

ORDINANCE 15-26

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, REPEALING ORDINANCE NO. 15-01, SPECIFICALLY ARTICLE V "SHORT TERM RENTALS" OF CHAPTER 8 "BUSINESSES" OF THE CITY CODE, IN ITS ENTIRETY; PROVIDING FOR CONFLICTS AND REPEAL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, the City of Marco Island is authorized to protect the public health, safety and welfare of its residents and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, the City Council wishes to repeal Ordinance No. 15-01, specifically Article V of Chapter 8 of the City Code of Ordinances which applies to "Short Term Rentals"; and

WHEREAS, following proper notice to the public and after having received input and participation by interested members of the public and staff, the City Council finds that this Ordinance is in the best interest of the citizens and residents of the City; and

WHEREAS, the City Council has held a public hearing in accordance with applicable law.

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

SECTION 1. Recitals. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance.

SECTION 2. Repeal of Ordinance No. 15-01. That Ordinance No. 15-01, specifically Article V "Short Term Rentals" of Chapter 8 "Businesses" of the City Code of Ordinances, attached hereto as Exhibit "A", is hereby repealed in its entirety.

SECTION 3. Conflicts and Repeal.

That all sections or parts of sections of the City Code of Ordinances, all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith, are hereby repealed to the extent of such conflicts.

SECTION 4. Severability.

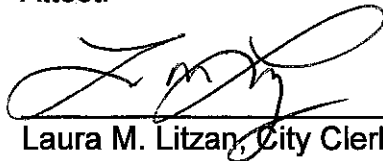
If any word, phrase, clause, subsection, or section of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance

SECTION 5. Effective Date.

This Ordinance shall take effect immediately upon adoption.

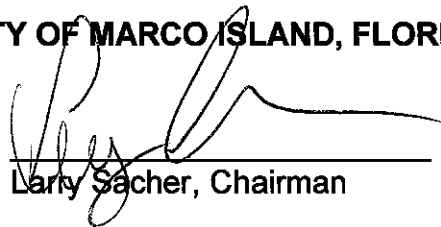
ADOPTED BY CITY COUNCIL OF THE CITY OF MARCO ISLAND THIS 5th day of October 2015.

Attest:



Laura M. Litzan, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By: 

Larry Sacher, Chairman

Reviewed for legal sufficiency:



Alan L. Gabriel, City Attorney

EXHIBIT "A"

ARTICLE V. ~~SHORT TERM RENTALS~~

Sec. 8-100. ~~Applicability; Definitions.~~

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

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

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

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

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

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

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

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

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

Sec. 8-101. Registration, Inspections and Fees.

~~(a) Rental Property Registration.~~

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

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

~~registration shall be revoked by the City, and the dwelling owner(s) shall be so notified in writing by the City and each affected dwelling unit will be required to obtain an individual registration. Notwithstanding the foregoing, individual dwellings owners have the option of registering independently of their association. Any owner so registering shall be excluded from an association blanket registration.~~

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

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

~~(b) — Duties of the owner or designated contact. The duties of the owner or designated contact are to:~~

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

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

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

~~(c) — Inspections. Upon filing of a registration application with the City for a dwelling, every short-term rental dwelling is subject to an initial inspection to ensure compliance with the applicable Florida Building Code, and Fire Prevention Code provisions. Dwellings permitted prior to March 1, 2002 shall be subject to annual re-inspection. Dwellings permitted after March 1, 2002 will be subject to biennial re-~~

~~inspections until December 31, 2025 at which time such dwellings will be subject to annual re-inspection.~~

~~(d) Term and Renewal. Initial registrations filed prior to January 1, 2016, are valid through December 31, 2016. All subsequent registrations are valid for a term of one (1) calendar year until the end of the calendar year in which the registration was issued. Renewal applications that are not submitted in a complete and final form within 30 days of the expiration of the preceding term may be treated similar to new registrations and subject to additional inspections and fees.~~

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

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

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

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

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

~~Sec. 8-102. General Provisions.~~

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

~~(1) Designated Contact. Each applicant for registration shall at the time of application designate a designated contact for the purpose of addressing the concerns of the tenants or responding to complaints by the City or other persons regarding the conduct of the occupants of a dwelling subject to regulation pursuant to this Article. When an entity is designated, the registration shall include the name of a specific~~

~~contact person(s); provided, that in all events, there shall be a designated person available for contact by the City for each hour or each day, seven days per week. The designated contact shall respond to concerns regarding potential violations of this Article within one (1) hour of receiving a contact call from the City. The designated contact shall promptly make at least three (3) attempts following the receipt of a complaint from the City to contact the tenants and resolve the complaint. The designated contact is also responsible for documenting the complaint; the date and time of receipt of the complaint from the city; the date and time of attempts to contact the tenant(s) and the result of the contact; the nature of the response by the tenant(s); and forwarding that documentation to the City Manager within one (1) hour of their response to the initial complaint.~~

~~(2) Occupancy Limits:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 8-103. Required Postings and Notice.

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

- ~~(1) The designated contact for the unit and a telephone number where the designated contact may be reached on a 24-hour basis.~~
- ~~(2) The occupancy limits, total and overnight, for the dwelling.~~
- ~~(3) The maximum number of vehicles allowed to be parked on the property and the location of on-site parking spaces.~~
- ~~(4) The trash and recycling pick-up day(s).~~
- ~~(5) A notice that no fireworks shall be set off and a statement that violations will be prosecuted.~~
- ~~(6) A summary of the City's noise ordinance.~~

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

Section 8-104. Interpretation; Enforcement.

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

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

