. Each dwelling subject to this Article shall pay the applicable building and fire
184 inspection fee assessed at the time of registration and paid upon completion of inspections in
185 accordance with Chapters 6 and 22 of the City Code or as otherwise established by resolution of the
186 City Council. All fees required under this article, including administrative fees, operating and
187 capital, if any, shall be adopted by resolution, reviewed annually, and placed in a self-sustaining
188 special revenue fund.

189 (f) Agency. Any owner who engages the services of an agent, property manager, or
190 other representative for the purposes of compliance with this Article shall indicate so in their
191 registration.

192 (g) Modification and Transferability. The occurrence of any of the following shall
193 require the filing of an updated registration application with the City within thirty (30) days
194 thereafter: (1) any alteration, remodel, or other modification to any building or structure subject to
195 this Article requiring the issuance of a building permit; (2) any change in the ownership of the
196 dwelling; or (3) any other material change in the registration application, including the designation
197 of a new contact person. Any such updates, which require re-inspection, may be subject to
198 additional fees. Designation of a new agent or designated contact person more than three (3) times
199 within any 365 day time period shall be subject to an administrative fee.

200 (h) Non-Exclusive. The registration and fees required by this Article shall be in addition
201 to any other tax, certificate, permit, or fee, required under any other provision of the City Code.
202 Registration pursuant to this Article shall not relieve the owner of the obligation to comply with all
203 other provisions of the City Code pertaining to the use and occupancy of the dwelling or the
204 property on which it is located.

205 (i) Electronic Registration. The City may establish an electronic registration system for
206 the registry of property, payment of fees, scheduling of inspections, and updating of information
207 required by this Article.

208
209 **SECTION 4.** The Code of Ordinances, Marco Island, Florida, is hereby amended by
210 creating Article V, entitled "Short Term Rentals" and adding a section to be numbered 8-102, which
211 section reads as follows:

212
213 **Sec. 8-102. General Provisions.**

214
215 All owners of dwellings registered as provided herein shall comply with the following:

216
217 (1) Designated Contact. Each applicant for registration shall at the time of application
218 designate a designated contact for the purpose of addressing the concerns of the tenants or
219 responding to complaints by the City or other persons regarding the conduct of the occupants of a
220 dwelling subject to regulation pursuant to this Article. When an entity is designated, the registration
221 shall include the name of a specific contact person(s); provided, that in all events, there shall be a
222 designated person available for contact by the City for each hour or each day, seven days per week.
223 The designated contact shall respond to concerns regarding potential violations of this Article
224 within one (1) hour of receiving a contact call from the City. The designated contact shall promptly

225 make at least three (3) attempts following the receipt of a complaint from the City to contact the
226 tenants and resolve the complaint. The designated contact is also responsible for documenting the
227 complaint; the date and time of receipt of the complaint from the city; the date and time of attempts
228 to contact the tenant(s) and the result of the contact; the nature of the response by the tenant(s); and
229 forwarding that documentation to the City Manager within one (1) hour of their response to the
230 initial complaint.

231 (2) Occupancy Limits:

232 a. In no case shall the maximum total occupancy for any dwelling exceed the
233 limits permitted by the Florida Fire Prevention Code or Florida Building Code.

234 b. In addition to the foregoing, the maximum overnight tenant occupancy load
235 of any unit shall not exceed two (2) persons for each bedroom, as "bedroom" is defined under the
236 Florida Building Code, in the rental, plus two (2) persons.

237 c. Before the hours of 7 AM, or after 10 PM, on any day, the occupancy load of
238 the unit may not exceed the maximum allowed number of overnight tenants.

239
240 (3) Recordkeeping. The owner of each dwelling shall maintain a registry of all tenant(s),
241 their address, telephone number, and e-mail address, and the make, model, year, and tag number of
242 their motor vehicle(s) located at the dwelling. The owner shall maintain this information for each
243 tenant for a minimum of two (2) years. The owner or designated contact shall make the information
244 regarding the current tenant(s) available to the City within one (1) hour of a request by the City
245 Manager.

246
247 (4) Vehicles and Parking. Tenants or guests of any registered unit shall not:

248 a. Engage in any prohibited parking activities as provided in Sections 50-37 or 30-
249 1007 of the City of Marco Island Code of Ordinances.

250 b. Park any boat or boat trailer in a residential zoning district, unless fully enclosed
251 in a structure so that it cannot be seen from any abutting property, public way, or waterway. As
252 used in the foregoing sentence, the term "residential zoning district" shall include properties zoned
253 Residential Single Family (RSF), Residential Multiple Family 6 units per acre (RMF-6), Residential
254 Multiple Family 12 units per acre (RMF-12), Residential Multiple Family 16 units per acre (RMF-
255 16), and Residential Tourist (RT).

256 c. Utilize recreation vehicles for sleeping or overnight accommodations at any
257 property regulated by this Article.

258
259 (5) Waterways and Vessels. Vessels may be moored, berthed, or otherwise stored on an
260 approved docking facility; however no vessels may be docked or stored in a manner that constitutes
261 a hazard to navigation and trailers shall also be stored in a legal manner, as authorized by the Marco
262 Island Code of Ordinances.

263
264 (6) Refuse. As provided by section 18-36 of the Marco Island Code of Ordinances, refuse,
265 trash, and recycling may not be left out by the curb on a public right-of-way for pick-up until 6 PM
266 on the evening before the scheduled trash or recycling pick-up day with all trash, refuse or recycling
267 containers removed thereafter by 7 PM on the evening of the day of refuse, trash, or recycling
268 pickup, as applicable.

269 (7) Noise. Tenants and their guests must comply with the requirements of Chapter 18,
270 Article IV, Noise Control, of the Marco Island Code of Ordinances, and not unnecessarily make,
271 continue or cause to be made or continued, any noise disturbance as defined therein.

272
273 (8) Code of Conduct Policy. As a general policy and aspirational goal, tenants and
274 their guests are required to adhere to a "good neighbor" Code of Conduct Policy by which they will
275 be respectful of their neighbors and not disrupt the peace and tranquility of their neighbors; not
276 make raucous, loud, or unnecessary noise at any time; not set off fireworks in violation of the city
277 code, not allow drunken, disorderly, or intoxicated conduct on the short-term rental dwelling
278 property; and not violate parking or occupancy restrictions. The owner shall provide a copy of the
279 Code of Conduct "good neighbor" Policy to all tenants at the commencement of occupancy of a
280 dwelling.

281
282 (9) Fireworks. The use of fireworks is not permitted and violators will be prosecuted.
283 See section 22-32(b)(ii)(3)(i)a, of the Marco Island Code of Ordinances.

284
285 (10) Advertisement. It shall be unlawful to offer or advertise any short-term rental dwelling
286 for rent or lease in the City without that unit first being registered as provided in this Article.
287 Where advertised, the registration number provided by the City must appear on all forms of
288 advertisement and on the landing or "home" page for the dwelling when advertised over the
289 internet. Alternatively, the registration number of a designated contact or property manager can
290 appear in lieu of the individual property registrations numbers.

291
292 (11) Compliance with Other Regulatory Authorities. Properties subject to this Article must
293 meet all applicable requirements of state law. To the extent provided by general law, violation of
294 any state law relating to the subject matters contained in the Article shall also constitute a violation
295 of this subsection; provided that no penalty under this Article shall be greater than that authorized
296 by state law for violation of the state law provision.

297
298 (12) Evacuation. All rental properties shall be evacuated as required upon the posting of a
299 nonresident evacuation order issued by the City, County or State.

300
301 **SECTION 5.** The Code of Ordinances, Marco Island, Florida, is hereby amended by
302 creating Article V, entitled "Short Term Rentals" and adding a section to be numbered 8-103, which
303 section reads as follows:

304
305 **Sec. 8-103. Required Postings and Notice.**

306
307 (a) Each registered dwelling shall have a clearly visible and legible notice conspicuously
308 posted within the dwelling, containing the following information:

309 (1) The designated contact for the unit and a telephone number where the
310 designated contact may be reached on a 24-hour basis.

311 (2) The occupancy limits, total and overnight, for the dwelling.

312 (3) The maximum number of vehicles allowed to be parked on the property and
313 the location of on-site parking spaces.

- 314 (4) The trash and recycling pick-up day(s).
- 315 (5) A notice that no fireworks shall be set off and a statement that violations will
- 316 be prosecuted.
- 317 (6) A summary of the City's noise ordinance.
- 318

319 (b) The information set forth in sub-section (a) must be kept current at all times by the
320 dwelling owner. All tenants must be provided a Code of Conduct summary of the remaining
321 general provisions of this Article including the penalties for violation as set forth in in section 1-14
322 of the City of Marco Island Code of Ordinances, and a copy of the current City registration.

323
324 **SECTION 6.** The Code of Ordinances, Marco Island, Florida, is hereby amended by
325 creating Article V, entitled "Short Term Rentals" and adding a section to be numbered 8-104, which
326 section reads as follows:

327
328 **Section 8-104. Interpretation; Enforcement.**

329
330 (a) Interpretation. All questions of interpretation, or application, of the
331 provisions of this Article shall first be presented to the City Manager. In interpreting or
332 determining the application of the provisions of this Article, the City Manager shall be guided
333 first by the plain meaning of the words and terms in the code and second by the intent expressed
334 therein. Thereafter, the City Council shall have the authority to hear and decide appeals from the
335 decision or interpretation by the City Manager.

336 (b) Enforcement. Any violation of the provisions of this Article may be
337 prosecuted and shall be punishable as provided in section 1-14, or chapter 14, of the City of
338 Marco Island Code of Ordinances, including but not limited to: (i) a fine of up to \$500 per
339 violation, per day for continuing repeating violations; (ii) by civil citation up to \$500 per offense;
340 (iii) by the seeking of injunctive relief through the courts, or; (iv) any combination thereof. Each
341 day of renting a dwelling without having a registration certificate issued pursuant to this Article
342 shall constitute a separate and distinct violation of this Article. Tenants and owners may be
343 prosecuted concurrently.

344
345 **SECTION 7. Codification.**

346
347 It is the intention of the City Council, and it is hereby ordained that the amendments to the
348 City of Marco Island Code of Ordinances made by this Ordinance shall constitute a new Article V
349 to Chapter 8 of the City of Marco Island Code of Ordinances, and that the sections of this Ordinance
350 may be renumbered and re-lettered as necessary, and that the word "Ordinance" may be changed to
351 "Section, "Article" or other appropriate word.

352
353 **SECTION 8. Conflicts.**

354
355 All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict
356 with the provisions of this Ordinance are hereby superseded and resolved to the extent of any
357 conflict in favor of the provisions of this Ordinance.

358

SECTION 9. Severability.

(a) If any term, section, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases portions of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) That in interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks (* * * *) indicate a deletion from the Ordinance of text, which exists in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

SECTION 10. Effective Date.

This Ordinance shall become effective on July 1, 2015, following its adoption by the City Council.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 4th day of May 2015.

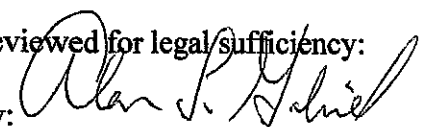
CITY OF MARCO ISLAND FLORIDA

By: 
Larry Sacher, Chairman

Attest:

By: 
Laura M. Litzan, City Clerk

Reviewed for legal sufficiency:

By: 
Alan L. Gabriel, City Attorney

