

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, REGARDING VACATION RENTALS; CREATING A NEW ARTICLE III, CHAPTER 7 OF THE CITY CODE REGULATING VACATION RENTALS; PROVIDING FOR DEFINITIONS, PENALTIES, ENFORCEMENT, RESPONSIBILITIES OF DEPARTMENTS, APPEALS, NOTICE, IMMUNITY FROM PROSECUTION, CONSTRUCTION OF ARTICLE; PROVIDING FOR LICENSE REQUIREMENTS AND PROVISIONS INCLUDING BUT NOT LIMITED TO PROCEDURES, APPLICATIONS, MODIFICATIONS, DURATION, RENEWALS, AND NONTRANSFERABILITY; PROVIDING FOR VESTED RIGHTS/WAIVER/ESTOPPEL; PROVIDING FOR VACATION RENTAL AGENT REQUIREMENTS AND PROVISIONS INCLUDING BUT NOT LIMITED TO DESIGNATION, APPLICATION, QUALIFICATIONS, DUTIES, SUSPENSION, AND INSURANCE REQUIREMENTS; PROVIDING FOR INSPECTIONS; PROVIDING FOR STANDARDS AND REQUIREMENTS FOR VACATION RENTALS INCLUDING BUT NOT LIMITED TO SAFETY, OCCUPANCY, SWIMMING POOL/HOT-TUB/SPA, BEDROOMS, FIRE SAFETY, INGRESS AND EGRESS, LOCAL PHONE SERVICE, PARKING, SOLID WASTE HANDLING, QUIET HOURS AND POOL HOURS, VIOLATIONS OF THE LAW, ADVERTISING, PROHIBITION OF SEX OFFENDERS, POSTING OF INFORMATION, AND OTHER PROVISIONS; PROVIDING FOR THE CONTINUED VALIDITY OF SECTION 7-30, CITY CODE; PROVIDING FOR SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

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

WHEREAS, Section 509.242(1)(c), Florida Statutes, 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, Section 509.032(7)(b), Florida Statutes provides that, "A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011"; and

WHEREAS, the Florida Attorney General's Office has recognized that "local governments may regulate vacation rentals, provided those regulations do not prohibit vacation rentals or restrict the duration or frequency of vacation rentals," AGO 2014-09; and

WHEREAS, on March 4, 2008, the City adopted Ordinance No. 08-03 creating City Code Section 7-30 prohibiting "short-term rentals, i.e., rentals for a term of less than seven months," which provision encompasses vacation rentals and is grandfathered in and constitutes a valid prohibition of vacation rentals under Section 509.032(7)(b), Florida Statutes; and

WHEREAS, the City wishes to explicitly preserve Ordinance No. 08-03 and Section 7-30 of the City Code while allowing a subset of vacation rentals within the City which are owner-occupied and which meet the requirements under this Ordinance; and

WHEREAS, the City finds that the regulations and requirements adopted by this Ordinance do not prohibit vacation rentals or restrict their duration or frequency; and

WHEREAS, the City finds that the regulations and requirements adopted by this Ordinance are in the interests of the public health, safety, and welfare, in light of the following concerns:

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

(2) Visitors are typically not familiar with local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from the Vacation Rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation; and

(3) Certain illegal Vacation Rentals are presently located within the Residential Zoning districts of the City of Belle Isle; and

(4) Vacation Rentals, left unregulated, can and do create negative impacts within residential neighborhoods due to excessive noise, parking and traffic problems, excessive use and impact on public services and public works, and extreme size and greater occupancy; and

(5) Vacation Rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods, and the quiet enjoyment of its residents; and

(6) Vacation Rentals located within established residential neighborhoods can and do create negative compatibility impacts relating to extreme noise levels, late night activities, on-street parking issues and traffic congestion; and

(7) A residential dwelling is typically the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their

neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of Vacation Rentals; and

(8) The City of Belle Isle has suffered an increase in the illegal establishment of vacation rentals, with no notice to the City; and

(9) Vacation Rentals situated in single-family and two-family residential neighborhoods can and do create a great disparity in occupancy; and

(10) Water and wastewater usage by Vacation Rentals will typically exceed the anticipated design capacity of a structure when permitted and built, creating an additional demand on the water and wastewater systems; and

(11) The City of Belle Isle has limited parking available and parking upon rights of way is generally allowed for use of the residents. Therefore, it is vital for the City to keep on-street parking available for such use, and not allow such use to be effectively taken up by off-site parking at Vacation Rentals.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA:

SECTION 1: RECITALS. The foregoing recitals are ratified and confirmed as being true and correct and are hereby made a part of this Ordinance.

SECTION 2: CITY CODE AMENDMENT. There is hereby created a new Article III, Chapter 7 of the City Code, as follows:

ARTICLE III – VACATION RENTALS.

DIVISION I. – IN GENERAL.

Sec. 7-50. – Definitions.

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

"Bedroom" means any room in a Vacation Rental that contains 70 square feet or more, and which has a bed or other place for sleeping and a closet, but shall not include a bathroom, a kitchen, and one main living area. No room shall be considered to be a bedroom unless it was so designated on the plans submitted to the City for the construction of the building.

"Continuing Violation" means a violation of this Chapter that is continuing in nature and for which there may be an opportunity to cure, such as, but not limited to, operation of a Vacation Rental without a currently valid Vacation Rental License, failing to acquire a modified Vacation Rental License when required, violations of minimum safety and operational requirements under this Chapter, and violations of the Florida Building Code, Florida Fire Code or Life Safety Code.

"Occupant" means any person who occupies, either during the day or overnight, a Vacation Rental.

"Owner-Occupied" means an activity whereby a resident hosts visitors in their home, for periods of 30 consecutive days or less, while at least one of the primary residents lives on-site throughout the visitor's stay. The guest enjoys the non-exclusive shared use of the unit with at least one of the persons who is domiciled at the location.

"Primary Residence" means where the homeowner usually lives and can provide evidence such as a driver's license, income tax statement or property tax statement with a homeowner's exemption.

"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 times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.

"Transitory Violation" means a violation of this Chapter that is transitory, transient, or temporary in nature, such as, but not limited to, a violation of quiet hours or pool hours, maximum occupancy violations, parking in the right of way, failure to make Vacation Rental available for inspection as required herein, failure of Rental Agent to comply with the duties of a Vacation Rental Agent as set forth in this Chapter, and failure to have required postings at the Vacation Rental.

"Vacation Rental" 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.

"Vacation Rental Agency" is any real estate company, or other entity, or group of entities and/or individuals, that employs or has associated with it in any way, any two or more Vacation Rental Agent(s), or is used for purposes of advertising two or more Vacation Rentals, managing two or more Vacation Rentals, providing booking services for two or more Vacation Rentals, purchasing or otherwise obtaining insurance for two or more Vacation Rentals or two or more Vacation Rental Agents. It is the intent of this definition to broadly include all entities or groups that provide services to two or more Vacation Rentals or Vacation Rental Agents.

"Vacation Rental Agent" is a person designated as a Vacation Rental Agent in accordance with the provisions of this chapter. The Vacation Rental Agent may also be the Vacation Rental Owner.

"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, each and every person who owns 20% or more of the equitable interest in the Vacation Rental shall also be deemed a Vacation Rental Owner.

Sec. 7-51. – Penalties and Enforcement.

(a) *Transitory Violations.* For Transitory Violations as defined herein, the Vacation Rental owner, the Vacation Rental Agent, and/or the offending Vacation Rental Occupant(s), as applicable and without limitation, may each be deemed to be a "violation" as that term is used in Article III of Chapter 7 of the Code of Ordinances of the City of Belle Isle, and may be punished as follows. Each individual Transitory Violation shall constitute a separate and distinct violation, and if the Transitory Violation continues for more than one day, each day that the violation continues will be considered a separate and distinct violation. Any Transitory Violation may be punished by citation, as provided in the Belle Isle City Code and/or Chapter 162 of the Florida Statutes, including but not limited to the requirements of a reasonable warning prior to issuance of a citation; provided, however, such violation shall be subject to a fine in the amount of \$250.00, for the first offense, \$500.00 for the second and subsequent offenses, plus a suspension of the Vacation Rental License as provided hereinafter, for the third offense.

(b) *Continuing Violations.* For Continuing Violations as defined herein, the Vacation Rental owner, the Vacation Rental Agent, and/or the offending Vacation Rental Occupant(s), as applicable and without limitation, may each be deemed to be a "violation" as that term is used in Article III of Chapter 7 of the Code of Ordinances of the City of Belle Isle, and may be punished as follows. Each day a violation exists shall constitute a separate and distinct violation. Continuing Violations may be punished by citation, as provided in the Belle Isle City Code and/or Chapter 162 of the Florida Statutes, including but not limited to the requirements of a reasonable warning prior to issuance of a citation; or through the Code Enforcement Magistrate procedure as provided under the Belle Isle City Code; provided, however, such violations shall be subject to a fine in the amount of \$250.00, for the first offense, \$500.00 for the second and subsequent offenses, plus a suspension of the Vacation Rental License as provided hereinafter, for the third offense.

(c) *Other enforcement methods and penalties.* Notwithstanding anything otherwise provided herein, violations of this chapter shall also be subject to all the enforcement methods and penalties that may be imposed or available for the violation of ordinances of the city as provided in Article III of Chapter 7 of the Code of Ordinances of the City of Belle Isle, any other applicable provision of the Code of Ordinances, or as provided by state statute. Nothing contained herein shall prevent the City of Belle Isle from seeking all other available remedies which may include, but not be limited to, injunctive relief, abatement of public nuisance, liens, fines, imprisonment, and other penalties as provided by law.

(d) *Suspensions of license.*

(1) In addition to any fines and any other remedies described herein or provided for by law, the City of Belle Isle shall suspend a Vacation Rental License upon a third violation of this Article in any continuous 12 month period. Such suspension of a Vacation Rental License shall be for a period of one year, and shall begin following notice, commencing either at the end of the current vacation rental lease period, or after thirty (30) calendar days, whichever is less.

(2) For violations of Subsections 7-93(a), (d), (e), (f), (g), or (h), or violations of the Florida Building Code, or Florida Fire Code or Life Safety Code, a Vacation Rental License shall be subject to temporary suspension starting immediately three (3) working days after citation for such violation if it is not corrected, re-inspected, and found in compliance. Such suspension shall remain in place until corrected, re-inspected, and found in compliance.

(e) For all purposes under this chapter, service of notice on the Vacation Rental Agent shall be deemed service of notice on the applicable Vacation Rental Agent, Vacation Rental Owner, the Vacation Rental Agency with which such Vacation Rental Agent is associated, and Occupant.

(f) No Occupant shall occupy a Vacation Rental, and no advertisement for the Vacation Rental shall occur during any period of suspension of a Vacation Rental's Vacation Rental License.

Sec. 7-52. – Responsibilities of Departments.

The ultimate responsibility for the administration of this Article is vested in the City Council. The City Manager or his or her authorized designee is responsible for granting, denying, revoking, renewing, suspending and canceling Vacation Rental Licenses for proposed and existing Vacation Rentals as set forth in this chapter. Additionally, the City Manager or his or her authorized designee is responsible for inspecting any proposed or existing Vacation Rental in order to ascertain compliance with this chapter, and all applicable building codes, fire codes, statutes, ordinances and regulations.

Sec. 7-53. – Appeals

Any decision of the City Manager or his or her authorized designee relating to the grant, denial, renewal, modification, or suspension of a Vacation Rental License under this Chapter shall be rendered in writing in appealable form, and reviewed by the City Council if a notice by the applicant is filed with the City Clerk within ten (10) days after the action to be reviewed. The City Clerk shall place the matter on the agenda of an upcoming meeting of the City Council, at which the matter will be reviewed. The decision of the City Council shall be final and shall be rendered in writing in appealable form. Such final decision may be reviewed as permitted under Florida law.

Sec. 7-54. – Notice.

Any notice required under this Article shall be accomplished by sending a written notification by U.S. Mail, postage paid, to the mailing address of the Vacation Rental Agent set forth on documents filed with the City of Belle Isle under this Article, which shall be considered for all purposes as the correct address for service, or by personal service or delivery to the Vacation Rental Agent.

Sec. 7-55. – Immunity from prosecution.

The City of Belle Isle, the City Council, the Mayor, the City Commissioners, and any of the City's departments or agents, and any law enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good-faith trespass upon a Vacation Rental while acting within the scope of this Article.

Sec. 7-56. – Construction of Article.

(a) This Article shall be liberally construed to accomplish its purpose of regulating Vacation Rentals, protecting the residential character of Belle Isle, the health, safety, and general welfare of its residents and visitors, and the quiet enjoyment by Belle Isle's residents of their residential property.

(b) Neither this Article nor any provision contained herein shall be construed to override, repeal, or in any way invalidate the prohibition on short-term rentals provided for in Section 7-30 of the City Code, and such provision remains in full force and effect and shall apply to the extent that a vacation rental or short-term rental is not allowed under this Article.

DIVISION II. – VACATION RENTAL LICENSE.

Sec. 7-57. - License required.

After the effective date of the passage of this ordinance, an active Vacation Rental License shall be required to operate a Vacation Rental within the City of Belle Isle. After the effective date, only Vacation Rentals holding an active Vacation Rental License issued by the City of Belle Isle may operate within the City. Prior to the issuance of a Vacation Rental License, the City of Belle Isle shall ensure that the building in which the Vacation Rental is or will be located is in full compliance with the appropriate portions of the Florida Building Code and the Florida Fire and Life Safety Codes. A separate Vacation Rental License shall be required for each Vacation Rental. Applications for Vacation Rental License(s) for currently existing Vacation Rentals shall be submitted to the City of Belle Isle in accordance with the Vacation Rental Application Schedule or any other policy adopted by Resolution of the City Council of the City of Belle Isle or by the City Manager.

Sec. 7-58. - Permitted by HOA.

Prior to the application for a permit, if the residence is overseen by an HOA, the resident shall get approval from the HOA prior to applying for a license. The written authorization of the HOA shall be included with the City application.

Sec. 7-59. - Application for Vacation Rental license.

(a) There is no "grandfathering" of Vacation Rental Properties that were operating prior to the existence of this ordinance. A property owner seeking initial issuance of a Vacation Rental License, or the renewal, or modification of a Vacation Rental License, shall submit to the City a completed Vacation Rental License application in a form promulgated by the City,

together with an application fee in an amount set by resolution of the City Council or by the City Manager.

(b) A complete application for the initial issuance, or renewal, or modification, of a Vacation Rental License shall demonstrate compliance with the standards and requirements set forth in this Chapter through the following submittals:

(1) A completed Vacation Rental License application form.

(2) Payment of applicable fees.

(3) A copy of the Vacation Rental's current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation if the applicant has such license. Pursuant to Section 166.033, Florida Statutes, the City may process and issue a Vacation Rental License before the issuance of that state license; provided, however, that the Vacation Rental may not operate prior to receiving such state license if required by law.

(4) A copy of the Vacation Rental's current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue. Pursuant to Section 166.033, Florida Statutes, the City may process and issue a Vacation Rental License before the issuance of that state certificate of registration; provided, however, that the Vacation Rental may not operate prior to receiving such state certification of registration.

(5) Letter from the HOA authorizing the residence to be a vacation rental.

(6) Evidence of the Vacation Rental's current and active account with the Orange County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Orange County Tax Collector. Pursuant to Section 166.033, Florida Statutes, the City may process and issue a Vacation Rental License before the establishment of such account; provided, however, that the Vacation Rental may not operate prior to the establishment of such account if required by law.

(7) A copy of the current Certificate of Occupancy for the building in which the vacation rental is or will be located. The City shall check to ensure that the current Certificate of Occupancy indicates an occupancy pursuant to Section 310.01 of the Florida Building Code of R-1 for the building planned to be used as a Vacation Rental. In the event the current Certificate of Occupancy is for an occupancy other than R-1, the applicant must apply to the City of Belle Isle for a Change of Use to R-1 pursuant to the Florida Building Code prior to the issuance of a Vacation Rental License.

(8) Exterior site sketch. An exterior sketch of the Vacation Rental facility shall be provided, demonstrating compliance with the standards and requirements set forth in this Chapter. The sketch provided shall be drawn to scale, and shall show and identify all

structures, pools, spas, hot tubs, fencing, and uses, including areas provided for off-street parking and trash collection. For purposes of the sketch, off-street parking spaces shall be delineated so as to enable a fixed count of the number of spaces provided.

(9) Interior building sketch by floor. A building sketch by floor shall be provided, showing a floor layout and demonstrating compliance with the standards and requirements set forth in this Chapter. The sketch provided shall be drawn to scale, and shall show and identify all bedrooms, other rooms, exits, hallways, stairways, smoke and carbon monoxide detectors, fire extinguishers and exit signage/lighting.

(10) Certification from Certified Building Official that the building is in compliance with Florida Building Codes and Florida Life Safety Codes.

(c) Incomplete applications will not be accepted, but will be returned with a notation of what items are missing. Any fees, minus a \$50 processing fee, submitted as part of the application will be returned to the applicant.

(d) Vacation Rental License applications shall be sworn to under penalty of perjury, and false statements in an application shall be a basis for the revocation of any license issued pursuant to such application.

Sec. 7-80. Modification of Vacation Rental License.

An application for modification of a Vacation Rental License shall be required in the event that any of the following changes to the Vacation Rental are proposed:

- (1) An increase in the gross square footage of the Vacation Rental.
- (2) An increase in the number of bedrooms in the Vacation Rental.
- (3) An increase in the maximum occupancy of the Vacation Rental.
- (4) An increase in the number of parking spaces, or a change in the location of parking spaces for the Vacation Rental.
- (5) An increase in the number of bathrooms in the Vacation Rental.
- (6) Any other material modifications that would increase the intensity of use of the Vacation Rental.

Sec. 7-81. - Duration of Vacation Rental License.

A Vacation Rental License shall be valid for two (2) years after the date of issuance.

Sec. 7-82. - Renewal of Vacation Rental License.

A Vacation Rental Owner must apply annually for a renewal of the Vacation Rental License no later than sixty (60) days prior to the expiration date of the previous Vacation Rental License. It is the responsibility of the Vacation Rental Owner to know when the renewal period is.

Sec. 7-83. - Initial and Periodic Compliance Inspections of Vacation Rentals.

(a) Inspection of a Vacation Rental to verify compliance with this Chapter, the Florida Building Code, and the Florida Fire and Life Safety Codes, shall be required prior to issuance of an initial Vacation Rental License. If instances of noncompliance with the standards and requirements set forth in this Chapter are found, all such instances of noncompliance shall be corrected and the Vacation Rental shall be re-inspected prior to the issuance of an initial Vacation Rental License.

(b) Once a Vacation Rental License is issued for a Vacation Rental, such Vacation Rental shall be properly maintained in accordance with the standards and requirements set forth in this Article. The City may establish a schedule to re-inspect such Vacation Rental as to ensure compliance with the standards and requirements set forth in this Article and the Belle Isle Code of Ordinances. All violations of this Article or the Belle Isle Code of Ordinances identified in such inspection shall be corrected and re-inspected within 30 calendar days after the issuance of a notice of violation, with the exception of life safety violations, which must be corrected within the earlier of three (3) working days or the start of the next rental period. Failure to correct such violations within the timeframes provided shall result in the suspension of the Vacation Rental License until such time that the violations are corrected, re-inspected, and found in compliance.

(c) The City may inspect a Vacation Rental at any time upon reasonable notice to the Vacation Rental Agent. Inspections shall be made by appointment with the Vacation Rental Agent. If a City inspector has made an appointment with Vacation Rental Agent for an inspection, and the City inspector is unable to complete the inspection as a result of an action or inaction of the Vacation Rental Agent, Vacation Rental Owner, or an occupant of the Vacation Rental, the Vacation Rental shall be charged a "re-inspection" fee in an amount set by resolution of the City Council to cover the inspection expense incurred. The re-inspection fee shall be paid prior to scheduling the re-inspection.

(d) If, after two attempts, a City inspector is unable to complete an inspection of a Vacation Rental as a result of an action or inaction of the Vacation Rental Agent, Vacation Rental Owner, or an occupant of the Vacation Rental, the City inspector shall provide notice of failure of inspection to the Vacation Rental Agent at the address shown on the Vacation Rental License or application for Vacation Rental License. With respect to an application for a Vacation Rental License, such notice of failure of inspection shall constitute a basis for the denial of the Vacation Rental License. With respect to an active Vacation Rental License, such notice of failure of inspection shall result in the suspension of the Vacation Rental License until such time that the Vacation Rental is inspected and found in compliance.

Sec. 7-84. - Vacation Rental License non-transferable, non-assignable.

Vacation Rental Licenses are non-transferable and non-assignable. If the ownership of any Vacation Rental is sold or otherwise transferred, any outstanding Vacation Rental License as to that Vacation Rental shall be null and void upon the sale or transfer.

Sec. 7-85. Vested Rights/Waiver/Estoppel

The issuance of a Vacation Rental License shall not be construed to establish any vested rights or entitle the license holder to any rights under the theory of estoppel. Issuance of a Vacation Rental License shall not be construed as a waiver of any other requirements contained within the City of Belle Isle City Code or Comprehensive Plan, and is not an approval of any other code requirement outside this chapter. The receipt of a Vacation Rental License is not an approval of a use or activity that would otherwise be illegal under Florida law, the Florida Building Code, the Florida Fire Code or Life Safety Code, or in violation of the Belle Isle City Code or Comprehensive Plan.

DIVISION III. VACATION RENTAL AGENT.

Sec. 7-86. - Designation, application.

(a) Prior to the issuance, modification or renewal of a Vacation Rental License, the Vacation Rental Owner shall designate a Vacation Rental Agent on the Vacation Rental License application. In order to designate a Vacation Rental Agent, the Vacation Rental Owner and Vacation Rental Agent shall complete documentation as prescribed by the City of Belle Isle that includes the following:

(1) Designation of Vacation Rental Agent by Vacation Rental Owner; The Vacation Rental Owner may be the Vacation Rental Agent

(2) Vacation Rental Agent's full name, home and business addresses, home telephone number, business telephone number, cellular phone telephone number, facsimile machine phone number, and e-mail address, together with copies of the Vacation Rental Agent's Florida Driver's License, and proof of professional licensure, if any.

(3) Certificate on a form prescribed by the City certifying that the Vacation Rental Agent meets the qualifications of a Vacation Rental Agent as set forth herein; that he or she has read the Vacation Rental Article in full and certifies that he or she meets the qualifications of a Vacation Rental Agent and agrees to perform the duties of a Vacation Rental Agent as set forth herein; that he or she agrees to be bound by the requirements, conditions, and penalties for Vacation Rental Agents as set forth herein; and that in the event he or she no longer has the qualifications, or is unable or unwilling to fulfill the role of Vacation Rental Agent, he or she will immediately so notify the City of Belle Isle and the owner of the Vacation Rental.

(4) A document prescribed by the City of Belle Isle, and signed under oath before a notary public, by both the Vacation Rental Owner and the Vacation Rental Agent, agreeing to, jointly and severally, indemnify, defend, save and hold harmless the City of Belle Isle, and its elected officials, officers, agents, and employees, from any and all liability, claims,

Comment [LDK1]: Does it make sense to require and regulate rental agents so extensively considering that only owner-occupied vacation rentals are allowed?

demands, disputes, damages, costs, attorney's fees, and expenses (including prior to trial, through trial, and to and on appeal), as a result, directly or indirectly, of any matter relating to the application for Vacation Rental License, the Vacation Rental License, actions or inactions of the Vacation Rental Owner, actions or inactions of the Vacation Rental Agent, actions of any Vacation Rental Occupants, tenants, guests, or invitees, or the operation or use of the Vacation Rental.

(5) Proof of insurance held by the Vacation Rental Agent as required herein.

(6) Proof of compliance with all Vacation Rental Agent requirements as provided herein.

(7) If the Vacation Rental Agent is associated in any way with a Vacation Rental Agency, such association shall be disclosed, along with the name, address, phone number, and e-mail address of such Vacation Rental Agency.

(b) A Vacation Rental Owner may change his or her designation of a Vacation Rental Agent temporarily or permanently; however, there shall only be one Vacation Rental Agent for each Vacation Rental at any given time. The method to change the designated Vacation Rental Agent is the same as the method set forth hereinabove for the initial designation of Vacation Rental Agent.

(c) Any notice of violation or legal process which has been delivered or served upon the previous Vacation Rental Agent, prior to the appointment of a subsequent Vacation Rental Agent, shall be deemed effective notice for all purposes.

(d) A Vacation Rental Agent may serve as Vacation Rental Agent for more than one Vacation Rental, but a separate designation of Vacation Rental Agent and applicable documentation must be submitted as to each Vacation Rental.

Sec. 7-87. - Insurance for Vacation Rental Agent.

(a) Vacation Rental Agent, at his or her own cost and expense, shall have in force at all times, and as a condition of being appointed a Vacation Rental Agent, insurance from an insurance company licensed in the State of Florida and rated "Class A" or better by A. M. Best or some other form of assurance reasonably approved by the City of Belle Isle as follows:

(1) Commercial General Liability Insurance insuring the Vacation Rental Agent against liability arising from his or her actions in the capacity as Vacation Rental Agent and all actions incidental thereto. Vacation Rental Agent shall list and endorse the City of Belle Isle as an additional insured under the general liability policy. Except as otherwise agreed in writing by the City, the insurance shall be provided on a form no more restrictive than the Standard Commercial General Liability Form (ISO FORM CG 00 01) without any restrictive endorsements, and the City shall be included as an "Additional Insured" on a form no more restrictive than Form CG 20 10, Additional Insured-Owners, Lessees, or Contractors (Form B). The minimum limits (inclusive of amounts by an umbrella or excess policy) shall be available at all times and shall be:

\$1,000,000 General Aggregate
\$1,000,000 Products Liability/Completed Operation Aggregate
\$1,000,000 Personal and Advertising Injury
\$1,000,000 Each Occurrence

The General Liability policy is to contain or be endorsed to name the City of Belle Isle, its elected officials, officers, officials and employees as additional insureds as respects to the liability arising out of the activities performed as the Vacation Rental Agent. Such coverage shall be primary to the extent of the Vacation Rental Agent's negligent acts or omissions or willful misconduct, and shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. In addition, a waiver of subrogation by the commercial liability insurer shall be provided that lists or names the additional insured as subject to the waiver.

(2) Worker's Compensation Insurance, as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the Federal Employer's Liability Act and any other applicable Federal and State law. If the Vacation Rental Agent is exempt from Worker's Compensation Insurance, the Vacation Rental Agent shall supply documentation sufficient to prove such exemption. The minimum amount provided by an umbrella or excess policy shall be:

Part One-"Statutory" requirements
Part Two-\$500,000 Each Accident
\$500,000 Disease-Policy Limit
\$500,000 Disease Each Employee

(3) Automobile Liability Insurance on a form no more restrictive than that provided by Section II (Liability Coverage) of the Standard Business Auto Policy (ISO Form CA 00 01) and shall cover User owned, non-owned, and hired autos used in any manner or incidental to the duties of the Vacation Rental Agent. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be \$1,000,000 per each Occurrence-Bodily Injury and Property Damage Combined.

(b) The required insurance shall be evidenced by a certificate of insurance which must be submitted to the City of Belle Isle prior to the appointment of the Vacation Rental Agent. A copy of all notices, from all insurance companies providing coverage, directly or indirectly related to the insurance required hereunder, must be provided to the City of Belle Isle within five (5) days of receipt. All insurance companies shall be instructed in writing by the Vacation Rental Agent to provide thirty (30) days' notice of any cancellation to the City. Failure to comply with this requirement shall render this designation of Vacation Rental Agent null and void, and Vacation Rental Owner shall be required to designate another Vacation Rental Agent. The Vacation Rental Agent shall provide the City with renewal or replacement evidence of insurance at least ten (10) days prior to expiration or termination of such insurance.

Sec. 7-88. - Vacation Rental Agent's qualifications.

All Vacation Rental Agents shall be twenty-one (21) years of age or older with a valid Florida Driver's License, and must not be a registered sex offender. The Vacation Rental Owner may serve as the Vacation Rental Agent, but only if such Vacation Rental Owner otherwise meets the qualifications of, and is able to fulfill the duties of, a Vacation Rental Agent as provided herein. In addition, the Vacation Rental Agent must either customarily be present at a business location within Orange County for the purposes of transacting business; or have his or her permanent residence within Orange County. If the Vacation Rental Owner serves as the Vacation Rental Agent, the Vacation Rental Owner must reside on the property at all times that the Vacation Rental Property is occupied by the Vacation Rental Occupants (guests).

Sec. 7-89. - Duties of Vacation Rental Agent.

Every Vacation Rental Agent shall:

(a) Be available by landline or mobile telephone answered by the Vacation Rental Agent at the listed phone number 24-hours a day, seven days a week to handle any problems arising from the Vacation Rental; and

(b) Be willing and able to be physically present at the Vacation Rental within thirty (30) minutes following notification from a Vacation Rental Occupant, the Vacation Rental Owner, law enforcement officer, emergency personnel, or the City of Belle Isle for issues related to the Vacation Rental, and shall actually be physically present at that location in that time frame when requested; and

(c) Conduct an on-site inspection of the Vacation Rental no less often than weekly to assure continued compliance with the requirements of this Chapter.

(d) If the Vacation Rental Owner serves as the Vacation Rental Agent, the Vacation Rental Owner must reside on the property at all times that the Vacation Rental Property is occupied by the Vacation Rental Occupants (guests).

Sec. 7-90. - Suspension of Vacation Rental Agent/Agency.

(a) If a Vacation Rental Agent has received an aggregate total of three (3) Unresolved Violations for the Vacation Rentals the Vacation Rental Agent manages, within a continuous twelve (12) month period, the Vacation Rental Agent shall lose the ability to act as a Vacation Rental Agent in the City of Belle Isle for a period of twenty-four (24) months. In that event, the Vacation Rental Agent, and all Vacation Rental Owners of Vacation Rentals that he or she manages, shall be notified by the City of Belle Isle that he or she has been removed as the Vacation Rental Agent for all Vacation Rentals managed. If the Vacation Rental Agent so removed is associated with a Vacation Rental Agency, no employee or associate of that Vacation Rental Agency may be a Vacation Rental Agent for the particular Vacation Rentals that had formerly been managed by the removed Vacation Rental Agent for a period of twenty-four (24) months. All Vacation Rental Licenses associated with the removed Vacation Rental Agent shall be suspended until new Vacation Rental Agents are appointed by the relevant Vacation Rental Owners.

(b) If Vacation Rental Agents associated with a particular Vacation Rental Agency collectively receive an aggregate total of ten (10) Unresolved Violations for the Vacation Rentals the Vacation Rental Agents associated with the Vacation Rental Agency manage, within a continuous twelve (12) month period, all Vacation Rental Agents associated with that Vacation Rental Agency shall lose their ability to act as Vacation Rental Agents in the City of Belle Isle for a period of twenty-four (24) months. In that event, the Vacation Rental Agents associated with the Vacation Rental Agency, and all Vacation Rental Owners of Vacation Rentals managed by those Vacation Rental Agents shall be notified by the City of Belle Isle that their Vacation Rental Agent has been removed as the Vacation Rental Agent for all Vacation Rentals managed. All Vacation Rental Licenses associated with the removed Vacation Rental Agents shall be suspended until new Vacation Rental Agents are appointed by the relevant Vacation Rental Owners.

(c) For purposes of this section, an Unresolved Violation shall mean any time the Vacation Rental Agent does not comply with the specific duties of the Vacation Rental Agent as set forth in this Chapter, and any time, in the reasonable determination of the City Manager or his or her designee, violations relating to the Vacation Rentals managed by the Vacation Rental Agent are the result of negligent or intentional actions or inactions of the Vacation Rental Agent, such as, but not limited to, knowingly allowing more Occupants than allowed in a Vacation Rental, or not appropriately preventing or mitigating violations of this Chapter by Occupants of the Vacation Rental.

DIVISION 4. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS

Sec. 7-91. - Generally

The standards and requirements set forth in the Article shall apply to the rental, use, and occupancy of Vacation Rentals in the City of Belle Isle.

Sec. 7-92. - Owner-Occupied

All Vacation Rentals in the City of Belle Isle shall be 100% owner occupied. This means that at all times there is a Vacation Rental Occupant, the Vacation Rental Owner will be on-site. For example, if the Vacation Rental Owner will be "on vacation" or travelling away for the Vacation Rental for a period of longer than 12-hours, then no Vacation Rental will take place.

Sec. 7-93. - Minimum safety and operational requirements

Vacation Rentals in the City of Belle Isle shall meet the following minimum safety and operational requirements, and the applicable standards under the Florida Statutes, Florida Building Code and the Florida Fire Code and Life Safety Code. Whenever there is an inconsistency among the requirements of this section, the Florida Statutes, the Florida Building Code, or the Florida Fire Code and Life Safety Code, the most restrictive requirement shall apply.

(a) Swimming pool, spa and hot tub safety. A swimming pool, spa or hot tub offered or made available as an amenity at a Vacation Rental shall comply with the current standards of the Residential Swimming Pool Safety Act, Chapter 515, Florida Statutes. The Vacation Rental Agent shall cause the swimming pool drain system, any underwater lighting system, and the electrical pump system of such swimming pools, spas, and hot tubs to be inspected annually by an appropriately licensed technician. The Vacation Rental Agent shall maintain a concurrent log of such inspections, which shall be made available to the City for inspection upon request during normal business hours.

(b) Swimming pool, spa and hot tub hours of use. Swimming pools, spas and hot tubs offered or made available as an amenity at a Vacation Rental may only be used between the hours of 8:00 a.m. and 10:00 p.m.

(c) Swimming pool, spa and hot tub screening. In all Vacation Rentals located in any Residential District swimming pools, spas, and hot tubs shall be screened by a six-foot, 100 percent opacity fence. Swimming pool equipment shall be separately screened on all open sides with a six-foot 100 percent opacity fence constructed with acoustical material.

(d) Bedrooms. All bedrooms within a Vacation Rental shall meet the applicable requirements of the Florida Building Code, and the Florida Fire Code and Life Safety Code.

(e) Smoke and carbon monoxide (CO) detection and notification system. An interconnected, hard-wired smoke alarm and carbon monoxide (CO) alarm system shall be installed within the Vacation Rental and maintained on a continuing basis consistent with the requirements of Section R314, Smoke Alarms, and Section R315, Carbon Monoxide Alarms, of the Florida Building Code - Residential.

(f) Fire extinguisher. A portable, multi-purpose dry chemical 2A:10B:C fire extinguisher shall be installed, inspected and maintained in accordance with NFPA 10 on each floor of a Vacation Rental. The extinguisher(s) shall be installed on the wall in an open common area or in an enclosed space with appropriate markings visibly showing the location.

(g) Emergency egress maintenance and lighting. Halls, entrances and stairways within a Vacation Rental shall be clean, ventilated and well lighted day and night. Hall and stair runners shall be kept in good condition. Rails shall be installed on all stairways and around all porches and steps.

(h) Local phone service. At least one landline telephone with the ability to call 911 shall be available in the main level common area in the Vacation Rental.

Sec. 7-94. - Maximum occupancy based on site capacity limitations.

The maximum occupancy of a Vacation Rental shall be limited to the lesser of:

- (1) Two persons per bedroom within the Vacation Rental (counting only those rooms that satisfy the definition of bedroom under this Article).

(2) A total of six occupants per Vacation Rental, inclusive of day guests.

(3) In the event there is more than one building or dwelling on one platted lot, the maximum occupancy shall be capped at the lesser of six occupants per lot, or two persons per bedroom, regardless of the building in which such bedroom(s) are located.

Sec. 7-95. Parking standards.

In all Vacation Rentals located in a residential zoning district, the following parking standards shall apply. There shall be one off-street parking space for each bedroom in a Vacation Rental. One such required parking space for each Vacation Rental shall be in a covered garage or carport. Recreational vehicles and accessory trailers shall only be permitted in driveways, or other parking areas specifically designated for such use by the City. No recreational vehicle or any other motor vehicle parked on the premises of a Vacation Rental shall be used for sleeping. Parking spaces shall not be tandem. Neither on-street parking nor parking within the right-of-way shall be permitted for use by Vacation Rentals or Occupants.

Sec. 7-96. - Solid waste handling and containment.

In all Vacation Rentals located in a residential zoning district, the following standards shall apply. One trash storage container shall be provided per three occupants or fraction thereof, calculated based upon the maximum occupancy of the Vacation Rental. Trash storage containers shall be screened with a six foot fence, with an opening for container removal. The Vacation Rental shall contract with the waste management provider for side door pick-up service. Notice of side door pick up and the times and regulations thereof shall be posted by the main entrance of the Vacation Rental.

Sec. 7-97. Quiet hours and pool hours.

Quiet hours for Vacation Rentals shall be from 10:00 p.m. to 8:00a.m. daily. Swimming pool, spa and hot tub use on the premises of a Vacation Rental is limited to the hours of 8:00 a.m. to 10:00 p.m. daily. During quiet hours, no excessive or boisterous noise or amplified sound extending beyond the lot or parcel line is permitted.

Sec. 7-98. Violations of other legal provisions.

No person shall allow the occupancy or use any portion of a structure as a Vacation Rental if the structure or its use is in violation of or inconsistent with any applicable zoning, comprehensive planning, building, housing, density, life safety, utility, public health, sanitary or fire code, ordinance, plan, statute, regulation, or rule. Such a violation shall also be considered a violation of this Chapter.

Sec. 7-99. Vacation Rental advertising.

Advertising of a Vacation Rental shall be consistent with the information contained within the Vacation Rental's Vacation Rental License. Such advertising shall conspicuously disclose the maximum occupancy of the Vacation Rental under this Chapter.

All Vacation Rentals will only be advertised on the commercial booking websites that advertise Vacation Rentals, such as AirBNB, vacationRentals.com, VRBO, misterBNB, etc. When advertising, the Vacation Rental Owner must display the City of Belle Isle permit number plainly on the site.

Comment [LDK2]: Is this necessary? We may wish to review First Amendment implications

Sec. 7-100. Licensure as transient public lodging establishment.

A Vacation Rental shall at all times maintain a current and active license as a transient public lodging establishment with the Florida Department of Business and Professional Regulation, if such is required.

Sec. 7-101. Florida Department of Revenue certificate; Orange County Tax Collector account.

A Vacation Rental shall at all times maintain a current and active certificate of registration with the Florida Department of Revenue for the purposes of collecting and remitting sales surtaxes, transient rental taxes, and any other taxes required by law to be remitted to the Florida Department of Revenue. A Vacation Rental shall at all times maintain a current and active account with the Orange County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the Orange County Tax Collector.

Sec. 7-102. Prohibition of occupancy by registered sex offenders.

A Vacation Rental shall not be rented to or occupied by a registered sex offender. The Vacation Rental Agent for each Vacation Rental shall have the affirmative duty to research, via third party information service, and document that each Occupant of a Vacation Rental is not a registered sex offender. Such documentation shall be maintained by the Vacation Rental Agent for a period of not less than three years after the stay of a given Occupant, and shall be made available to the City for inspection upon request during normal business hours.

Sec. 7-103. - Vacation Rental agreements- minimum provisions.

Vacation Rentals shall only be rented, leased or occupied pursuant to a written rental agreement which contains, at a minimum, the following information:

- (1) Maximum occupancy of the Vacation Rental that is consistent with the Vacation Rental License.
- (2) The name and ages of all Occupants; provided, however, the age of any Occupant over the age of 30 can be stated merely as "Adult".
- (3) The license tag numbers for all vehicles that the Vacation Rental Occupant(s) will be parking at the Vacation Rental, with a total number not to exceed the number of off-street parking spaces at the Vacation Rental as designated on the Vacation Rental License;

(4) The Occupant(s)' agreement to abide by all the requirements of this Chapter, and acknowledgement that his or her rights under the agreement may not be transferred or assigned in whole or in part to anyone else without a new agreement being entered into between the new Occupant(s) and the Vacation Rental Owner; and

(5) The Occupant(s)' acknowledgement and agreement that violation of the agreement or this Chapter may result in immediate termination of the agreement and eviction from the Vacation Rental by the Vacation Rental Owner or Vacation Rental Agent, and potential liability for payment of fines levied by the City.

(6) The permitted off-street parking locations where Occupants may park according to the Vacation Rental License sketch.

(7) A statement that all Occupants must promptly evacuate from the Vacation Rental upon posting of any evacuation order issued by state or local authorities.

(8) Consent to the reasonable entry by the City of Belle Isle inspectors into the Vacation Rental.

(9) A copy of the noise, quiet hours, pool hours, parking, and trash regulations.

Sec. 7-104. Required posting of Vacation Rental information.

(a) In each Vacation Rental, located on the back or next to the main entrance door there shall be posted as a single page the following information:

(1) The name, address and phone number of the Vacation Rental Agent (and Owner);

(2) The maximum occupancy of the Vacation Rental;

(3) Notice that quiet hours are to be observed between 10:00 p.m. and 8:00a.m. daily and that between these hours no excessive or boisterous noise or amplified sound extending beyond the lot or parcel line is permitted;

(4) Notice that swimming pool, spa and hot tub use on the premises of a Vacation Rental is limited to the hours of 8:00 a.m. to 10:00 p.m. daily;

(5) The maximum number of vehicles that can be parked at the Vacation Rental, along with a sketch of the location of the off-street parking spaces;

(6) The days and times of trash pickup;

(7) The number to the City of Belle Isle Police phone; and

(8) The location of the nearest hospital.

(b) There shall be posted, next to the interior door of each bedroom a legible copy of the building evacuation map- Minimum 8-112" by 11".

Sec. 7-105. Violation and Penalties.

(a) A person renting a property without a valid rental permit shall be in violation of the Belle Isle Municipal Code and shall be subject to a fine of up to five hundred dollars (\$500) for each day the dwelling has been rented without a permit.

(b) Revocation of Registration. A short-term rental registration issued under the provisions of this Section may be revoked by the City Manager after notice and hearing as provided for in this Section, for any of the following reasons:

- (1) Fraud, misrepresentation, or false statements contained in the application;
- (2) Fraud, misrepresentation, or false statements made in the course of carrying on a short-term rental as regulated by this Section;
- (3) Any violation of any provision of this Section or of any provision of this code;
- (4) Any violation of any provision of federal, state or local laws.

(c) Revocation Hearing. Before revoking a short-term rental registration, the City Manager shall give the responsible host notice in writing of the proposed revocation and of the grounds thereunder, and also of the time and place at which the host will be given a reasonable opportunity to show cause why the registration should not be revoked. The notice may be served personally upon the host or may be mailed to the host at the last known address or at any address shown upon the application at least 10 days prior to the date of the hearing. Upon conclusion of the hearing the City Manager may, for the grounds set forth herein, revoke the registration.

(d) Appeal from Denial or Revocation of Registration. Any host whose application has been denied or registration has been revoked shall have the right to an administrative appeal before the City Council. An appeal shall be filed in writing on a form provided by the City stating the grounds therefor within 10 days of the decision. The City Council shall hold a hearing thereon within a reasonable time and the decision shall be final.

(e) Waiting Period. Any host whose registration has been denied or revoked shall be ineligible from applying for a new registration for a 24-month period.

(f) Records of Compliance. The host shall retain records documenting the compliance with these requirements for a period of three (3) years after each period of short-term rental, including but not limited to records showing payment of transient occupancy taxes by a hosting platform on behalf of a host. Upon reasonable notice, the host shall provide any such documentation to City upon request for the purpose of inspection or audit to the City Manager or his/her designee.

(g) Penalties. For violations of this chapter, the following penalties will be imposed in addition to the fines described above:

(1) For the first violation within a twelve-month period, the penalty shall be a warning notice.

(2) For the second violation within a twelve-month period, the penalty shall be a suspension of the permit for thirty days.

(3) For the third violation within a twelve-month period, the penalty shall be a suspension of the permit for ninety days.

(4) For the fourth violation within a twelve-month period, the penalty shall be a revocation of the permit.

Comment [LDK3]: This provision appears to conflict with Sec. 7-51. We need to clarify the penalties and when a license can be suspended or revoked.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. CONFLICTS. In the event of a conflict or conflicts between this Ordinance and any other ordinance or provision of law, this Ordinance controls to the extent of the conflict, as allowable under the law.

SECTION 5. PRESERVATION OF CODE SECTION 7-30. This Ordinance and the City Code amendments effected hereby shall not be construed to override, repeal, or in any way invalidate the prohibition on short-term rentals provided for in Ordinance No. 08-03 creating Section 7-30 of the City Code, and such provision remains in full force and effect and shall apply to the extent that a vacation rental or short-term rental is not allowed under the new Article III, Chapter 7 of the City Code created by this Ordinance.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Belle Isle, Florida.

FIRST READING: _____, 2018

SECOND READING: _____, 2018

ADOPTED this ____ day of _____, 2018, by the City Council of the City of Belle Isle, Florida.

CITY COUNCIL
CITY OF BELLE ISLE

Lydia Pisano, Mayor

ATTEST:

Yolanda Quiceno, City Clerk

Date

S:\DL\Clients\Belle Isle, City of\General B900-29001\Vacation (Short Term) Rentals\Ordinance re vacation rentals [CLEAN 6-14-18].docx