

CITY OF MARCO ISLAND

ORDINANCE 22-08

AN ORDINANCE OF THE CITY OF MARCO ISLAND, FLORIDA, AMENDING CHAPTER 30 , ARTICLE II, "ZONING," OF THE CITY OF MARCO ISLAND CODE OF ORDINANCES BY CREATING A NEW SECTION 30-90, TO ESTABLISH A SELF-FINANCED, TRANSIENT SINGLE-FAMILY HOME (RSF) RENTAL REGISTRATION PROGRAM; WITH DEFINED TERMS; CONDITIONS REQUIRING TRANSIENT, SINGLE-FAMILY HOME RENTAL REGISTRATION AND APPLICATION REQUIREMENTS; CREATING TRANSIENT RENTAL REGISTRATION PROCESS; DEFINING THE QUALIFICATION OF AND REQUIREMENTS FOR A RESPONSIBLE PARTY; TRANSIENT RENTAL STANDARDS/RULES AND INSPECTIONS; THE PROCESS FOR RENEWAL OF REGISTRATION AND PENALTIES RESULTING IN FINES AND/OR THE SUSPENSION OF THE CERTIFICATE OF RENTAL COMPLIANCE; PROVIDING FOR INTERPRETATION; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS on August 23, 2022, the voters of the City of Marco Island (the "City") voted in favor of a referendum to implement a transient rental registration program in residential single family (RSF) districts pursuant to the ordinance referenced in the referendum (the "Ordinance"). The Ordinance as presented to and approved by Marco registered voters is attached hereto as **Exhibit "A"**; and

WHEREAS, as provided in the Ordinance, and pursuant to the City of Marco Island Charter, once approved by the City's electors, the Ordinance shall become effective upon its passage following second and final reading by the City Council; and

WHEREAS, in order to ensure conformance with the City's existing Code of Ordinances and Land Development Code, there are revisions necessary to be made to the Ordinance. A copy of the Ordinance with the necessary revisions is attached hereto as **Exhibit "B"** to this Ordinance; and

WHEREAS, the transient rental registration program provisions, as codified in Section 2 of this Ordinance are hereby adopted by the City of Marco Island City Council pursuant to the City Council's legal obligation following the August 23, 2022 referendum; and

WHEREAS, the City of Marco Island's Land Development Code needs to be updated and revised to "Create a Rental Registration Program for RSF Zoned properties; and

WHEREAS, the City Council of the City of Marco Island, Florida, finds the enclosed ordinance is consistent with the latest version of the Marco Island Comprehensive Plan; and

WHEREAS, the City Council of the City of Marco Island has determined that the proposed revisions to the Land Development Code are in the best interests of the general health, safety, and welfare of the residents and businesses of the City of Marco Island.

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

SECTION 1. Recitals. The above recitals are true and correct and are hereby incorporated into this Ordinance as if fully restated herein.

SECTION 2. Amendment and Adoption. Chapter 30 “Land Development Code,” Article II “Zoning” of the Code of Ordinances of the City of Marco Island, Florida, be, and the same are hereby amended by enacting a new Section 30-90 entitled “Rental Registration Program,” to provide as follows:¹

CHAPTER 30 – LAND DEVELOPMENT CODE

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ARTICLE II. – ZONING

* * * *

Sec. 30-90. – Rental Registration Program

30-90.1. Definitions

(a) "Certificate of Transient Rental Compliance" means the document that is issued by the City that bears the words "Transient Rental Certificate of Compliance" and evidences that the person or entity, in whose name the document is issued, has complied with the provisions of this Section relating to transient rentals.

(b) "Garbage" which is included in the definition of "Litter," as defined in Section 18-32 of the City of Marco Island Code of Ordinances.

(c) “Noise” is defined as any sounds emanating from the Transient Public Lodging Establishment that can be heard from any adjacent or non-adjacent property. This includes, but is not limited to, human sounds, animal sounds, electronically generated sounds, musically generated sounds, or any other sounds that would not be heard if the Transient Public Lodging Establishment were not

¹ Additions to existing city code text are shown by underline; deletions from existing city code text are shown by ~~strikethrough~~.

occupied. Any other sounds not applicable in this Section shall be subject to Sections 18-104 and 18-105 of the City of Marco Island Code of Ordinances.

(d) "Residential property" as used as a Transient Rental under this Section shall be defined as a single family home public lodging establishment. See definition of Vacation Rental/Transient Rental below.

(e) "Responsible Party" shall mean the owner, or the person designated by the owner, of the property to be called upon to answer for the maintenance of the property and the conduct and acts of transient occupants of residential properties. The Responsible Party shall be able to physically respond to the property within 1 (one) hour after notification.

(f) "Sleeping Room" shall mean a room or space within a dwelling unit, primarily designed and used or intended to be used for sleeping purposes, excluding, kitchens, bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, garages, closets and storage space. Living rooms and/or family rooms may be utilized for sleeping if, and only if, permanent sleeping furniture is provided such as a sleeper sofa.

(g) "Transient Occupants" means any person, or guest or invitee of such person, who occupies or is in actual or apparent control or possession of residential property for a period of less than 30 days, registered as required pursuant to this Section. It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of the Transient Rental is a Transient Occupant.

(h) "Vacation Rental/Transient Rental". Section 509.013(4)(a), Florida Statutes defines Transient Public Lodging Establishments as follows: "Public lodging establishment" includes a transient public lodging establishment as defined in subparagraph (i).

(i) "Transient public lodging establishment" 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.

(ii) The definition contained in subsection (i) shall apply to any individually or collectively owned RSF zoned single-family home, irrespective of the number of bedrooms, that is rented to Transient Occupants (guests) more than three (3) times in a calendar year for periods of less than thirty (30) days, or which is advertised or held out to the public as a place regularly rented to Transient Occupants.

(i) "Tenant," "Tenants," or "Group of Tenants" are defined as transient occupant(s) or guests.

30-90.2. Registration Required

(a) It is unlawful for any person to allow another person to occupy any residential property that is a single-family, RSF zoned, house or dwelling unit as a Transient Rental within the City of Marco Island, or offer such property for rent as a Transient Rental within the City of Marco Island, unless the person has registered the property as a Transient Rental property with the City of Marco Island, or Designee, and the Transient Rental property has been issued a Certificate of Transient Rental Compliance in accordance with the provisions of this Section.

(b) An application for registration as a Transient Rental is deemed pending when the application has been filed, all applicable fees have been paid to the City pursuant to Section 30-90.3, Code of Ordinances of the City of Marco Island, Florida, a Certificate of Transient Rental Compliance has not been issued for the property and the application has not been rejected. A registration application rejected as incomplete is not pending. Notwithstanding subsection (a) above, a person may allow another person to occupy a residential property, for which a Certificate of Transient Rental Compliance has not been issued, as a Transient Rental, when an application is pending if:

- (1) The residential property has an effective or pending license as a Transient Rental classification of public lodging establishment issued by the Florida Department of Business and Professional Regulations; and
- (2) The residential property is not in violation of any section of the Code of Ordinances of the City of Marco Island; and
- (3) An application for registration of the residential property as a Transient Rental has been filed pursuant to Section 30-90.3 and all applicable fees have been paid; and
- (4) That said occupancy of the Transient Rental was scheduled prior to June 30, 2023, as evidenced by a written and validly executed transient occupancy agreement or contract provided to the City Manager, or his/her Designee.
- (5) The residential property has no fines or liens, payable to the City of Marco Island, outstanding at the time of Application.
- (6) Transient Rental shall be registered annually.

30-90.3. Application for Transient Rental Registration

(a) A separate application for registration of a Transient Rental shall be made to the City Manager or his/her designee for each dwelling unit, as the term is defined in Section 30-90.1 of the City of Marco Island, Florida, Land Development Code, proposed for use as a Transient Rental and shall set forth at a minimum:

- (1) The legal description of the property offered for rental (i.e., address, lot, block and subdivision name);
- (2) Name, address, electronic mail address, and phone number of owner of said property; Name, address, electronic mail address, and emergency contact phone number of Responsible Party for said property, which shall be a twenty-four (24) hour, seven (7) days a week contact phone number.
- (3) That the phone number for the Responsible party will be answered twenty four (24) hours a day, seven (7) days a week by the Responsible Party.
- (4) Acknowledgements by owner of the following:
 - a. That all overnight vehicles associated with the Transient Rental must be parked within a driveway located on the subject property and said driveway is constructed in compliance with the Code of Ordinances of the City of Marco Island.
 - b. That it shall be unlawful to allow or make any noise or sound that exceeds the limits set forth in Section 30-90.9, Transient Rental Noise Control.

- c. That the owner shall comply with all applicable City, County, State and Federal laws, rules, Regulations, Ordinances and Statutes.
- d. That no solid waste container shall be located at the curb for pickup before 6:00 p.m. of the day prior to pick up, and solid waste container shall be removed before 7:00 p.m. of the day of pickup;
- e. That whoever, without being authorized, licensed, or invited, willfully enters or remains in any structure or conveyance of a property, or, having been authorized, licensed, or invited, is warned by the owner or lessee, to depart the property and refuses to do so, commits the offense of trespass in a structure or conveyance.
- f. That other properties are not jointly shared commodities and should not be considered available for use by transient occupants of the property subject of the application; and
- (5) Proof of owner's current ownership of the property;
- (6) Proof of registration with the Florida Department of Revenue for sales tax collection (for Collier County Sales Tax); and
- (7) Proof of licensure with the Florida Department of Business and Professional Regulation for a transient public lodging establishment.
- (8) Minimum Insurance Requirements: Every short-term rental property licensed pursuant to this Section shall continuously maintain liability insurance appropriate to cover the short-term rental use, including any necessary policy endorsements, with a minimum of at least \$1 million or solely conduct each short-term rental transaction through a platform that provides equal or greater liability insurance coverage to cover the short-term rental use. Evidence of Insurance: Every applicant shall tender to the City of Marco Island, or Designee, the certificates of insurance certifying that insurance of the types and in the amounts required by this chapter are in full force and effect at all times; and
- (9) Proof of compliance with Subsection 30-90.8
- a. Submission of an incomplete registration application form shall result in rejection of the application.
- b. An application for the modification of a Transient Rental registration is required when any of the following changes to the Transient Rental are proposed:
- (1) A change in the gross square footage.
- (2) A change in the number of bedrooms.
- (3) A change in the maximum occupancy.
- (4) A change in the number of parking spaces, or a change in the location of parking spaces.
- (10) Upon completion of the changes or alterations to the Transient Rental property or the Transient Rental operation the owner shall notify the City, or Designee, within ten (10) days of completion. A new certificate of compliance may be issued if the conditions of Section 30-90.3.a have been met and all required permits have been issued for the changes or alterations.

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210 **30-90.4. Fee and Costs for Registration**

211 (a) The City of Marco Island shall charge a Transient Rental Registration Administrative Fee.
212 The Marco Island City Council, upon adoption of this Ordinance, will determine the amount of the Fee,
213 per year, together with a consideration as to whether this fee is refundable or nonrefundable. The Marco
214 Island City Council shall determine the funding method for the Registration Program, and adopt the fee
215 by Resolution.

216 (1.) This annually-imposed Fee is subject to yearly adjustment and will be
217 calculated as the total cost of the Program, including Administrative and
218 Enforcement costs, divided by the number of Transient Rental Homes. This Fee
219 will include the cost of the yearly Fire Inspection fee. Each Fiscal year, the City
220 Manager, Director of Finance and any other Designated Personnel, will determine
221 the new Program Cost Administration Fee that will be adjusted to reflect any
222 shortage or overage for the new Fiscal year. It is the intention of the Program to
223 be administered to not generate a profit or loss for the Program. This Program
224 will ensure that all direct and indirect costs will be recovered according to
225 Government Accounting Principles and will not be recovered by tax dollars. The
226 Marco Island City Council shall determine all funding aspects of the Program.

227 (2.) The first year Administration Fee, shall be determined by the Marco Island
228 City Council, and shall be assessed on per Transient Rental Home basis.

229 (b) No Registration can be completed if a home has outstanding fees, fines or liens owed to
230 the City of Marco Island for any reason(s). Proof of payment of any outstanding fees, fines or liens shall
231 be submitted prior to the issuance of any Certificate of Transient Rental Compliance.
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233 **30-90.5. Responsible Party Required.**
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235 Whenever any property is required to be registered under this Section, the owner shall appoint
236 a natural person to serve as the Responsible Party for service of notices as are specified herein, and
237 notices given to the Responsible Party shall be sufficient to satisfy any requirement of notice to the
238 owner. An initial Responsible Party shall be designated, and name submitted with the application for
239 registration, and the City Manager or his/her designee shall thereafter be notified of any change of
240 Responsible Party within ten (10) days of such change. Further, it is the affirmative duty of the
241 Responsible Party to:

242 (a) Provide all guests prior to occupancy of the property with a written summary, printed in
243 the English and Spanish language, of applicable City of Marco Island Ordinances concerning noise,
244 vehicle parking, garbage, and common area usage. The summary shall include citations to the applicable
245 City of Marco Island Ordinances and instructions on how to access the complete written text. The
246 summary shall be posted in the interior of the structure, prominently near the main entrance of the
247 establishment.

248 (b) Maintain all properties under their control in compliance with the Code of Ordinances of
249 the City of Marco Island, Florida.

250 (c) See that the provisions of this Section are complied with and promptly address any
251 violations of this Section or any violations of law which may come to the attention of the Responsible
252 Party.

(d) Be available with authority to address and coordinate solutions to problems with the transient rental of the property twenty-four (24) hours a day, seven (7) days a week.

(e) Be situated close enough to the property as to be able to respond in person within one (1) hour of being notified by a Transient Rental occupant, law enforcement officer, a City Manager designated Rental Compliance Officer/employee, emergency personnel, or the City, of issues related to the Transient Rental. Responsible party shall respond when requested.

(f) Maintain, or arrange for the maintenance, of the entire property free of garbage and litter, provided however, that this subsection shall not prohibit the storage of garbage and litter in authorized receptacles for collection.

(g) Conduct an on-site inspection of the Transient Rental at the end of each rental period to assure continued compliance with the requirements of this Section and any applicable state regulations.

30-90.6 False Information.

It shall be unlawful for any person to give any false or misleading information in connection with the application for registration required by this Section. Transient Rental applications shall be sworn to under penalty of perjury. Any owner of any Transient Rental who engages in fraudulent advertising or activity shall be considered as engaging in a violation of this Section.

30-90.7 Minimum Requirements for Issuance of a Certificate of Compliance.

The City Manager or his/her designee may issue a Certificate of Compliance to the applicant upon proof of the following:

(a) The owner or Responsible party completes the City of Marco Island Transient Rental registration application form.

(b) The Transient Rental Registration Administrative Fee has been paid to the City of Marco Island.

(c) A signed and witnessed Responsible Party Authorization Letter (sample provided with Transient Rental Application Form). The Letter will be signed by both the Owner and Responsible Party and both signatures will be witnessed.

(d) A Florida Department of Revenue certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes and/or transient rental taxes.

(e) A Florida Department of Business and Professional Regulation license as a transient public lodging establishment.

(f) An affidavit, demonstrating maintaining initial and on-going compliance with Transient Rental Standards contained herein, plus any other applicable local, State and Federal laws, regulations and standards to include, but not be limited to Chapter 509, Florida Statutes, and Chapter 61C and 69A, Florida Administrative Code, as may be amended from time to time; and

(g) That the Transient Rental has satisfied the fire safety inspection requirements, annually, as provided in Section 30-90.8, of the Code of Ordinances of the City of Marco Island.

(h) Submission of the insurance document(s) referenced in Section 30-90.3.

(i) That the Transient rental is not subject to a suspension pursuant to Section 30-90.11.

30-90.8. Transient Rental Standards.

The following standards shall govern the use of any transient rental as a permitted use:

(a) Minimum life/safety requirements:

- 297 (1) Swimming pool, spa and hot tub safety. A swimming pool, spa or hot tub
298 shall comply with the current standards of the "Residential Swimming Pool
299 Safety Act," Chapter 515, Florida Statutes, as may be amended from time
300 to time.
- 301 (2) Dwelling Units. All dwelling units shall meet the single-family dwelling
302 minimum requirements of Sections 30-81 through 30-89 and Section 30-
303 10, Definitions of a Dwelling, Single Family or One Family of the Code of
304 Ordinances of the City of Marco Island, Florida, as may be amended from
305 time to time.
- 306 (3) Smoke and carbon monoxide (CO) detection and notification system. A
307 smoke and carbon monoxide (CO) detection and notification system within
308 the transient rental unit shall be installed, operational and
309 interconnected/hard-wired and receive primary power from the building
310 wiring. The smoke and carbon monoxide (CO) detection and notification
311 system will be continually maintained and tested consistent with the
312 requirements of Section R314, Smoke Alarms, and Section R315, Carbon
313 Monoxide Alarms, of the Florida Building Code – Residential.
- 314 (4) Fire extinguisher. A portable, multi-purpose dry chemical 2A:10B:C fire
315 extinguisher shall be installed, inspected and maintained in accordance
316 with NFPA 10 on each floor/level of the unit. The extinguisher(s) shall be
317 installed on the wall in an open common area or in an enclosed space with
318 appropriate markings visibly showing the location.
- 319 (5) That all overnight vehicles associated with the Transient Rental must be
320 parked within a garage and/or on a driveway located on the subject
321 property and in compliance with the Code of Ordinances of the City of
322 Marco Island.
- 323 (6) Included in the yearly Registration Fee described in Section 30-90.4 is the
324 cost of a Marco Island Fire Department Fire Safety inspection. This
325 inspection shall be conducted by a City of Marco Island Licensed Fire
326 Inspector and shall be completed in accordance with any applicable state
327 and local fire safety regulations. This inspection, and any required
328 corrections/modifications must be completed prior to the issuance of a
329 Transient Rental Certificate of Compliance.
- 330 (b) Maximum occupancy. The occupancy of a Transient Rental shall not exceed:
- 331 (1) Two (2) persons per Sleeping (Bedroom) Room. The number of Bedrooms
332 shall match the building plans or records if no plans exist, and shall be used
333 in determining the number of Sleeping Rooms at the Transient Rental. Any
334 advertisement or hold out for rental of the transient property must reflect
335 and match the number of Bedrooms on record with the City of Marco
336 Island Building Department or Collier County.
- 337 (2) The maximum number of persons allowed to gather at a Transient Rental
338 shall not exceed one and one-half times the maximum occupants
339 authorized to stay overnight at that site, as shown on the Certificate of
340 Compliance, and in no event shall a gathering exceed 20 persons. After

10 p.m., the number of occupants shall not exceed the maximum occupancy described in 30-90.8(b)1, above plus a maximum of two (2) additional persons. By way of example only, the maximum number of occupants past 10 p.m. in a three-bedroom house is eight (8). This subsection shall not apply to owner-occupied Transient Rentals when the property owner is physically present on the site during the gathering.

- (3) Up to two (2) persons are exempt from and shall not count towards the occupancy limits set in subsections 8(b)2 above.

(c) Solid waste handling and containment. City solid waste containers shall be provided. Appropriate screening and storage requirements for solid waste containers shall apply per any development approval. For purposes of this section, a solid waste container shall not be placed at curbside before 6:00 p.m. of the day prior to solid waste pickup, and the solid waste container shall be removed from curbside before 7:00 p.m. of the day of pickup.

(d) Minimum transient occupancy agreement wording. The transient occupancy agreement shall contain the minimum information as provided for in subsections 30-90.8 (b), (d), and (e). The transient occupant responsible for all guests and occupancy payments will sign the transient occupancy agreement acknowledging the rules. The wording of such an agreement shall contain a clause indicating that the occupant(s) acknowledge the rules and will agree to vacate the premises in the event of a violation of this Section upon request by the Owner or Responsible Party and whereas any such vacation shall occur not more than 12 hours upon such request.

(e) Minimum transient occupancy information. The transient rental occupants shall be provided with a summary of the information required in the agreement described in subsection 30-90.8(d) with instructions on how to access the full text and the Owner shall post the following conspicuously within the establishment:

- (1) A statement advising the Occupant that any sound shall not be plainly audible for a period of one (1) minute or longer at a distance of twenty-five (25) feet or more when measured from the source property line between the hours of 10:00 p.m. and 7:00 a.m. daily and at a distance of fifty (50) feet or more when measured from the source property line between the hours of 7:00 a.m. and 10:00 p.m. daily.
- (2) The parking restrictions for occupant vehicles
- (3) Any applicable boat storage and docking regulations and restrictions
- (4) A sketch or photograph of the location of the off-street parking spaces.
- (5) The days and times of trash pickup.
- (6) The notice of sea turtle nesting season and sea turtle lighting regulations, if applicable.
- (7) The location of the nearest hospital; and
- (8) The City's non-emergency police phone number.
- (9) There shall be posted, in a conspicuous location a legible copy of the building evacuation map – Minimum 8-1/2" by 11".

(f) Designation of a transient rental responsible party capable of meeting the duties provided in subsection 30-90.5.

(g) Advertising. Any advertising of the transient rental unit shall conform to information included in the Transient Rental Certificate of Compliance and the property's approval, particularly as

385 this pertains to maximum occupancy. A statement stating “it is unlawful for a sexual offender or sexual
386 predator to occupy this residence” if so determined pursuant to subsection 30-90.8.h of this code and
387 the Certificate of Compliance number shall be included in all advertising.

388 (h) Sexual offenders and sexual predators. It is unlawful for any property owner or designated
389 representative to allow another person to occupy any residential property as a Transient Rental within
390 the City of Marco Island, as a Transient Occupant if such property owner or designated representative
391 knew or should have known that it will be occupied by a person prohibited from establishing a
392 permanent residence or temporary residence at said residential property pursuant to the Marco Island
393 Code of Ordinances, Section 18-200, if such place, structure, or part thereof, trailer or other conveyance,
394 is located within two thousand five hundred feet (2,500’) of any school, designated public school bus
395 stop, child day care facility, park or playground or other place where children regularly congregate.
396 Property owner or designated representative shall determine prior to submission of an application for a
397 Certificate of Compliance whether the Transient Rental property is located in an area unlawful sexual
398 offenders or sexual predators to occupy pursuant to section 18-200 of the Marco Island Code of
399 Ordinances.

400 (i) Posting of Certificate of Compliance. The Certificate of Compliance shall be posted on the
401 back of or next to the interior of the main entrance door and shall include at a minimum the name,
402 address and phone number of the Responsible party, the maximum occupancy of the Transient Rental
403 and a statement stating “it is unlawful for a sexual offender or sexual predator to occupy this residence”
404 if so determined pursuant to subsection 30-90.8.h.

405 (j) That all overnight vehicles associated with the Transient Rental must be parked within a
406 garage or on the subject Transient Rental driveway in compliance with the Code of Ordinances of the
407 City of Marco Island.

408 (k) Other standards. Any other standards contained with the Code of Ordinances of the City
409 of Marco Island to include, but not be limited to: Transient Rental noise, setbacks, stormwater and
410 similar provisions.

412 **30-90.9. Transient Rental Noise Control**

413 (a) Notwithstanding existing Noise Regulations contained in Article IV, Section 18, of the
414 Marco Island Code of Ordinances, the use of a RSF property as a Transient Rental is a “public lodging”
415 use of a home in a residential neighborhood. As such, a much stricter/quieter set of noise parameters
416 must be defined for this application. For any RSF property being used as a Transient Rental, the Noise
417 Regulations shall be defined as:

418 (b) Any noise shall not be plainly audible for a period of one (1) minute or longer at a distance
419 of twenty-five (25) feet or more when measured from the source property line between the hours of
420 10:00 p.m. and 7:00 a.m. daily and at a distance of fifty (50) feet or more when measured from the
421 source property line between the hours of 7:00 a.m. and 10:00 p.m., daily.”

422 (c) For all other Noise applications, Article IV of the Marco Island Code of Ordinances shall
423 apply.

425 **30-90.10 Expiration of Registration and Certificates of Compliance**

426 (a) All registrations for which a certificate of compliance has been issued under the provisions
427 of this Section shall be valid for no more than one year, and all registrations and certificates of
428 compliance shall expire each year. The application for renewal must be submitted no later than sixty (60)

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431 days prior to the expiration date. Dates for renewal and applicable late renewal fees shall be established
432 by resolution of the City Council of the City of Marco Island, or Designee, in accordance with Section 30-
433 90.4., and shall be charged to an application for renewal submitted prior to the expiration date but after
434 the sixty (60) days required by this section. All applications for renewal received after the annual
435 expiration date shall be processed as a new application and subject to all applicable fees.

436 **30-90.11 Penalties and Offenses**

437 (a) Any Certificate of Rental Compliance issued pursuant to this Section may be or suspended
438 by the Magistrate pursuant to Section 11(d) of this Section. Such suspension is in addition to any penalty
439 provided herein.

440 (b) Offenses/violations.

441 (1) Non-compliance with any provisions of this Section shall constitute a
442 violation of this Section.

443 (2) Separate violations. Each day a violation exists shall constitute a separate
444 and distinct violation.

445 (c) Remedies/enforcement.

446 (1) Violations of this Section shall be subject to penalties as part of a
447 progressive enforcement program with the primary focus on compliance and
448 compatibility with adjoining properties, versus penalties and legal actions. To
449 accomplish a safe and effective transient rental program it is key that transient
450 rental Responsible Parties are responsive and responsible in the management of
451 the property for compliance with this section.

452 Any person, persons, Transient Rental owner, guilty of violating any of the
453 provisions of this Section shall be deemed guilty of a civil infraction. The amount
454 of the civil penalty may be up to \$250.00 for the first violation, up to \$500.00 for
455 the second violation within a 12 month period, up to \$1,000.00 for the third
456 violation within a 12-month period, up to \$2,000.00 for the fourth violation within
457 a 12 month period, up to \$4,000.00 for the fifth violation within a 12 month
458 period, and up to \$5,000.00 for the sixth and any subsequent violations within a
459 12 month period.

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461 (2) Any person who operates a Transient Rental and fails to register as
462 required in Sections 3 and 4 of this Section shall be subject to a daily fine of
463 \$1,000.00 for each day the Transient Rental is operated without a valid Transient
464 Rental Certificate of Compliance.

465 (3) Additional remedies. Nothing contained herein shall prevent the City of
466 Marco Island from seeking all other available remedies which may include, but not
467 be limited to, suspension of a Transient Rental Certificate of Compliance,
468 injunctive relief, liens and other civil and criminal penalties as provided by law, as
469 well as referral to other enforcing agencies.

470 (d) Suspension of Transient Rental Certificate of Compliance. In addition to any fines and any
471 other remedies described herein or provided for by law, a magistrate may suspend a Transient Rental
472 Certificate of Compliance in accordance with the following:

473 (1) Suspension time frames.

474 a. Upon a fourth violation of this Section within 24 months the
475 Transient Rental Certificate may be suspended for a period of up to one
476 hundred eighty (180) calendar days at the discretion of the magistrate.

477 b. Upon a fifth violation of this Section within 24 months the Transient
478 Rental Certificate may be suspended for a period of up to three hundred
479 sixty-five (365) calendar days at the discretion of the magistrate.

480 c. For each additional violation of this Section within 24 months the
481 Transient Rental Certificate may be suspended for a period of up to an
482 additional thirty (30) calendar days at the discretion of the magistrate, up
483 to a maximum period of twelve (12) months. For example, the sixth
484 violation shall be for three hundred ninety-five (395) calendar days; the
485 seventh violation shall be for four hundred fifteen (415) calendar days, and
486 so on.

487 d. A Transient Rental Certificate of Compliance shall be subject to
488 temporary suspension beginning five (5) working days after a citation is
489 issued for a violation of the Florida Building Code, or Florida Fire
490 Prevention Code. Such suspension shall remain in place until the transient
491 rental is reinspected, and it is determined that the violation no longer
492 exists by the City, in accordance with d.2, below.

493 (2) Suspension restrictions. A transient rental may not provide transient rental
494 occupancy during any period of suspension of a Transient Rental certificate. This
495 provision shall not prevent a Transient Rental owner from exercising a long-term rental
496 (any rental 30 continuous days or more) during a suspension period. However, in the
497 event a transient occupant does not occupy the Transient Rental for at least 30
498 continuous days, the Transient Rental owner cannot initiate a new rental lease until the
499 full 30-day period has elapsed. A Transient Rental that enables and executes Transient
500 Rental occupancy for any period less than 30 continuous days during a suspension period
501 shall be considered to be in violation of this Section and shall be subject to the
502 enforcement penalties of this section.

503 a. The suspension shall begin immediately following notice, commencing
504 either;
505 i. at the end of the current transient rental lease period; or
506 ii. within thirty (30) calendar days, whichever date commences
507 earlier, or as otherwise determined by the Magistrate.

508 b. Operation during any period of suspension shall be deemed a violation
509 pursuant to this Section and shall be subject to daily fine, up to One Thousand Dollars
510 (\$1,000.00) or to the maximum amount as otherwise provided in Florida Statutes for
511 repeat violations, for each day that the transient rental operates during a period of
512 suspension.

513 c. An application for a renewal may be submitted during the period of
514 suspension; however, no Certificate of Compliance may be issued for the transient rental
515 until the period of suspension has expired.

d. A Transient Rental Certificate of Compliance cannot be reinstated from suspension if any fines, liens, fees are outstanding and due to the City of Marco Island.

e. In accordance with Section 30-90.2.a, any Transient Rental property where the Transient Rental Certificate of Compliance has been suspended, is not legally eligible to be advertised as a short-term rental property during the period of suspension. The City of Marco Island, or Designee, will notify the Responsible Party with regard to a suspension.

30-90.12 Complaints.

(a) Whenever a violation of this Section occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the City Manager or his/her designee. The City Manager or his/her designee shall promptly record such complaint, investigate, and take action thereon in accordance with this Section.

(b) A Violation and/or complaint may also be filed by telephone directly to the City of Marco Island, or Designee, Rental Hotline. This number will be published, when operational, on the City website and via local newspapers. Operation of the Hotline will be determined by the City Manager and/or his or her Designee.

30-90.13 Enforcement.

The provisions of this Section shall be enforced as provided in Section 14 - Code Enforcement, of the Code of Ordinances of the City of Marco Island, Florida.

30-90.14 Rental Registration Program Administration.

The Marco Island City Council shall be responsible for the Implementation and funding for the Program described in this Ordinance.

30-90.15 Rental Registration Program Subordination.

(a) Upon any determination that Short Term Rentals are illegal on Marco Island, this Section shall not apply for any such illegal rental(s) and the illegal rental(s) shall cease to operate in accordance with the provisions herein.

(b) However, in the event that any other rental in the RSF district that is not deemed illegal and that is defined by Florida State Statutes as a "Public Lodging Establishment" or any transient rental that is not a primary or principal residence of the renting party, any such rental shall be governed and regulated by this Section.

SECTION 3. Severability / Interpretation.

(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 remaining terms, section, clauses, sentences, or phrases or 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) 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 continues to exist 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 4. Conflicts. All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with the provisions of this Ordinance are hereby superseded and resolved to the extent of any conflict in favor of the provisions of this Ordinance.

SECTION 5. Codification. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City Code of the City of Marco Island, and that the sections of this Ordinance may be renumbered to accomplish such intent.

SECTION 6 Effective Date. This Ordinance shall take effect immediately upon its passage on second and final reading of the Marco Island City Council.

PASSED AND ADOPTED in regular session on second and final reading on this 5th day of December 2022.

ATTEST:

CITY OF MARCO ISLAND, FLORIDA

By: 
Michael Sheffield, City Clerk

By: 
Gregory Folley, Chairman

Approved as to form:

By: 
Alan L. Gabriel, City Attorney