



# City of Anna Maria

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**MINUTES**  
**PLANNING & ZONING MEETING**  
**CITY OF ANNA MARIA COMMISSION CHAMBERS**  
**TUESDAY, AUGUST 18, 2015 - 4:00 P.M.**

**Pledge of Conduct:**

We may disagree, but we will be respectful of one another. We will direct all comments to the issues. We will avoid personal attacks.

**CALL TO ORDER**

Chair Crane called the meeting to order at 4:00 p.m.

**PLEDGE TO THE FLAG**

**ROLL CALL**

**Present:** Boardmember Margaret Jenkins, Boardmember Carl Pearman, Boardmember Maureen McCormick, Chair Jonathan Crane, and Boardmember David Young.

**Also Present:** Finance/Deputy Clerk II/Code Enforcement D. Carmela Sacca, City Attorney Becky Vose, and City Planner Alan Garrett.

**OLD BUSINESS**

**1. Ordinance #15-791 - An Ordinance of the City of Anna Maria pertaining to Vacation Rentals.**

*City Planner Garrett* read the Ordinance title.

*City Attorney Vose* presented the proposed Ordinance. Specific comments included:

**ARTICLE 1. IN GENERAL**

➤ **Sec. 108-2. Findings of Facts**

*City Attorney Vose* informed per State Statute, Vacation Rentals cannot be prohibited, and their duration or frequency of rental cannot be regulated by the City. Sec. 108-2. Findings of Facts listed the significant impacts the City Commission feel the Vacation Rentals have had on the community. City Attorney Vose pointed out that based on the 2010 U.S. Census, the average household size in Anna Maria is 1.89 persons – versus the Vacation Rentals housing a lot more people.

➤ **Sec. 108-3. Definitions**

The definition of “Vacation Rental” has been changed and made simpler. The term “Violation” is often referenced in the Ordinance. Explanation continued relating to the definition of “Unresolved Violation.”

➤ **Sec. 108-4. Penalties and enforcement.**

*City Attorney Vose* stated there are two types of Violations – Transitory Violations and Continuing Violations. Explanation followed relating to the differences between the two.

City Attorney Vose explained originally the fines for the Vacation Rental Violations were slightly higher than the other fines in the City’s Code. Since that was something challenged in the lawsuit filed against the City, it has been changed to reflect the City’s current fines.

Suspensions of Licenses – Three unresolved violations in any continuous 12-month period for a particular Vacation Rental, or the sixth Violation relating to particular Vacation Rental in any continuous 12-month period, will result in the License being suspended. City Attorney Vose clarified in order to get a Violation,

the enforcing Officer must first give a warning. If the warning has been cured, there will be no Violation. If it is not cured, they can then get a Violation.

➤ Sec. 108-5. Responsibilities of departments.

The City Commission and Mayor have the ultimate responsibility for administrating the Vacation Rental Licenses.

➤ Sec. 108-6. Appeals.

*Chair Crane* questioned what the “next available meeting of the Special Magistrate” would be and was informed the expectation would be no longer than a one-month period of time. *Chair Crane* suggested making sure the Appeal Hearings are held on a timely basis.

*Chair Crane* asked that the timeframe for the Notice of Hearing before the Magistrate is consistent throughout the Ordinance. He later mentioned the 20 days as referenced in Sec. 108-63.

➤ Sec. 108-7. Notice.

Any Violation notice will be sent to the violator, a copy will be sent to the Vacation Rental Agent, and a copy to the Vacation Rental owner.

**ARTICLE 2. VACATION RENTAL LICENSE**

➤ Sec. 108-21. License required.

In order to operate a Vacation Rental, a License is required beginning January 1, 2016. A provision has also been added requiring a valid application be completed and submitted in accordance with a specific schedule based on where the rental is located in the City. If the applicant fails to apply during their specific time period, they have to wait until the second round of dates and are prohibited from renting until such time they have applied.

Recognizing the potential delay in the City issuing numerous Licenses being applied for at the same time, once someone has filed an application for their Vacation Rental License, they can continue to rent. Requirements for the application are set forth in Sec. 108-21. The official application form is in the process of being finalized.

➤ Sec. 108-23. Modification of Vacation Rental License.

A change in ownership, or modification of the rental, requires an application for modification of a Vacation Rental License.

*Boardmember McCormick* questioned if in the event during an inspection, the Inspector finds there has been modifications made without a permit.

*City Attorney Vose* explained though not an automatic denial of a License, the property owner would receive a Code citation. Discussion and examples of situations followed.

*Boardmember McCormick* felt a License should not be issued in the event of violations where no permit was obtained.

➤ Sec. 108-26. Initial and Periodic Compliance Inspections of Vacation Rentals.

Annual inspections of the Vacation Rental to verify compliance with the FL Building Code, and the FL Fire and Life Safety Codes shall be conducted annually prior to issuance of the Vacation Rental License.

**ARTICLE 3. VACATION RENTAL AGENT.**

➤ Sec. 108-40. Designation, application.

*City Attorney Vose* stated she was just asked to add language indicating any number of people can serve as the Vacation Rental Agent. They do, however, have to be able and willing to respond to any call-out

within 30-minutes of being notified of an issue. She noted the Vacation Rental Agent would be working on behalf of the property owner - and has the authority to evict a tenant, if necessary.

Explanation followed relating to the option of a Vacation Rental Owner opting-out of designating a Vacation Rental Agent. To do so, however, they shall be fully liable to follow all terms of the Ordinance.

*Chair Crane* felt from a tenant’s perspective, they could be more apt to rent from a Rental Company than an owner because they may not have an Agent come out in the event they are called.

*Boardmember McCormick* also felt from a neighbor’s perspective, it would not be good knowing an issue may not be addressed by the owner. She stated she disagrees with including that language in the Ordinance (reference Sec. 108.40 subsection (e)).

Discussion continued. It was agreed someone not responding at all to a call was unacceptable.

*City Attorney Vose* clarified it would be a violation if there is no response when called.

**ARTICLE 3. VACATION RENTAL AGENT.**

➤ Sec. 108-41. Insurance for Vacation Rental Agent.

The owner is required to provide a Certificate of Insurance showing they have Commercial General Liability Insurance, Worker’s Compensation Insurance, and Automobile Liability Insurance.

➤ Sec. 108-44. Suspension of Vacation Rental Agent/Agency.

Details were explained by *City Attorney Vose* relating to the types of Unresolved Violations.

*Chair Crane* questioned if there’s an option for a Vacation Rental Agent/Agency to appeal a complaint. He provided the example of a neighbor who might continuously contact the Police about frivolous issues.

*City Attorney Vose* acknowledged there is an appeal process available to them.

**ARTICLE 4. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS**

➤ Sec. 108-61. Prohibition of occupancy by registered sex offenders.

*Chair Crane* asked if there was rationale in place in the event the City were to be sued by a sex offender that was kept from renting in Anna Maria.

*City Attorney Vose* replied that the City of Anna Maria is a family destination and there are restrictions on where a sex offender can live.

➤ Sec. 108-52. Minimum safety and operational requirements.

*Boardmember Pearman* referred to subsection (a) Swimming pool, spa and hot tub safety – and the hours of their use.

*City Attorney Vose* informed the City Commission will be considering the adoption of a City-wide Ordinance that allows being in a pool at any time, day or night, but cannot generate noise beyond the property boundary after 10:00 p.m. or before 8:00 a.m. She stated she has conducted some in-depth research relating to Noise Ordinances, and has found that loud mufflers, mechanical noises, etc. can be strictly regulated. However, human noises, amplified sound, etc. is all considered speech – and has very stringent requirements relating to the regulation of speech - and is unconstitutional to prohibit it.

*Chair Crane* noted the prohibiting hours were also listed in Sec. 108-63 (4).

*City Attorney Vose* explained the difference between the hours being stricken in Sec. 108-52 - versus not being removed in Sec. 108-63 (4).

*Chair Crane* said if he were drafting the Ordinance, he would cross out the language in all areas of the proposed Ordinance.

*Boardmember Pearman* stated he was opposed to eliminating the language, and felt the quiet hours should remain.

- Sec. 108-53. Maximum occupancy based on site capacity / limitations / grandfathering.  
Occupancy will be limited to two persons per bedroom plus two persons.

Explanation followed by *City Attorney Vose* relating to the grandfathering language and details relating to the Bert Harris Act.

Vacation rentals operating prior to January 1, 2016 will have the opportunity to make application for being grandfathered at the same time their application is taken for the Vacation Rental License. Factual occupancy information showing four months of occupancy must be provided. City staff will review and spot check the information, followed by a determination as to whether or not the facts are correct, and that the property can be grandfathered at a higher occupancy. The application for grandfathering must be submitted no later than the application for the Vacation Rental License. If the information submitted is found to be false, the Vacation Rental Agent then loses their right to serve as the Agent, and that particular rental loses the right to be licensed for one year.

Referring to subsection (4), *Chair Crane* asked that the timeframe for the Notice of Hearing before the Magistrate is consistent throughout the Ordinance.

- Sec. 108-54. Parking standards.  
The maximum number of vehicles allowed to be parked at any Vacation Rental at one time shall not exceed the number of parking spots designated on a sketch required with the Vacation Rental application. The sketch is to be approved by the City - and shall not exceed the number of spaces legally permitted on or in the legally approved driveway, garage, and carport. No parking in the right-of-way overnight is allowed by Vacation Rental tenants.
- Sec. 108-55. Solid waste handling and containment.  
One trash container is required for every three occupants, based upon the maximum occupancy of a Vacation Rental.
- Sec. 108-57. Violations of this Chapter and other legal provisions.  
Violations of the Ordinances of Anna Maria are also violations of the Vacation Rental chapter.
- Sec. 108-58. Vacation Rental advertising.  
Advertising of Vacation Rentals shall be consistent with information within the Vacation Rental property's Vacation Rental License.
- Sec. 108-62. Vacation Rental agreements – minimum provisions.  
The City will require Vacation Rental Agreements to include the number of occupants in the rental. However, they will not be required to have the names of children – only names of the adults. Also, vehicle license tag numbers for all vehicles that will be parking at the Vacation Rental will be required.

All minimum requirements on the Vacation Rental Agreements must be posted on the inside of the door of the rental.

*City Attorney Vose* was asked if a tenant not letting the City's inspectors in the rental would be a violation. She noted that provision was not addressed in the Ordinance. It was felt a release of information should be

added to Sec. 108-62 that states the Code Enforcement Officer has the right to enter. She clarified it would serve as a violation if the City’s inspectors are not allowed entry.

In response to *Chair Crane*, *City Attorney Vose* stated she would be recommending the City drafts a flyer that can be made available specifying the regulations.

- Sec. 108-63. Required posting of Vacation Rental information.  
*Boardmember McCormick* pointed out all sea turtle lighting is applicable to everyone. As a result, she recommended “if applicable” be removed from (a) (7), and the subsection reads as follows: “The notice of sea turtle nesting season and sea turtle lighting regulations, ~~if applicable~~; and...”

*City Attorney Vose* informed there are ‘owner occupied’ requirements as referenced in Sec. 108-63 (c).

**ARTICLE 4. STANDARDS AND REQUIREMENTS FOR VACATION RENTALS**

- Sec. 108-64. Exemption for rental agreements entered into on or prior to April 9, 2015.  
*City Attorney Vose* reviewed the exemption process based on pre-existing rental agreements prior to April 9, 2015.

**Public Comment**

*Chair Crane* opened the public comment portion of the Hearing

*Jack Myers*, renter at 753 N. Shore Drive, stated he has rented at that location part of each summer since the 1970’s. Since that time, he had never had any violations at the property.

Mr. Myers asked the following:

- Stating the rules and regulations all refer back to Code Enforcement, he asked if it was an issue of not letting Code Enforcement have the enhancements to do their jobs and enforce what’s currently on the books. Mr. Myers questioned if the other laws such as parking spaces was needed, noting based on the visitors where he’s renting he would currently be in violation as far as the parking spaces.
- Questioned if the inspections would be a violation of the 4<sup>th</sup> Amendment rights.
- Referring to the requirement that the Vacation Rental Agent must respond within 30 minutes, Mr. Myers asked what the Agent would do versus Law Enforcement. In his opinion, if there’s a violation, Law Enforcement should arrest the violators.
- Questioned if the Ordinance was ambiguous and would each staff member interpret the language the same.
- Mr. Myers presented the scenario and asked what a tenant would do if they always pay for the rental in advance, and the Rental Agent would happen to be in violation and has lost their right to rent.

*Hearing no further public comment, Chair Crane closed the Public Hearing.*

**Planning Commission Discussion**

*City Attorney Vose* recapped the P&Z Board’s recommendations that had been made:

- 1) *Sec. 108-6. Appeals & Sec. 108-63* – Required posting of Vacation Rental Information - Suggestion to insert longer time period for the City Clerk to place matters on the Special Magistrate’s Agenda. *Chair Crane* suggested a 30-day time period be inserted.
- 2) *Sec. 108-23. Modification of Vacation Rental License* – That a License application would be frozen until unpermitted work has been resolved.
- 3) *Sec. 108-40. Designation, application* – Removal of subsection (e) – opt-out clause. Discussion and different scenarios were discussed.
- 4) *Sec. 108-52. Minimum safety and operational requirements.* To disallow use of pools and hot tubs between the hours of 10:00 p.m. and 8:00 a.m., even if quiet.  
*Boardmember McCormick* questioned how motels are allowed to restrict the times their pools are open.  
*City Attorney Vose* stated it was in relation to addressing the noise concerns.

- 5) *Sec. 108-63. Required posting of Vacation Rental information.* Removal of “if applicable” in Subsection (7) relating to sea turtle lighting regulations.  
*Boardmember McCormick* recommended subsection (7) be expanded to include “sea turtle regulations.”
- 6) *Sec. 108-61. Prohibition of occupancy by registered sex offenders.* *Chair Crane* withdrew his previous concerns about this section.

**Motion: Move to accept Ordinance # 15-791 as submitted to include the following recommendations:**

- **Increasing the time limit on when the City is to place Appeals on the Special Magistrate’s Agenda. (Sec. 108-6)**
- **Permitting violations would stop the Application process (Sec. 108-23)**
- **Removal of language relating to opting-out from having a Vacation Rental Agent (108-40), and**
- **Remove “if applicable” and add “sea turtle lighting regulations” (Sec. 108-63).**

**Action: Moved by Boardmember Maureen McCormick, Seconded by Boardmember David Young.**

Discussion:

*Boardmember Pearman* noted he was opposed to the pools and hot tub not having restrictive hours.

*Boardmember McCormick* stated she was disappointed there would be no restrictions on the use of pools and hot tubs, noting there is such an intensive use when people are here for several days – versus her neighbors who will get in their pool whenever they want. She noted City Attorney Vose had indicated an Ordinance would be written that addresses the issue (noise) that will be applied to everyone.

*Chair Crane* said he appreciated the constitutional need to balance the homeowner’s noise versus the tenants. He did not believe the standard of not making any noise beyond their own walls would be effective since most people will make noise. However, he felt there will be a good compromise as explained by City Attorney Vose, and he wanted the City Commission to have an opportunity to approve an appropriate Ordinance to address the issue.

*City Attorney Vose* confirmed the Noise Ordinance she will be drafting will address the issue.

*Boardmember Pearman* stated though he did not agree, he would support the recommendations as listed. Discussion followed.

**Vote – On Roll Call Vote, the motion carried unanimously.**

## 2. Residential Docking Facilities

*Planner Garrett* informed he had prepared a document on Residential Docking Facilities and suggested it be the first item on the P&Z Board’s next meeting agenda.

### Next Meeting

*City Attorney Vose* announced an Appeal on Building Code issues would be coming before the P&Z Board. The next meeting date will be scheduled by Planner Garrett.

### Adjournment

**The meeting was adjourned by Chair Crane at 5:50 p.m.**

  
Diana L. Percycoc, CMC, City Clerk

Minutes approved: 9/8/15