



CITY OF ANNA MARIA

P.O. Box 779, 10005 Gulf Drive, Anna Maria, FL 34216
Phone (941) 708-6130 Fax (941) 708-6134

AGENDA AMENDED

AUGUST 13, 2020

IMMEDIATELY FOLLOWING THE BUDGET MEETING CITY COMMISSION REGULAR MEETING

DUE TO THE COVID-19 PANDEMIC AND PURSUANT TO GOVERNOR'S EXECUTIVE ORDER #20-69, THIS COMMISSION MEETING HAS THE OPTIONAL ATTENDANCE BY TELECOMMUNICATIONS MEDIA TECHNOLOGY.

TO ATTEND YOU MUST:

Dial in using your phone.
United States: +1 (929) 205-6099
Meeting ID: 856-1292-5102

***OUT OF COURTESY TO OTHERS, PLEASE MUTE YOUR PHONE WHEN NOT SPEAKING.**

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

PLEDGE TO THE FLAG


ROLL CALL

REGULAR MEETING

General Public Comment regarding non-agenda items and items not scheduled for future agendas will be taken at the beginning of the meeting with a limitation of three minutes. The Commission's intent is that General Public comment is to be used for the public to inform the Commission of new issues within the City. Public Comment regarding agenda items will be taken with each agenda item with a limitation of three minutes.

1. General Public Comment
2. Special Use Permit (314 Pine Avenue) – Exclusion from the Distance Limitation for Dispensing Beer & Wine – Minor
3. Special Use Permit (308 Pine Avenue) – Exclusion from the Distance Limitation for Dispensing Beer & Wine – Minor
4. City Pier Grill/Bait Shop RFP Review – Mayor
5. Presentation on Impact Fees - Mayor
6. Ordinance 20-871 Impact Fees (First Reading) – Vose
7. Ordinance 20-870 Walls and Fences (First Reading) – Vose
8. Ordinance 20-872 Alcoholic Beverages (First Reading) – Vose
9. Ordinance 20-873 Noise/Environment (First Reading) – Vose
10. Ordinance 20-874 Consistency and Concurrency Management (First Reading) – Vose
11. Farmer's Market Proposal - Mayor
12. Mayor's Comments
13. Commissioners Comments
14. City Attorney Comments
15. Staff Comments
16. **CONSENT AGENDA: The following items are considered routine in nature and should be considered in a single motion. Items which warrant individual discussion should be removed from this list prior to the motion to adopt. Such items will be discussed separately.**
 - a. Approve Minutes: Regular meeting 7/30/2020 and Budget meeting 7/30/2020
 - b. Manatee CARES Act Interlocal Agreement

Press Comment Adjournment

 (FSS 286.26) IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATE STATUTES, PERSONS WITH DISABILITIES NEEDING SPECIAL ASSISTANCE TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE CITY CLERK FOR ASSISTANCE AT LEAST THREE BUSINESS DAYS PRIOR TO THE MEETING (941) 708-6130. SHOULD ANY INTERESTED PARTY SEEK TO APPEAL ANY DECISION MADE WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, THEY WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS BE MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.


City Commission
 Special Use Permit Request – The Lazy Turtle Shack
 314 Pine Avenue



City of Anna Maria

MEMORANDUM

TO: City of Anna Maria City Commission

FROM: Chad Minor, Planner 

SUBJECT: Special Use Permit Request – The Lazy Turtle Shack, 314 Pine Avenue
 Exclusion from the Distance Limitation for the Dispensing of Beer & Wine

BACKGROUND

The operator of a restaurant who desires to sell or dispense beer and wine may apply for a Special Use Permit exempting the restaurant from the 2,500-foot distance limitation, provided such restaurant will continuously meet criteria outlined in Sec. 114-507 of the City of Anna Maria, FL Code of Ordinances.

REQUEST

The operators of the restaurant at 314 Pine Avenue (The Lazy Turtle Shack) have filed for a Special Use Permit in order to dispense/sell beer and wine onsite. The City has a provision that restaurants selling beer and wine must be located at least 2,500 feet from any other establishment selling beer/wine or alcoholic beverages. The subject parcel is located within 2,500 feet of approximately seven establishments that sale beer/wine or alcoholic beverages.

The operator of a restaurant who desires to sell or dispense beer and wine may apply for a Special Use Permit exempting the restaurant from the 2,500-foot distance limitation, provided such restaurant will continuously meet the following criteria:

- (1) The restaurant may only sell beer and wine.
- (2) The restaurant shall derive at least 60 percent of its gross revenue on a bi-monthly basis from the retail sale of prepared food and non-alcoholic beverages.
- (3) Full course meals must be available at all times when the restaurant is serving beer or wine except the restaurant may continue to serve beer and wine until food service is completed to the final seating of restaurant patrons for full course meals. A full course meal as required by this subparagraph (3) must include a salad or vegetable; an entree; a beverage; and bread.

City Commission
Special Use Permit Request – The Lazy Turtle Shack
314 Pine Avenue

- (4) The premises where the restaurant is located shall not have an area where the primary purpose is to serve beer and wine.
- (5) The restaurant shall have the burden of demonstrating that it continuously qualifies for the exclusion.
- (6) The operator of the restaurant must hold a license issued by the State of Florida which permits the sale of beer and wine, and must remain in full compliance with the requirements of that license.

The applicant has submitted a supplemental narrative stating that they will comply with criteria and it has been attached for reference. Also, as required in the Special Use Permit application, the applicant has provided a copy of the license application to the State of Florida, Department of Business and Professional Regulations.

The City Commission shall review and either approve or deny the Special Use Permit application. The application shall be granted if it complies with the requirements of the subsection above. The City Commission may not attach conditions to the approval, waive or modify the requirements, or exercise any discretionary authority except with regards to the completeness of the application. If the application is denied, the City Clerk shall furnish the applicant with a written statement setting forth the reasons for denial.

Each Special Use Permit issued in accordance with this section shall be renewed annually by the City Clerk upon receipt of (i) a copy of the operator's current alcoholic beverage license issued by the State of Florida; (ii) the operator's written affirmation under oath that the restaurant subject to the Special Use Permit has been in continuous compliance with the criteria and record keeping requirements of section 114-507; and (iii) the renewal fee established by the city.

The Special Use Permit shall be issued for the premises where the restaurant is located, shall not be personal to the operator of the restaurant, and shall not be transferable to another location. The Special Use Permit shall be transferable to another operator of the restaurant which is the subject of the permit without the prior consent of the city.


City Commission
Special Use Permit Request – Pizza Social
308 Pine Avenue



City of Anna Maria

MEMORANDUM

TO: City of Anna Maria City Commission

FROM: Chad Minor, Planner 

SUBJECT: Special Use Permit Request – Pizza Social, 308 Pine Avenue
Exclusion from the Distance Limitation for the Dispensing of Beer & Wine

BACKGROUND

The operator of a restaurant who desires to sell or dispense beer and wine may apply for a Special Use Permit exempting the restaurant from the 2,500-foot distance limitation, provided such restaurant will continuously meet criteria outlined in Sec. 114-507 of the City of Anna Maria, FL Code of Ordinances.

REQUEST

The operators of the restaurant at 308 Pine Avenue (Pizza Social) have filed for a Special Use Permit in order to dispense/sell beer and wine onsite. The City has a provision that restaurants selling beer and wine must be located at least 2,500 feet from any other establishment selling beer/wine or alcoholic beverages. The subject parcel is located within 2,500 feet of approximately seven establishments that sale beer/wine or alcoholic beverages.

The operator of a restaurant who desires to sell or dispense beer and wine may apply for a Special Use Permit exempting the restaurant from the 2,500-foot distance limitation, provided such restaurant will continuously meet the following criteria:

- (1) The restaurant may only sell beer and wine.
- (2) The restaurant shall derive at least 60 percent of its gross revenue on a bi-monthly basis from the retail sale of prepared food and non-alcoholic beverages.
- (3) Full course meals must be available at all times when the restaurant is serving beer or wine except the restaurant may continue to serve beer and wine until food service is completed to the final seating of restaurant patrons for full course meals. A full course meal as required by this subparagraph (3) must include a salad or vegetable; an entree; a beverage; and bread.

City Commission
Special Use Permit Request – Pizza Social
308 Pine Avenue

- (4) The premises where the restaurant is located shall not have an area where the primary purpose is to serve beer and wine.
- (5) The restaurant shall have the burden of demonstrating that it continuously qualifies for the exclusion.
- (6) The operator of the restaurant must hold a license issued by the State of Florida which permits the sale of beer and wine, and must remain in full compliance with the requirements of that license.

The applicant has submitted a supplemental narrative stating that they will comply with criteria and it has been attached for reference. Also, as required in the Special Use Permit application, the applicant has provided a copy of the license application to the State of Florida, Department of Business and Professional Regulations.

The City Commission shall review and either approve or deny the Special Use Permit application. The application shall be granted if it complies with the requirements of the subsection above. The City Commission may not attach conditions to the approval, waive or modify the requirements, or exercise any discretionary authority except with regards to the completeness of the application. If the application is denied, the City Clerk shall furnish the applicant with a written statement setting forth the reasons for denial.

Each Special Use Permit issued in accordance with this section shall be renewed annually by the City Clerk upon receipt of (i) a copy of the operator's current alcoholic beverage license issued by the State of Florida; (ii) the operator's written affirmation under oath that the restaurant subject to the Special Use Permit has been in continuous compliance with the criteria and record keeping requirements of section 114-507; and (iii) the renewal fee established by the city.

The Special Use Permit shall be issued for the premises where the restaurant is located, shall not be personal to the operator of the restaurant, and shall not be transferable to another location. The Special Use Permit shall be transferable to another operator of the restaurant which is the subject of the permit without the prior consent of the city.

ORDINANCE NO. 20-871

AN ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA, ESTABLISHING PARKS AND RECREATION IMPACT FEES AND ROADS AND MOBILITY IMPACT FEES; ADOPTING AN IMPACT FEE STUDY DATED [REDACTED], 2020; CREATING CHAPTER 28, "IMPACT FEES," OF THE CODE OF ORDINANCES; PROVIDING REGULATIONS PERTAINING TO PARKS AND RECREATION IMPACT FEES AND ROADS AND MOBILITY IMPACT FEES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND CONFLICTS, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, under its home rule powers and pursuant to §163.31801, Florida Statutes and judicially created law, the City of Anna Maria may impose impact fees to ensure that new development pays for its proportional share of capital facilities required by such new development; and

WHEREAS, the City Commission of the City of Anna Maria has studied the necessity for and implications of the adoption of an ordinance creating impact fees and has retained a professional consulting firm to prepare a study relating to parks and recreation, and roads and mobility impact fees (the "Study") to determine the proportionate demand that new development generates for additional parks and recreation, and roads and mobility improvements and facilities; and

WHEREAS, the Study has been presented to, and reviewed by, the City Commission of the City of Anna Maria, and it has been determined (1) that parks and recreation, and roads and mobility impact fees are necessary to offset the costs associated with meeting future demands for the City's parks and recreation, and roads and mobility facilities pursuant to the projections set forth in the Study; (2) that the parks and recreation, and roads and mobility impact fees bear a reasonable relationship to the burden imposed upon the City to provide parks and recreation, and roads and mobility facilities to new City residents; (3) that parks and recreation, and roads and mobility impact fee revenues will provide a direct benefit to such new City residents reasonably related to the fees assessed; (4) that an essential nexus exists between projected new development and the need for additional parks and recreation, and roads and mobility facilities to be funded with parks and recreation, and roads and mobility impact fees and the benefits that accrue to new development paying the fees; and (5) that the amount of the parks and recreation, and roads and mobility impact fees are reasonably proportional to the *pro rata* share of the additional parks and recreation, and roads and mobility facilities needed to serve new development; and

WHEREAS, the costs of real property for use in parks and recreation, and roads and mobility facilities development and the costs of various facilities and equipment have been used by the City's consultant in developing a development impact cost per building square feet and land use type as set forth in the Study; and

WHEREAS, the decisions of the City Commission as set forth herein are reasonable and prudent steps pertaining to sound growth management which have been taken for the benefit of the citizens of the City, both present and future; and

WHEREAS, the City is projected to significantly grow in population and further economically develop in the future; and

WHEREAS, this Ordinance contains an administrative framework to ensure that the benefit of parks and recreation, and roads and mobility facilities funded with parks and recreation, and roads and mobility impact fees will accrue proportionately to new development paying the fees; and

WHEREAS, Section 163.3202(3), *Florida Statutes*, encourages the use of innovative land use regulations and impact fees by local governments to manage growth and to provide the necessary public facilities and for the imposition by local governments of impact fees on development to fund the capital cost of facilities necessitated by such development; and

WHEREAS, requiring future growth to contribute its fair share of the costs necessary to fund required capital improvements and additions is an integral and vital part of the regulatory plan of growth management in the City and is a practice consistent with sound and generally accepted growth management, fiscal and public administration practices and principles.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Anna Maria, Florida, as follows:

SECTION 1. The above recitals, or “Whereas” clauses, are hereby adopted as the City Commission’s legislative findings and are incorporated herein by reference.

SECTION 2. Chapter 28 of the Anna Maria Code of Ordinances, to be entitled “Impact Fees,” is hereby created as follows:

CHAPTER 28 – IMPACT FEES

ARTICLE I. IN GENERAL

Sec. 19-1. Short title and authority.

(a) This chapter shall be known and may be cited as "Anna Maria Impact Fees."

(b) The City Commission has the authority to adopt this chapter pursuant to article VII of the Constitution of the State of Florida, F.S. Ch. 166, and §163.31801, F.S.

Sec. 19-2. Intent and purpose.

(a) The purpose of this chapter is to ensure that new development pays its proportionate share of the anticipated costs of public facilities necessary to provide parks and recreation, and roads and mobility protection for the new development.

(b) The intent of the City Commission is to ensure that its impact fee schedules reflect the most recent and localized data pertaining to growth patterns in the City and the cost of public facilities necessary to provide parks and recreation, and roads and mobility protection for new development.

Sec. 19-3. Administrative charges.

If established, administrative charges shall be collected from each applicant and shall be distributed as appropriate for impact fee administration, for financial administration, and for costs related to the establishment, amendment and annual review/update of the impact fee ordinance and methodology. Administrative charges, if adopted, shall be set by resolution and shall be based upon incurred and anticipated costs to create, administer, update and manage the impact fee system and shall not exceed actual costs of the City. Administrative charges, if collected, shall not be deposited in any impact fee capital fund accounts.

Sec. 19-4. Impact fee capital fund accounts and use of capital fund account monies.

(a) There shall be established separate capital fund accounts for parks and recreation, and roads and mobility impact fees, to be designated separately as the “parks and recreation impact fee account”, and the “roads and mobility impact fee account.” The capital fund accounts for impact fees shall continue to be maintained separate and apart from each other and separate and apart from all other accounts of the City. The monies deposited into each of the impact fee capital fund accounts shall be used solely for the purposes as set forth in this chapter and shall be accounted for accordingly.

(b) Funds on deposit in impact fee accounts established within this article shall not be used for any expenditure that would be classified as an operational expense, a maintenance expense, or a repair or replacement expense; provided, however, if there is an increase in the level of service or similar improvements to the asset made necessary due to growth, then impact fees can be used to fund the share of improvements proportional to growth.

(c) Any funds on deposit in the impact fee funds not immediately necessary for expenditure shall be invested in interest-bearing accounts. Applicants shall not receive a credit for or be entitled to interest from the investment of such funds, except as otherwise required in this chapter.

Sec. 19-5. Impact fees are nontransferable.

Impact fees shall remain with the property on which they were paid and are not transferable. Even if a structure on the property is moved to a new location, the impact fees shall remain with the property.

Sec. 19-6. Non-binding impact fee estimate.

An applicant may request an estimate of impact fees which may be imposed by filing a written request to the City. Any estimate which the City provides is non-binding and may be subject to change when the impact fees become due and payable pursuant to this chapter. Non-binding estimates are for the sole benefit of the prospective applicant and neither bind the City nor preclude it from making amendments or revisions to any provisions of this chapter. No vested rights, legal

entitlements, or equitable estoppel accrue by reason of a non-binding estimate. A non-binding fee estimate does not constitute a final decision and may not be appealed pursuant to this chapter.

Sec. 19-7. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning, or except as otherwise provided. For words, terms and phrases not listed in this section, definitions in the City of Anna Maria City Code may apply.

Applicant means any person, developer, builder or entity which requires public services as a result of development for the benefit of itself or a prospective future occupant.

Building is any structure, either temporary or permanent, designed or built for the support, enclosure shelter or protection of persons, chattels or property of any kind. This term shall include trailers, mobile homes or any other vehicles serving in any way the function of a building. This term shall not include temporary construction sheds or trailers erected to assist in construction and maintained during the time of a construction.

Owner means the most recent owner of a parcel of property appearing in the Official Records of Manatee County, Florida.

Residential means multi-family dwelling units, mobile homes, single-family detached houses, duplexes, and other buildings in which people are intended to spend the night.

Sec. 19-8. Administrative rules and policies.

The City Administrator or designee is hereby authorized to adopt administrative rules and policies to implement the provisions of this chapter as the City Administrator deems necessary and appropriate.

Sec. 19-9. Appeals.

(a) Any person who disagrees with a decision or interpretation of this chapter may appeal to the City Administrator or designee by filing a written notice of appeal within ten (10) days after the date of the action or decision complained of. The written notice of appeal shall set forth concisely the action or decision appealed as well as the grounds upon which the appeal is based. The City Administrator or designee shall consider all facts material to the appeal and render a written decision within thirty (30) days of receiving the appeal. Any person who disagrees with the decision of the City Administrator or designee may appeal to the City Commission by filing a written notice of appeal with the City Administrator's office setting forth concisely the decision appealed within ten (10) days after the date of the City Administrator's decision. The appeal shall be set for the next available City Commission meeting for consideration. The City Commission's written decision and shall constitute final administrative review.

(b) Appeal fees commensurate with costs incurred by the City, as set by resolution, shall be paid by the applicant prior to a decision being rendered.

Sec. 19-10. Penalties and liens against property.

Violations of this Chapter shall be prosecuted as provided by City Code or by an injunction or other legal or equitable relief in the circuit court against any person violating this Chapter. Failure to pay an impact fee when determined by the city that an obligation is required to satisfy the impact of development may result in the amount due becoming a lien against the property. The City shall provide a written notice of the impact fee due by personal service, certified, return receipt requested United States mail or Federal Express or other equivalent overnight letter delivery company.

Sec. 19-11. Adoption of impact fee study.

(a) The City Commission hereby adopts by reference the study entitled "City of Anna Maria 2020 Municipal Impact Fee Study," dated _____, 2020, as prepared by Raftelis Financial Consultants, Inc. It relates to the computation and allocation of the capital costs of the City of Anna Maria to provide parks and recreation, and roads and mobility facilities.

(b) The City Commission finds there is a reasonable connection, or rational nexus, between the need for parks and recreation, and roads and mobility facilities in the City and the growth in population anticipated within the city. In addition, the City Commission finds there is a reasonable connection, or rational nexus, between the anticipated expenditures of the parks and recreation, and roads and mobility impact fees collected and the benefits accruing to anticipated new development.

Sec. 19-12. Imposition of parks and recreation, and roads and mobility impact fees.

(a) Any applicant who seeks to develop land or make improvements to real property shall pay the following parks and recreation, and roads and mobility impact fees in the manner and amount established and computed pursuant to this article.

(b) The City of Anna Maria parks and recreation impact fees shall only be paid for residential development or increase in size of residential property and shall be assessed at the rate of \$1.15 per square foot of interior building space.

(c) The City of Anna Maria roads and mobility impact fees shall be paid for all new development of any kind or any increase in building size and shall be assessed at the rate of \$0.73 per square foot of interior building space.

Sec. 19-13. Time of payment of parks and recreation, and roads and mobility impact fees.

The parks and recreation impact fee, and roads and mobility impact fee shall be paid at the time of issuance of a building permit for a structure or structures, or such other time as may be specifically provided by a developer's agreement.

Sec. 19-14. Disposition of revenues imposed by parks and recreation impact fee, and roads and mobility impact fee.

The funds collected by reason of establishment of the parks and recreation, and roads and mobility impact fees in accordance with this Article shall be used solely for the purpose of acquisition of facilities and equipment determined to be needed to provide parks and recreation, and roads and mobility respectively for new development within the City. Said funds shall not be used to maintain or repair existing parks and recreation, and roads and mobility facilities or equipment or to acquire facilities or equipment to serve only existing development; provided, however, if there is an increase in the level of service or similar improvements to the asset made necessary due to growth, then impact fees can be used to fund the share of improvements proportional to growth. The City shall spend funds on a first in, first out basis.

Sec. 19-15. Disposition of funds not expended.

(a) If the City of Anna Maria parks and recreation, and roads and mobility impact fees, or either of them, have not been expended or encumbered by the end of the calendar quarter immediately following ten (10) years after the date the fees were paid, upon application of the fee payer of proof of payment, or proof of the date the development permit was approved by the City and that development was never begun, the fees shall be returned with interest at the rate determined by the City based upon the average interest earning rate incurred by the City in accordance with the following procedure:

(1) The present owner must petition the City Commission for the refund within one year following the end of the calendar quarter immediately following ten (10) years after the date on which the fee was received.

(2) The petition must be submitted to the City Clerk and must contain:

- (i) A notarized sworn statement that the petitioner is the current owner of the property;
- (ii) A copy of the dated receipt issued for payment of the fee or other document evidencing the date the development was approved by the City, which development was never begun;
- (iii) A certified copy of the latest recorded deed; and
- (iv) A copy of the most recent ad valorem tax bill.

(3) If reimbursement is approved, the City shall remit to the petitioner within 60 days of approval.

(b) In determining whether a petitioner is entitled to a refund, it shall be assumed that impact fees are expended or encumbered in the same order in which they were received (that is, "first in, first out").

(c) No refund shall be made of any administrative fee authorized and collected pursuant to this chapter.

Sec. 19-16. Charge when use of property changed.

Any change in the use of property shall require payment of a parks and recreation, and roads and mobility impact fee in an amount equal to the increased calculation, if any.

SECTION 3. Codification. It is the intent of the City Commission of the City of Anna Maria that the provisions of Section 2 of this Ordinance shall be codified. The codifier is granted broad and liberal authority in renumbering and codifying the provisions of this Ordinance; article and section numbers assigned throughout are suggested by the City.

SECTION 4. Severability. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 5. Conflicts. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of this City, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

SECTION 6. Effective Date. This Ordinance shall become effective ninety (90) days after the date of adoption of this Ordinance and approval by the Mayor in accordance with the Charter of the City of Anna Maria, pursuant to §163.31801, Florida Statutes.

PASSED AND ADOPTED, by the City Commission of the City of Anna Maria, Florida, in regular session assembled, this _____ day of _____, 2020.

Jonathan Crane, Commissioner
Amy Tripp, Commissioner
Carol Carter, Commissioner
Mark Short, Commissioner
Joe Muscatello, Commissioner

Carol Carter, Chairman

I hereby approve this Ordinance:

Dan Murphy, Mayor

_____, 2020

ATTEST:

Approved as to form and legality for
the use and reliance of the City of
Anna Maria only

LeAnne Addy, City Clerk

Gretchen R. H. "Becky" Vose

ORDINANCE NO. 20-870

AN ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA, ADDING A DEFINITION FOR “FENCE, REPAIR” TO SECTION 70.1, “DEFINITIONS AND RULES OF CONSTRUCTION”, OF CHAPTER 70, “GENERAL PROVISIONS”; AND AMENDING SECTION 114.423, “WALLS AND FENCES” OF ARTICLE VI, “SUPPLEMENTAL REGULATIONS” OF CHAPTER 114, “ZONING”, OF THE CODE OF ORDINANCES OF THE CITY OF ANNA MARIA, FLORIDA; AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ANNA MARIA, FLORIDA, AS FOLLOWS:

SECTION 1. Section 70.1, “Definitions and Rules of Construction”, of Chapter 70, “General Provisions” of the Code of Ordinances of the City of Anna Maria is hereby amended to add a definition for “Fence, Repair” to read as follows:

Sec. 70.1. – Definitions and rules of construction.

* * *

Fence, Repair - A repair to a fence shall be defined as maintenance to a fence where replacement of materials does not exceed sixteen (16) linear feet of the length of the fence and does not change the scope, location or dimensions of the fence. Repairs shall be made using the same material, or material with comparable composition, color, size, shape and quality of the original fence to which the repair is being made.

* * *

SECTION 2. Section 114.423, “Walls and Fences”, of Article VI, “Supplemental Regulations”, of Chapter 114, “Zoning” of the Code of Ordinances of the City of Anna Maria is hereby amended to read as follows:

Sec. 114-423. - Walls and fences.

- (a) Permit required. No person shall erect, move, add to or structurally alter any fence in the city without first obtaining a permit for such purposes issued by the building official. No permit is required for a repair to a fence as that term is defined under Sec. 70.1. Fence permits will be issued only to the owner of the property, or to a licensed or bonded contractor acting as ~~his~~ the property owner’s agent. A permit fee shall be charged in accordance with city ordinance.
- (b) Plot plan. The applicant shall submit a sketch or plot plan which shows the location of all property lines, easements, rights-of-way and utility lines, all structures, and existing fences and walls. The plot plan shall also show the

47 location of all proposed fences. When doubt exists as to the exact location of
48 property lines, the building official shall require a survey by a licensed surveyor.

49 (c) *General regulations.*

- 50 (1) *Location in right-of-way.* No fence shall be permitted to be erected or
51 maintained on any street right-of-way or easement, except a governmentally
52 installed fence intended for safety or traffic control.
- 53 (2) *Prohibited fences.* It shall be unlawful for any person to erect or maintain
54 any fence made of or consisting of the following materials in the city:
- 55 a. Barbed, razor or bare wire.
 - 56 b. Chain link, except in PSP and PRA zoning districts and when used as a
57 temporary fence for construction site security, and except for tennis
58 court fences as hereinafter provided.
 - 59 c. Masonry, stone, brick, block or concrete, with the exception of a
60 retaining wall.
- 61 (3) *Electric fences.* It shall be unlawful for any person to erect or maintain an
62 electric fence or electric screen fence within the city.
- 63 (4) *Maximum height in residential zoned property including single-family*
64 *residential property in the ROR zoned district.* Except as otherwise provided
65 in this section, fences located within the front yard setback, street side yard
66 setback, front yards adjoining Gulf Front Park ~~or~~ and waterfront setbacks
67 shall not exceed a height of four feet above the existing ground grade prior to
68 site alteration. Fences located within the side and rear setbacks shall not
69 exceed a height of six feet above the existing ground grade prior to any site
70 alteration. Pergolas, trellises, and arbors are exempt from the height limits
71 but cannot exceed eight feet in height and eight feet in width and require a
72 building permit and cannot be located within the visibility triangle and are
73 limited to one on each lot or parcel. (For setbacks refer to section 114-222.)
- 74 (5) *Maximum height in commercial, residential/office/retail, conservation,*
75 *public recreation, and public/semi-public zoned property.* Fences located
76 within a side and rear setbacks shall not exceed a height of six feet above the
77 existing ground grade, except that such fence, if located within the front or
78 waterfront setbacks shall not exceed the height of four feet above the existing
79 ground grade. Pergolas, trellises, and arbors are exempt from the above
80 height limits but cannot exceed eight feet in height and eight feet in width,
81 require a building permit and cannot be located within the visibility triangle
82 and are limited to one on each lot or parcel.
- 83 (6) *Location outside property line.* No fence or poles supporting a fence shall be
84 erected outside the property line.
- 85 (7) *Attachment to neighboring fences.* No fence shall be attached to a
86 neighboring fence, but a fence may abut a neighboring fence if such fence is
87 on the property line.
- 88 (8) *Interference with off-street parking or public services.* No fence shall be
89 erected or maintained which blocks required off-street parking or interferes
90 with city or public utility service. Notwithstanding the foregoing, a permit for
91 a fence within a public utility easement may be issued by the public works
92 director under the following conditions:

- 93 a. Only those easements which are limited to utility uses are eligible for
94 this permit. General purpose easements and rights-of-way or easements
95 intended or dedicated for purposes other than utility uses are not eligible
96 for this permit.
- 97 b. The property owner, or the owner's authorized agent, shall submit a
98 sketch or other drawing accurately describing the easement and the
99 proposed location of the fence.
- 100 c. The property owner, or the owner's authorized agent, shall contact the
101 utility companies with facilities or rights to install facilities in the
102 easement for the companies' approval of the proposed location. If the
103 easement is limited in use, such as for drainage only, then only those
104 utility companies that could have facilities in the easement need be
105 contacted.
- 106 d. The property owner shall execute an agreement with the city
107 acknowledging that the use of the easement for a fence is subservient to
108 the use for which the easement has been created, and that the fence is
109 subject to removal by the city or by any utility company having facilities
110 or rights to install facilities in the easement, if necessary, and that the
111 owner does not have any right of reimbursement or other claim if the
112 fence has to be removed. The agreement shall be in recordable form and
113 recorded in the public records of Manatee County at the owner's
114 expense.
- 115 e. The city is authorized to charge a reasonable permit fee for the
116 processing and issuance of the permit.
- 117 (9) *Temporary fences.* Temporary fences are permitted after review and approval
118 of all required applications by the building official. All provisions and
119 regulations governing the erection, maintenance, height, location and
120 relocation of fences shall govern temporary fences. A temporary fence permit
121 shall not exceed the expiration date as stated on the permit application and
122 the permit. For cause, one or more extensions of time may be granted by the
123 building official. The building official is authorized to extend the use of a
124 temporary fence for three months after review of a resubmittal of an
125 application for a temporary fence. A temporary fence shall not be permitted
126 for a period of time longer than two years.
- 127 (10) *Fences between residential and commercial property.* Where residential
128 property is adjacent to commercial property, the building official shall grant
129 to the owner of such residential property permission to erect and maintain a
130 fence not to exceed a height of six feet above the existing ground grade. This
131 fence shall be located only within the required rear or side yard area.
- 132 (11) *Swimming pool enclosures.* Swimming pools, if located within the building
133 area and if not within a screened cage, shall be enclosed on all open sides by
134 a fence of a minimum of four feet above the existing ground grade and a
135 maximum of six feet above the existing ground grade. Pools located within
136 the required yard area shall be enclosed on all open sides by a fence of a
137 height of four feet above the existing ground grade. All pool fences must
138 have gates with safety locks.

139 (12) *Tennis court enclosures.* Tennis courts shall be enclosed on all open sides by
140 an open chain link fence, ten feet above the existing ground grade.

141 (d) *Nonconforming fences.*

142 (1) *Intent.* It is the intent of this subsection to encourage the eventual
143 elimination, as expeditiously as is reasonable, of existing fences that are not
144 in conformity with the provisions of this chapter.

145 (2) *Continuance.* A nonconforming fence may be continued, provided that it has
146 not been determined detrimental to the public health, safety and welfare. It
147 shall then be maintained in good condition, but it shall not be:

148 a. Enlarged or changed to any other nonconforming structure.

149 b. Structurally altered so as to prolong the life of the fence.

150 c. Re-erected if removed.

151 d. Re-erected after damage or destruction if the estimated expense of re-
152 erection exceeds 50 percent of the appraised replacement cost.

153 (3) *Determination by building official.* It shall be the duty of the building
154 official to determine whether or not a nonconforming fence is in the interest
155 of public health, safety and welfare.

156 (e) *Maintenance.*

157 (1) Any person, group of persons, firm or corporation owning or having control
158 of any fence within the City shall be responsible to maintain the fence in a safe
159 and presentable condition and in compliance with the requirements of this
160 Article. This shall include, but not be limited to, replacement of broken or
161 defective boards, posts or other fence parts that may cause the fence to be unsafe
162 or unsightly, and the correction of any visible and/or unsafe lean in the fence.
163 Failure to properly maintain such fence as required under this section shall be
164 considered a violation of this Article.

165 (2) All fences, including without limitation, fences existing on the effective date
166 of this Ordinance, are subject to inspection and may be tagged as safety hazards
167 or public nuisance if not adequately maintained.

168
169 **SECTION 3. CONFLICTS.** All Ordinances or parts of Ordinances, insofar as they are
170 inconsistent or in conflict with the provisions of this Ordinance, are hereby repealed to the extent
171 of any conflict.
172

173 **SECTION 4. CODIFICATION.** The provisions of this Ordinance shall be codified as
174 and become and be made a part of the Code of Ordinances of the City of Anna Maria. The
175 sections of this Ordinance may be renumbered or relettered to accomplish such intention.
176

177 **SECTION 5. SEVERABILITY.** In the event that any word(s), phrase(s), portion(s),
178 sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, or application thereof, is
179 contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid,
180 illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s),
181 portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and
182 void, and shall be deemed severed, and a separate, distinct, and independent provision from the
183 remaining provisions of this ordinance, and such holding shall in no manner affect the validity of
184 the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this

185 Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a
186 manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as
187 expressed herein.
188

189 **SECTION 6. EFFECTIVE DATE.** This Ordinance shall be effective upon adoption
190 by the City Commission and approval by the Mayor in accordance with the Charter of the City of
191 Anna Maria.
192

193 **PASSED AND ADOPTED**, by the City Commission of the City of Anna Maria, Florida,
194 in regular session assembled, this _____ day of _____, 2020.
195

196 Jonathan Crane, Commissioner
197 Amy Tripp, Commissioner
198 Carol Carter, Commissioner
199 Mark Short, Commissioner
200 Joe Muscatello, Commissioner

201 _____
202 Carol Carter, Chairman
203

204 I hereby approve this Ordinance:
205

206 _____
207 Dan Murphy, Mayor
208

209 _____, 2020
210

211 ATTEST:

212 Approved as to form and legality for
213 the use and reliance of the City of
214 Anna Maria only

215 _____
216 LeAnne Addy, City Clerk
217

218 _____
219 Gretchen R. H. "Becky" Vose
220 City Attorney

ORDINANCE NO. 20-872

AN ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA, AMENDING SECTIONS 114-501 THROUGH 114-509, OF ARTICLE VII, "ALCOHOLIC BEVERAGES", OF CHAPTER 114, "ZONING" OF THE CITY OF ANNA MARIA CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ANNA MARIA, FLORIDA, AS FOLLOWS:

SECTION 1. Article VII, "Alcoholic Beverages", of Chapter 114, "Zoning" of the Code of Ordinances of the City of Anna Maria is hereby amended to read as follows:

Sec. 114-501. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage means all beverages containing more than one-half of one percent of alcohol by volume.

Beach means the zone of unconsolidated material that extends landward from the mean low-water line to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves.

Beer means brewed beverages containing malt.

Coastal barrier sand dunes means mounds or ridges of loose sand and sand-sized sediment lying upland of the beach or shore, and deposited by any natural or artificial mechanism, which support vegetation including but not limited to sea oats, spanish bayonet, railroad vine, sea grape, saw palmetto and prickly pear cactus.

Commercial establishment means not only rooms where alcoholic beverages are stored or sold by a licensee, but also all other rooms in the building which are so closely connected therewith as to admit free passage from the drink parlor to other rooms over which the licensee has some dominion or control, and shall also include all of the area embraced within the sketch, appearing on or attached to the application to the state department of business regulation, division of alcoholic beverages and tobacco, for the license involved and designated as such on the sketch.

Gross revenue means all money and other things of value received by or paid to the operator of a restaurant from the retail sale of beer, wine, prepared food, and non-alcoholic beverages without regard to whether such receipts are represented by check, credit, charge

47 account, exchange, or otherwise. Gross revenue shall not include direct taxes which are passed
48 on to and paid by the patrons (such as sales tax), or revenue generated from catering services.
49 Gross revenue also shall not include tips and gratuities paid by customers to and retained by
50 employees of the operator, for which such employees are not accountable to the operator,
51 whether or not such tips are credited against wages owed by the operator to such employees. No
52 income tax, franchise tax, tangible or intangible tax, or other tax based on the income, profits, or
53 assets of the operator will be deducted from gross revenue. Each charge or sale on installment or
54 credit is to be treated as a sale for the full price on the date the charge or sale is made, regardless
55 of when the operator actually receives payment.

56
57 *Operator* means the person or entity, or combination of persons and entities, operating a
58 commercial establishment or ~~the~~ restaurant on the premises who either holds or has applied for a
59 license to sell or dispense alcoholic beverages from the premises.

Deleted: the

60
61 *Parks* includes Bay Front Park, located on Tampa Bay from Lake La Vista Channel on
62 the southerly end to Hibiscus Road on the northerly end; Gulf Front Park, located on the Gulf of
63 Mexico from Oak Avenue on the southerly end to Magnolia Avenue on the northerly end; ~~and~~
64 City Hall Park, the land surrounding the Anna Maria City Hall, bounded by Spring Avenue, Gulf
65 Drive, and Pine Avenue; and City Pier Park, located at the northeast corner of Pine Avenue and
66 North Bay Boulevard.

Deleted: and

67
68 *Premises* means land including buildings ~~or tenements; a building~~ and its appurtenant
69 structures and property, so long as same are included in the licensed premises for purposes of its
70 state alcoholic beverage license; ~~the beginning or early portion of a legal deed or document~~
71 ~~where the subject matter is stated or described in full.~~

72
73 *Restaurant* means a commercial establishment engaged primarily in selling and serving
74 prepared food and non-alcoholic beverages to the general public at retail.

75
76 *Sale of alcoholic beverages* means any transfer of an alcoholic beverage for a
77 consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of
78 property other than an alcoholic beverage for a consideration, or the serving of an alcoholic
79 beverage by a club licensed under the state beverage law.

80
81 *Wine* means all beverages made from fresh fruits, berries, or grapes, either by natural
82 fermentation or by natural fermentation with brandy added, in the manner required by the laws
83 and regulations of the United States, and includes all sparkling wines, champagnes, any
84 combination of the aforesaid beverages, vermouths and like products. Specifically excluded from
85 this definition are "fortified wines" containing more than 17.259% of alcohol by volume.

86 **Sec. 114-502. - Hours of business operation.**

87
88 (a) It shall be unlawful for any person to sell or offer for sale, serve or dispense any
89 alcoholic beverages in the city in any place or establishment licensed by the state for the sale
90 of alcoholic beverages except during the hours of 7:00 a.m. to 2:30 a.m. of the following
91 day.
92

95 (b) It shall be unlawful for patrons of establishments referred to in subsection (a) of this
96 section to be allowed to occupy the premises beyond 3:00 a.m., which is one-half hour past
97 the specified final hour of customer service.
98

99 **Sec. 114-503. - Consumption prohibited in certain areas.**

100 (a) It shall be unlawful for any person to consume or possess open containers of beer, wine,
101 alcoholic beverages or intoxicating liquors in, on, upon or along any street, alley,
102 sidewalk, beach, coastal barrier, sand dune, beach access, public parking lot open to the
103 public, or park within the city, except as provided in subsection (b) of this section.
104 Further, it shall be unlawful for any person to consume or possess open containers of
105 beer, wine, alcoholic beverages or intoxicating liquors in or upon any area available for
106 use by the public for motor vehicle parking, which area or land is adjacent to, or part of
107 the premises of, any establishment where alcoholic beverages are sold or dispensed or
108 which area is provided for the parking of patrons of the establishment.

109 (b) Exceptions. The following exceptions from the provisions of subsection (a) of this
110 section are permitted:

111 (1) The Anna Maria Island Community Center is a publicly owned recreational area
112 within the city under lease to Anna Maria Island Community Center, Inc., a Florida
113 nonprofit corporation. The lessee has jurisdiction and control of the property
114 according to the terms of the lease and all applicable city ordinances, and may, in its
115 discretion, permit alcoholic beverages to be served and consumed on the premises.

116 (2) The Island Players building is a publicly owned recreational area within the city under
117 lease to The Island Players, Inc., a Florida nonprofit corporation. The lessee has
118 jurisdiction and control of the property according to the terms of the lease and all
119 applicable city ordinances, and may, in its discretion, permit alcoholic beverages to
120 be served and consumed on the premises.

121 (3) The Anna Maria city pier is a publicly owned recreation area within the city under
122 lease. ~~The lessee currently is licensed to sell alcoholic beverages to pier patrons, and~~
123 ~~the Anna Maria city pier is excepted from the provisions of subsection (a) of this~~
124 ~~section subject to the terms and conditions of the lease and all other applicable city~~
125 ~~ordinances.~~

126 (4) Any publicly owned property shall be exempt from the provisions of subsection (a)
127 of this section if specifically deemed exempted by a special event permit approved
128 by the city.

129 (c) Violation of subsection (a) of this section constitutes a noncriminal violation, punishable as
130 provided in F.S. § 775.083.

131 (d) The fine schedules for violations of subsection (a) of this section ~~shall be as set forth by~~
132 ~~Resolution adopted by the City Commission. are as follows:~~
133 ~~(1) — \$100.00.~~

134 (e) Violation of subsection (a) constitutes a criminal violation, punishable as provided in F.S. §
135 775.082(4)(b) or 775.083(1)(e).
136

137 **Sec. 114-504. - Service or operation of establishment prohibited in certain areas.**

138 It shall be unlawful for any person or for the officers, employees, servants or agents of any
139 person holding a vendor's alcoholic beverage license to:

Deleted: The lessee currently is licensed to sell alcoholic beverages to pier patrons, and...

Deleted: t

- 143 (1) Serve any alcoholic beverage to any person occupying a motor vehicle, including but
 144 not limited to curb service, or to any person within or upon any public street, alley,
 145 sidewalk, publicly owned park, public parking lot or publicly owned recreational area
 146 within the city, or to any person within or upon any area available for use by the public
 147 for motor vehicle parking which area is adjacent to, or part of the premises of, the
 148 establishment of such vendor where alcoholic beverages are sold or dispensed or which
 149 is provided for the parking of the patrons of such establishment.
- 150 (2) Knowingly permit the consumption of any alcoholic beverage in violation of section (1)
 151 ~~above 6-3.~~
- 152 (3) Operate an establishment where alcoholic beverages are sold or dispensed within the
 153 city limits ~~unless a special use permit is obtained therefor. , unless the establishment is~~
 154 ~~at least 2,500 feet from any other establishment where alcoholic beverages are sold or~~
 155 ~~dispensed or at least 2,500 feet from an established church.~~
- 156 a. ~~The distances set forth in this subsection (3) shall be measured along the shortest~~
 157 ~~straight line from the closest point on the property line where alcoholic beverages~~
 158 ~~are sold or dispensed to the closest point on the property line of the premises of an~~
 159 ~~existing establishment where alcoholic beverages are sold or dispensed, or the~~
 160 ~~property line of an established church.~~
- 161 b. ~~Any premises where alcoholic beverages are sold or dispensed, which are licensed~~
 162 ~~to deliver or serve alcoholic beverages on January 20, 1987, shall be exempt from~~
 163 ~~subsection (3), unless the establishment discontinue delivering or selling alcoholic~~
 164 ~~beverages for a period longer than 120 days or more during any 12-month period;~~
 165 ~~except that this 120-day rule shall not apply to the following: Closure of the~~
 166 ~~establishment for the purpose of marketing and sale of the property and/or~~
 167 ~~business; suspension of the license by the state division of alcoholic beverages and~~
 168 ~~tobacco, department of business and professional regulation; or temporary closing~~
 169 ~~of any such establishment for a reasonable time for remodeling, reconstruction,~~
 170 ~~adding an addition, or to repair damage by fire, storm, flood or other act of God. ¶~~

171 **Sec. 114-505. - Indecent exposure in alcoholic beverage establishment.**

172 (a) *Permitting indecent exposure.* It shall be unlawful for any person maintaining, owning or
 173 operating a commercial establishment located within the incorporated area of the city at
 174 which alcoholic beverages are offered for sale for consumption on the premises to permit:

- 175 (1) Any female person, while on the premises of the commercial establishment, to expose
 176 to the public view that area of the human female breast at or below the areola
 177 thereof;
- 178 (2) Any female persons, while on the premises of the commercial establishment, to
 179 employ any device or covering which is intended to give the appearance of or
 180 simulate such portions of the human female breast at or below the areola thereof;
- 181 (3) Any person, while on the premises of the commercial establishment, to expose to
 182 public view his genitals, pubic area, buttocks, anus, ~~gluteal anal~~ cleft or cleavage;
- 183 (4) Any person, while on the premises of the commercial establishment, to employ any
 184 device or covering which is intended to give the appearance of or simulate the
 185 genitals, pubic area, buttocks, anus, ~~gluteal anal~~ cleft or cleavage.

186 (b) *Exposing oneself.*

- 187 (1) ~~This section shall not be applied to a nursing mother, immediately before,~~
 188 ~~immediately after, or while nursing a baby.~~

Deleted: Any premises where alcoholic beverages are sold or dispensed, which ~~was~~ licensed to deliver or serve alcoholic beverages on January 20, 1987, shall be exempt from subsection (3), unless the establishment ~~has~~ discontinue delivering or selling alcoholic beverages for a period longer than 120 days or more during any 12-month period; except that this 120-day rule shall not apply to the following: Closure of the establishment for the purpose of marketing and sale of the property and/or business; ~~suspension of the license by the state division of alcoholic beverages and tobacco, department of business and professional regulation;~~ or temporary closing of any such establishment for a reasonable time for remodeling, reconstruction, adding an addition, or to repair damage by fire, storm, flood or other act of God. ¶

204 It shall be unlawful for any female person, while on the premises of a commercial
205 establishment located within the incorporated areas of the city at which alcoholic
206 beverages are offered for sale for consumption on the premises, to expose to the
207 public view that area of the human female breast at or below the areola thereof, or to
208 employ any device or covering which is intended to give the appearance of or
209 simulate such area of the female breast as described in this subsection.

210 (2) It shall be unlawful for any person, while on the premises of a commercial
211 establishment located within the incorporated areas of the city at which alcoholic
212 beverages are offered for sale for consumption on the premises, to expose to public
213 view his genitals, pubic area, buttocks, ~~or~~ anus, ~~anal~~ gluteal cleft or cleavage, or to
214 employ any device or covering which is intended to give the appearance of or
215 simulate the genitals, pubic area, buttocks, or anus or anal gluteal cleft or cleavage.

217 **Sec. 114-506. - Location of establishments subject to zoning.**

218 ~~No~~ alcoholic beverage establishments shall be located within any zoning districts in the
219 city other than the commercial (C-1) and/or residential-office-retail (ROR) zoned areas.

221 **Sec. 114-507. - ~~Exclusion from distance limitation~~ Special Use Permit Operating**
222 **Requirement.**

223 (a) The operator of a restaurant who desires to dispense beer and wine ~~must~~ may apply for a
224 special use permit ~~excluding the restaurant from the 2,500-foot distance limitation~~ set forth
225 in section 114-504~~8~~, provided such restaurant will continuously meet the following criteria:

226 (1) The restaurant shall not sell or dispense any alcoholic beverages other than beer and
227 wine without regard to the nature or extent of the alcoholic beverage license held by the
228 operator of the restaurant.

229 (2) The restaurant shall derive at least 60 percent of its gross revenue on an every two ~~bi-~~
230 ~~month~~ ly basis from the retail sale of prepared d food and non-alcoholic beverages.

231 (3) Full course meals must be available at all times when the restaurant is serving beer or
232 wine except the restaurant may continue to serve beer and wine until food service is
233 completed to the final seating of restaurant patrons for full course meals. A full course
234 meal as required by this subparagraph (3) must include a salad or vegetable, an entrée, a
235 beverage and bread.

236 (4) The premises where the restaurant is located shall not have an area where the primary
237 purpose is to serve beer and wine.

238 (5) The restaurant shall have the burden of demonstrating that it continuously qualifies
239 for the exclusion set forth in this paragraph (a) by maintaining the records described in
240 paragraph (c) below.

241 (6) The operator of the restaurant must hold a license issued by the State of Florida which
242 permits the sale of beer and wine, and must remain in full compliance with the
243 requirements of that license.

244 (b) The operator of a restaurant who desires to dispense other alcoholic beverages in
245 addition to beer and wine, ~~must~~ may apply for a special use permit ~~excluding the restaurant~~
246 ~~from the 2,500-foot distance limitation~~ set forth in section 114-504~~8~~.

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Deleted: Exclusion from distance limitation.

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Deleted: 4, provided such restaurant meets and will continuously meet the following criteria: ¶

(1) Prior to application, the restaurant has held a special use permit for beer and wine for a minimum of five years, and has complied with all of the requirements of section 114-507(a) above. ¶

(2) During the five years immediately preceding the submittal of the application, the city code enforcement board or magistrate has not made three or more determinations during any ~~three-month~~ one year period that the restaurant premises was in violation of the city's ordinances related to noise, alcoholic beverages or nuisances.

266 ~~(1) Prior to application, the restaurant has held a special use permit for beer and wine for~~
267 ~~a minimum of five years, and has complied with all of the requirements of section 114-~~
268 ~~507(a) above.~~

269 ~~(2)(1)~~ During the five years immediately preceding the submittal of the application, the
270 city code enforcement board or magistrate has not made three or more determinations
271 during any ~~three-month~~ one year period that the restaurant premises was in violation of
272 the city's ordinances related to noise, alcoholic beverages or nuisances.

273 ~~(3)(2)~~ The restaurant shall continue to meet the requirements of section 114-507(a)
274 above.

275 ~~(4)(3)~~ Upon approval, of the special use permit created by this paragraph, the restaurant's
276 existing special use permit to dispense beer or wine between the hours of 7:00 a.m. and
277 2:30 a.m., shall be deemed abandoned. Thereafter, it shall be a condition of the special
278 use permit created by this paragraph, that the hours of dispensing all alcoholic
279 beverages, shall be limited to between the hours of 10:00 a.m. and 10:00 p.m.

280 (c) The operator of a restaurant who is granted a special use permit to sell or dispense beer
281 and wine and/or other alcoholic beverages pursuant to the exclusions set forth in paragraphs
282 (a) and (b) above shall maintain books and records which clearly demonstrate that the
283 restaurant continuously meets the requirements for the exclusion. Separate records shall be
284 maintained for the sale of all alcoholic beverages, and for the sale of prepared food and non-
285 alcoholic beverages. The records shall be maintained on the premises where the restaurant is
286 located, or other designated place approved in writing by the city, and shall be open for
287 inspection by the city during normal business hours. The records required to be kept shall be
288 legible, clear and in the English language. Records maintained in an electronic form shall be
289 promptly provided to the city in written form at the sole expense of the operator of the
290 restaurant. The city shall have the right to periodically inspect the records maintained in
291 accordance with this paragraph (c) to assure that the restaurant continuously complies with
292 the requirements of subparagraph (a)(2) above.

293 (d) ~~Notwithstanding the distance limitations set forth in section 114-504(3), v~~ Vendors
294 operating places where beer is sold only for consumption off the premises, as authorized in
295 F.S. § 563.02, or any successor statute, may sell wine beverages for off the premises
296 consumption only.

Deleted: Notwithstanding the distance limitations set forth in section 114-504(3), v...

Deleted: wine

297 **Sec. 114-508. - Special use permit.**

298 (a) The operator of any restaurant which desires to sell or dispense beer and wine and/or
299 other alcoholic beverages ~~pursuant to the exclusions provided for in section 114-507~~ shall
300 first apply for and receive a special use permit in accordance with this section.

Deleted: pursuant to the exclusions provided for in section 114-507 shall first appl

302 (b) The application for a special use permit shall be in writing and shall use the application
303 form supplied by the city if such form is available. The application shall include the
304 following:

- 305 (1) The full legal name of the operator(s).
- 306 (2) The street address of the restaurant where beer and wine will be sold or dispensed if
307 the special use permit is granted.
- 308 (3) The zoning district in which the restaurant is located.
- 309 (4) a. A copy of the alcoholic beverage license issued by the State of Florida to the
310 operator of the restaurant, if such license has been issued at the time of application;
311 or

- 317 b. A copy of the application to the State of Florida for an alcoholic beverage license
318 filed by the operator of the restaurant, and an agreement by the operator to provide
319 a copy of the license to the city immediately after it is issued.
- 320 c. A copy of the special use permit for beer and wine issued by the city (if
321 applicable).
- 322 (5) A statement by the operator setting forth in detail why the operator reasonably
323 believes in good faith that the restaurant will be able to continuously meet the criteria
324 set forth in section 114-507.
- 325 (6) Such additional information as the ~~city commission~~ city planner deems necessary to
326 assure that the restaurant can be reasonably expected to continuously meet the criteria
327 set forth in section 114-507.
- 328 (7) The application shall be given under oath affirming that the operator is aware of the
329 criteria set forth in section 114-507, that the operator has concluded in good faith that
330 the restaurant can be operated in continuous compliance with the criteria set forth in
331 section 114-507, and that the operator will maintain the records required by section 114-
332 507 and will make those records available for inspection by the city.
- 333 (8) The application shall be accompanied by the application fee established by the city by
334 resolution.
- 335 (c) The ~~city planner commission~~ shall review and either approve or deny the special use
336 permit application within a reasonable period of time following receipt. The application
337 shall be granted if it complies with the requirements of subsection (b) above. The city
338 planner commission shall not have the authority to attach conditions to the approval, waive
339 or modify the requirements or criteria set forth in section 114-507, or exercise any
340 discretionary authority except with regard to the completeness of the application. If the
341 application is denied, the city ~~planner clerk~~ shall furnish the applicant with a written
342 statement setting for the reasons for denial.
- 343 (d) Each special use permit issued in accordance with this section shall be renewed annually
344 by the city clerk upon receipt of (i) a copy of the operator's current alcoholic beverage
345 license issued by the State of Florida; (ii) the operator's written affirmation under oath that
346 the restaurant subject to the special use permit has been in continuous compliance with the
347 criteria and record keeping requirements of section 114-507, and (iii) the renewal fee
348 established by the city by resolution.
- 349 (e) The special use permit shall be issued for the premises where the restaurant is located,
350 shall not be personal to the operator of the restaurant, and shall not be transferable to another
351 location. The special use permit shall be transferable to another operator of the restaurant
352 which is the subject of the permit without the prior consent of the city. However, the
353 transferee of the permit shall give the city written notice of any such transfer within ten days
354 following the effective date of the transfer, which notice shall include a copy of the
355 transferee's alcoholic beverage license issued by the State of Florida.

356
357 **Sec. 114-509. - Enforcement.**

358 Sections 114-507 and 114-508 shall be enforceable by the city's special magistrate code
359 ~~enforcement board who which~~ is hereby given the specific power to suspend or revoke a special
360 use permit issued in accordance with section 114-508, in addition to all other powers granted to
361 the special magistrate board by the city's code of ordinances. The city's ~~code enforcement board~~
362 ~~or~~ special magistrate is specifically authorized to suspend or revoke a special use permit for all

363 alcoholic beverages issued in accordance with section 114-508 upon making three or more
364 determinations during any ~~three-month~~ one year period that the restaurant premises was in
365 violation of the city's ordinances related to noise, alcoholic beverages or nuisances.
366 Alternatively, the city may commence a civil action in circuit court against the operator of the
367 restaurant to enjoin a violation of sections 114-507 and 114-508, suspend or revoke a special use
368 permit issued pursuant to section 114-508, and obtain such other relief as may be appropriate.

369
370 **Secs. 114-510—114-550. - Reserved.**

371
372 **SECTION 2. CONFLICTS.** All Ordinances or parts of Ordinances, insofar as they are
373 inconsistent or in conflict with the provisions of this Ordinance, are hereby repealed to the extent
374 of any conflict.

375
376 **SECTION 3. CODIFICATION.** The provisions of this Ordinance shall be codified as
377 and become and be made a part of the Code of Ordinances of the City of Anna Maria. The
378 sections of this Ordinance may be renumbered or relettered to accomplish such intention.

379
380 **SECTION 4. SEVERABILITY.** In the event that any word(s), phrase(s), portion(s),
381 sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, or application thereof, is
382 contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid,
383 illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s),
384 portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and
385 void, and shall be deemed severed, and a separate, distinct, and independent provision from the
386 remaining provisions of this ordinance, and such holding shall in no manner affect the validity of
387 the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this
388 Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a
389 manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as
390 expressed herein.

391
392 **SECTION. 5. EFFECTIVE DATE.** This Ordinance shall be effective upon adoption
393 by the City Commission and approval by the Mayor in accordance with the Charter of the City of
394 Anna Maria.

395
396 **PASSED AND ADOPTED,** by the City Commission of the City of Anna Maria, Florida,
397 in regular session assembled, this ____ day of _____, 2020.

398
399 Jonathan Crane, Commissioner
400 Amy Tripp, Commissioner
401 Carol Carter, Commissioner
402 Mark Short, Commissioner
403 Joe Muscatello, Commissioner

404
405 _____
406 Carol Carter, Chairman

407
408 I hereby approve this Ordinance:

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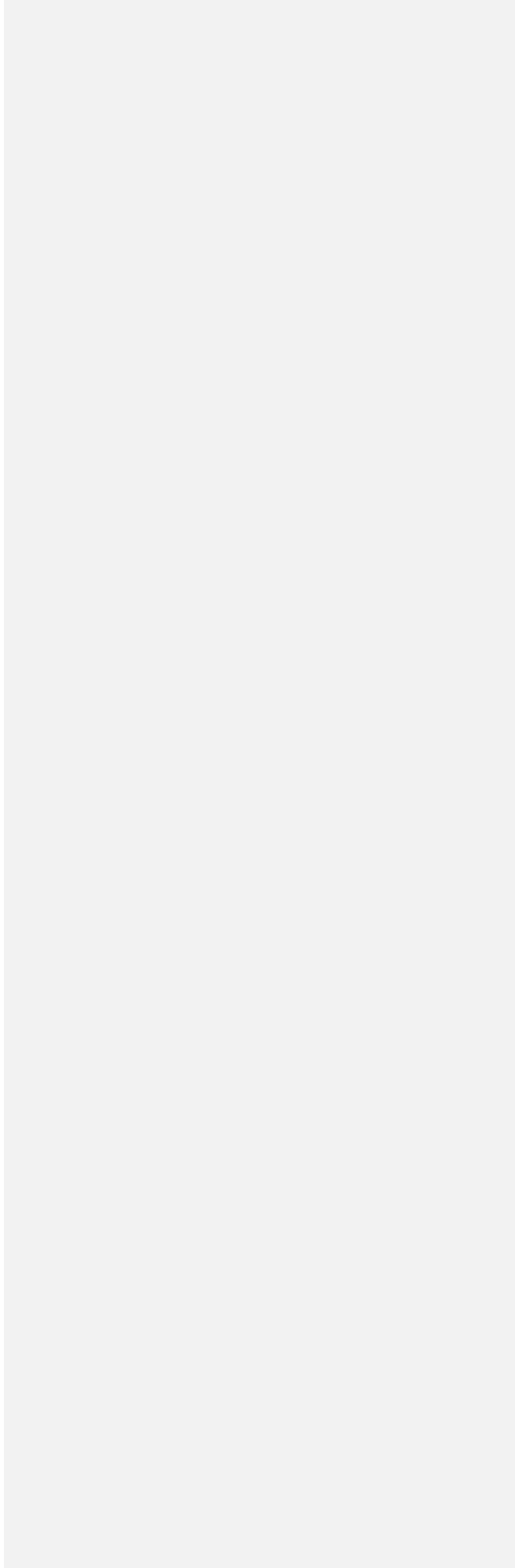
ATTEST:

LeAnne Addy, City Clerk

Dan Murphy, Mayor
_____, 2020

Approved as to form and legality for
the use and reliance of the City of
Anna Maria only

Gretchen R. H. "Becky" Vose
City Attorney



ORDINANCE NO. 20-873

AN ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA, AMENDING SECTIONS 26-91 THROUGH 26-96, OF ARTICLE IV, "NOISE", OF CHAPTER 26, "ENVIRONMENT" OF THE CITY OF ANNA MARIA CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ANNA MARIA, FLORIDA, AS FOLLOWS:

SECTION 1. Article IV, "Noise", of Chapter 26, "Environment" of the Code of Ordinances of the City of Anna Maria is hereby amended to read as follows:

ARTICLE IV. - NOISE

Sec. 26-86. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial area: Land used primarily for the sale of merchandise or goods, or for the performances of a service, or for office or clerical work.

Construction means any site preparation, assembly, erection, substantial repair, alteration or similar action, excluding demolition, for or on public or private rights-of-way, structures, utilities or similar property.

Demolition means any dismantling, intentional destruction or removal of structures from the utilities, public or private right-of-way surfaces, or similar property surfaces, and shall also include site clearing or land clearing.

Emergency means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage requiring immediate action.

Emergency work means work made necessary to restore property to a safe condition following an emergency or work required to protect persons or property from exposure to imminent danger or damage.

Motor vehicle means any vehicle which is, or is designed to be, self-propelled or is designed or used for transporting persons or property, including off-road vehicles being operated for recreational purposes.

Motorboat means any boat or vessel propelled or powered by machinery, whether or not such machinery is the principal source of propulsion, including but not limited to boats, barges, amphibious craft, water ski towing devices and hovercraft.

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Motorcycle means every motor vehicle having a seat or saddle for the use of a rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters, mopeds or any other motorized bicycle or three-wheeled vehicle. This definition expressly excludes tractors and other farm equipment.

Multifamily dwelling means a building or other shelter which has been divided into separate units to house more than one family, including but not limited to apartments, duplexes and triplexes.

Noise: means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans. "Noise" includes low frequency vibrations, such as caused by amplification of bass instrumental sounds.

Noise disturbance: Sound which (a) is or may be harmful or injurious to the health or welfare of a reasonable person with normal sensitivities, or (b) unreasonably interferes with the enjoyment or normal conduct of life, property or outdoor recreation, or (c) causes noise pollution, defined as follows:

Noise pollution shall mean the presence of noise in excessive or unnecessary amount or of such duration, wave frequency or intensity as to be injurious to human or animal life or property; or which unreasonably interferes with the comfortable enjoyment or normal activities of life or property, or other conduct of business.

Parkland: Land that is used primarily for public recreational activities.

Person: Any individual, natural person, public or private corporation, firm, association, joint venture, partnership, or any other entity whatsoever or any combination of such, jointly and severally.

Powered model vehicle means any self-propelled airborne, water-borne, or land-borne plane, vessel, or vehicle which is not designed to carry persons, including but not limited to any model airplane, boat, car or rocket.

Public right-of-way means any street, avenue, boulevard, highway or sidewalk or alley or similar place normally accessible to the public which is owned or controlled by a governmental entity.

Public space means any real property or structure thereon which is normally accessible to the public.

Real property line:

- (1) The imaginary line including its vertical extension that separates one parcel of real property from another; or
- (2) The vertical and horizontal boundaries of a dwelling unit that is one unit in a multi-dwelling-unit building.

94
95 *Receiving land:* Land area neighboring or in the vicinity of a sound source and on or at
96 which the sound emanating from the sound source is audible to the normal human ear.
97

98 *Residential:* Land use that is primarily for living and sleeping or parkland or schools or
99 nursing homes or any land use that is not commercial or industrial.
100

101 *Short durations:* Any sound with a duration of less than one minute.
102

103 *Sound:* An oscillation in pressure, particle displacement, particle velocity or other
104 physical parameter, in a medium with internal forces that causes compression and
105 rarefaction of that medium. The description of sound may include any characteristic of such
106 sound, including duration, intensity and frequency.
107

108 *Violator* means the person, natural or otherwise, in violation of the Code of Ordinances
109 of the City of Anna Maria, or any ordinances not yet codified. Examples of a "violator" may
110 include, but not be limited to, the owner of the property where the violation exists, the
111 person in charge of the property where the violation exists, such as a tenant, an occupant, or
112 a property manager, or the person causing the violation on the property, regardless of
113 whether the person is an owner or in charge.
114

115 *Weekday* means any day, Monday through Friday, which is not a legal holiday.
116

117 *Zoning and land use definitions* . All terms used in this article which refer to zoning or
118 land use categories, including but not limited to commercial area, residential area, etc., shall
119 be defined as set out in the various zoning ordinances and comprehensive plans or other
120 resolutions duly adopted by the city commission, unless otherwise defined herein.
121

122 Sec. 26-87. - Reserved.
123

124 Sec. 26-88. - Declaration of policy.
125

126 It is declared the policy of the city to prevent, prohibit and provide for the regulation and
127 abatement of the production of unusually loud, raucous, excessive or unreasonable noise which
128 may injure the physical and emotional health or welfare of any of its citizens or degrade the
129 quality of life.
130

131 Sec. 26-89. - Scope.
132

133 This article shall apply to the control of all sound originating within the geographical limits
134 of the city.
135

136 Sec. 26-90. - Pool, spa, hot tub quiet hours.
137

138 Swimming pools, spas and hot tubs may be utilized at any time of day or night; provided,
139 however, no noise shall be generated from such use or related to such use that can be heard
140 beyond the property lines of the property on which the pool, spa or hot tub is located, between

141 the hours of 10:00 p.m. and 8:00 a.m. the next day. Generation of such noise during such
142 prohibited hours shall be considered to be a violation of pool, spa, hot tub quiet hours.

143
144 Sec. 26-91. – Construction site noise.

145
146 The use of generators, pumps and gas-powered air compressors shall be in accordance with
147 Sec. 74.73 as amended. The following shall be required for the use of generators, pumps, gas-
148 powered air compressors and similar equipment on construction sites;

149 (1) All equipment shall be retrofitted with noise a damping device including, but not
150 limited to, insulated cabs, baffle box, sound blankets and intake silencers.

151 (2) The use of generators, pumps and gas-powered air compressors shall only be used
152 during allowable construction hours consistent with Sec. 26-93.

153
154 Sec. 26-92~~1~~. - Prohibited acts.

155
156 (a) *Noise disturbance.* Notwithstanding any other provision of this article, and in addition
157 thereto, it shall be unlawful for any person to make or continue, or cause or permit, through
158 actions or inactions,, any noise disturbance, as defined in section 26-86, or any violation of
159 pool, spa, hot tub quiet hours, as provided in section 26-90. The owner, tenant, occupant,
160 guest, property manager and agent of the property at which the violation occurs shall each
161 be separately liable for any noise disturbance caused by tenant(s), occupant(s), and/or
162 guest(s), and such owner, tenant, occupant, property manager, and agent shall be deemed
163 violator(s) hereunder.

164
165 (b) *Standards.* The standards to be considered in determining whether a violation of subsection
166 (a) of this section exists may include but shall not be limited to the following:

- 167 (1) The volume of the noise.
- 168 (2) The intensity of the noise.
- 169 (3) Whether the nature of the noise is usual or unusual.
- 170 (4) The volume and intensity of the background noise, if any.
- 171 (5) The proximity of the noise to residential sleeping facilities.
- 172 (6) The nature and zoning of the area from which the noise emanates.
- 173 (7) The nature and zoning of the receiving land.
- 174 (8) The time of the day or night the noise occurs.
- 175 (9) The duration of the noise.
- 176 (10) Whether the noise is produced by a commercial or noncommercial activity.
- 177 (11) The day of the week the noise occurs.

178
179 Sec. 26-93~~2~~. - Exceptions.

180 The following activities or sources are exempt from the requirements of this article:

- 181 (1) The emission of sound for the purpose of alerting persons to the existence of an
182 emergency, or in the performance of emergency work.
- 183 (2) Between the hours of 7:00 a.m. and 10:00 p.m., ceremonial or traditional activities or
184 events, such as the sounding of church bells and the normal sounds of organized
185 sporting and cultural events, but specifically not including amplified sounds played at
186 volumes or vibrations that violate standards of this article.

187 (3) Operation of equipment or conduct of activities normal to residential communities as
 188 set forth herein:

	Description	Hours of Exception
a.	Lawn care, soil cultivation, domestic power tools, lawn mowers, maintenance of trees, hedges, gardens, saws and tractors, street sweepers, tree trimming and limb chipping and other normal community operations	7:00 a.m. to 7:00 p.m.
b.	Operation of equipment for solid waste and recycling collection in or adjacent to residential uses	7:00 a.m. to 7:00 p.m.
c.	Operation of equipment for solid waste collection in nonresidential locations	7:00 a.m. to 7:00 p.m.
d.	Usual noises of commercial construction and operation of construction equipment for commercial construction <u>on private property and delivery, collection and removal of construction dumpsters.</u>	7:00 a.m. to 6:00 p.m., Monday through Friday; 10:00 a.m. to 6:00 p.m. on Saturday; NOTE: No noise allowed on Sundays and federal holidays as designated by the U.S. Office of Personnel Management.

189
 190 **Sec. 26-943.** - Exceptions by permit.

191
 192 Any person desiring to seek relief from any provision of this article shall apply for a special
 193 event permit pursuant to section 114-428, to cause or create noise which would otherwise be in
 194 violation of this article.

195
 196 **Sec. 26-954.** - Enforcement of article; remedies nonexclusive.

197
 198 This article may be enforced by any of the following remedies. Each remedy is independent
 199 of the other.

- 200 (1) This article may be enforced pursuant to the code enforcement provisions in section 2-
 201 46 et seq.
- 202 (2) No provisions of this article shall be construed to impair the city or any other person
 203 from bringing any common law, equitable or statutory cause of action, or other legal
 204 remedy for injury or damage arising from any violation of this article. As an additional
 205 remedy, any noise disturbance shall be deemed and is declared to be a public nuisance
 206 and may be subject to abatement summarily by proceedings in a court of competent
 207 jurisdiction for injunction, both temporary and permanent, and for such other relief as is
 208 proper under the circumstances. The city is hereby authorized to bring any such action
 209 authorized in this Code on its behalf or on behalf of the general public.
- 210 (3) a. Violations of this article are hereby deemed equivalent to a non-criminal
 211 infraction and may be enforced through issuance of a citation by a certified law
 212 enforcement officer of the city requiring the violator to appear before the City's
 213 Special Magistrate or to pay a civil fine set by this section.

- 214 b. Any person cited for an infraction under this section must sign and accept a
215 citation indicating a promise to appear. The law enforcement officer may indicate
216 on the citation the time and location of the scheduled hearing, if known at the time
217 of citation, and must indicate the applicable civil penalty established herein.
- 218 c. Any person who willfully refuses to accept and sign said citation is guilty of a
219 misdemeanor of the second degree.
- 220 d. Except as provided in subsection e., any person charged with a non-criminal
221 infraction under this section who does not elect to appear before the City's Special
222 Magistrate shall pay the civil penalty and delinquent fee, if applicable, either by
223 mail or in person, within 30 days after the date of issuance of the citation. If the
224 person cited elects to pay a civil penalty pursuant to the above procedure, he or she
225 shall be deemed to have admitted the infraction and to have waived his or her right
226 to a hearing on the issue of commission of the infraction. Such admission shall not
227 be used as evidence in any other proceedings except for determining the cumulative
228 number of violations on the premises as set forth in subsection f., below.
- 229 e. Any person electing to appear before the City's Special Magistrate or who is
230 required so to appear shall be deemed to have waived his or her right to pay the
231 civil penalty established herein. The City's Special Magistrate, after a hearing, shall
232 make a determination as to whether an infraction has been committed. If the
233 commission of an infraction has been proven, the City's Special Magistrate may
234 impose a civil penalty in an amount as set by resolution of the City Commission
235 plus of the proceedings. If the Special Magistrate determines that no infraction has
236 been committed, no costs or penalties shall be imposed and any costs or penalties
237 that have been paid shall be returned.
- 238 f. The civil penalties for violation of this article shall be as established by resolution
239 of the City Commission for each person liable under this article.
- 240 (4) Three or more violations occurring at the same premises within any rolling twelve-
241 month period shall be deemed prima facie evidence that the premises is a public
242 nuisance and subject to being temporarily and/or permanently enjoined pursuant to
243 subsection (2) above.
- 244 (5) This article may be enforced against any violator as defined herein.

245
246 ~~Secs. 26-965~~—26-115. - Reserved.

247
248 **SECTION 2. CONFLICTS.** All Ordinances or parts of Ordinances, insofar as they are
249 inconsistent or in conflict with the provisions of this Ordinance, are hereby repealed to the extent
250 of any conflict.

251
252 **SECTION 3. CODIFICATION.** The provisions of this Ordinance shall be codified as
253 and become and be made a part of the Code of Ordinances of the City of Anna Maria. The
254 sections of this Ordinance may be renumbered or relettered to accomplish such intention.

255
256 **SECTION 4. SEVERABILITY.** In the event that any word(s), phrase(s), portion(s),
257 sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, or application thereof, is
258 contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid,
259 illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s),

260 portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and
261 void, and shall be deemed severed, and a separate, distinct, and independent provision from the
262 remaining provisions of this ordinance, and such holding shall in no manner affect the validity of
263 the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this
264 Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a
265 manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as
266 expressed herein.

267
268 **SECTION. 5. EFFECTIVE DATE.** This Ordinance shall be effective upon adoption
269 by the City Commission and approval by the Mayor in accordance with the Charter of the City of
270 Anna Maria.

271
272 **PASSED AND ADOPTED,** by the City Commission of the City of Anna Maria, Florida,
273 in regular session assembled, this _____ day of _____, 2020.

274
275 Jonathan Crane, Commissioner
276 Amy Tripp, Commissioner
277 Carol Carter, Commissioner
278 Mark Short, Commissioner
279 Joe Muscatello, Commissioner

280
281 _____
282 Carol Carter, Chairman

283 I hereby approve this Ordinance:

284
285 _____
286 Dan Murphy, Mayor

287
288 _____, 2020

289
290 ATTEST: Approved as to form and legality for
291 the use and reliance of the City of
292 Anna Maria only

293
294 _____
295 LeAnne Addy, City Clerk

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297 _____
298 Gretchen R. H. "Becky" Vose
299 City Attorney

ORDINANCE NO. 20-874

AN ORDINANCE OF THE CITY OF ANNA MARIA, FLORIDA, AMENDING SECTIONS 78-63 THROUGH 78-65, AND ADDING SECTION 78-69, OF ARTICLE III, "CONCURRENCY", OF CHAPTER 78, "CONSISTENCY AND CONCURRENCY MANAGEMENT" OF THE CITY OF ANNA MARIA CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ANNA MARIA, FLORIDA, AS FOLLOWS:

SECTION 1. Article III, "Concurrency", of Chapter 78, "Consistency and Concurrency Management" of the Code of Ordinances of the City of Anna Maria is hereby amended to read as follows:

Chapter 78 - CONSISTENCY AND CONCURRENCY MANAGEMENT

ARTICLE I. - IN GENERAL

Sec. 78-1. - Purpose and intent of chapter.

- (a) It is the intent of this chapter to ensure that proposed development is consistent with the city's comprehensive plan, and that public facilities are available at prescribed levels of service concurrent with the impact of the development upon those facilities.
(b) It is the purpose of this chapter to establish procedures and criteria to ensure that facilities and services needed to support development are available concurrent with the impacts of such development, except as otherwise defined in this chapter.

Sec. 78-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Development approval means, for the purposes of determining concurrency, any of the following:

- (1) Approval of a site plan or development plan;
(2) Approval of a subdivision;
(3) Approval of a building permit; or
(4) Other official action of the city having the effect of permitting the development of land.

Development order means any order granting, denying, or granting with conditions an application for development approval.

Secs. 78-3—78-30. - Reserved.

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ARTICLE II. - CONSISTENCY

Sec. 78-31. - Determination of consistency.

If a development proposal is found to meet all the requirements of the city's land development regulations, including the concurrency requirements, it shall be presumed to be consistent with the comprehensive plan.

Secs. 78-32—78-60. - Reserved.

ARTICLE III. - CONCURRENCY

Sec. 78-61. - Facilities for which determination of concurrency is required.

A concurrency determination shall be made for the following facilities:

- (1) Transportation;
- (2) Sanitary sewer;
- (3) Solid waste;
- (4) Drainage;
- (5) Potable water; and
- (6) Recreation and open space.

Sec. 78-62. - Standards for meeting concurrency requirements.

A development order will be issued only if the proposed development does not lower any adopted level of service. A project shall be deemed concurrent if one of the following standards is met:

- (1) Necessary facilities and services are in place at the time the development permit is issued;
- (2) Necessary facilities will be in place when the impacts of development occur;
- (3) Necessary facilities and services are under construction when the development order is issued; or
- (4) Necessary facilities and services are guaranteed in an enforceable development agreement that includes any of the provisions of subsections (1) through (3) of this section, and guarantees that the necessary facilities and services will be in place when the impacts of the development occur.

Sec. 78-63. - Concurrency determination procedure; minor and major developments defined.

Determination of concurrency for minor and major developments shall be as follows:

- (1) *Minor development.* For minor development, concurrency determinations shall be made by the city building official at the time a building permit application is made. A

94 development shall be determined to be a minor development if it involves only the
95 following:

- 96 a. One single-family or duplex structure.
- 97 b. An accessory structure.
- 98 c. Interior or exterior remodeling which does not increase the density or intensity of
99 use.
- 100 d. Expansion of a conforming residential structure not involving more than 500
101 square feet.
- 102 e. Development that is neither exempt nor determined by the building official to be a
103 major development.

104
105 (2) *Major development.* Concurrency determinations shall be made by the planning and
106 zoning board, upon advice of the city building official, as part of the development plan
107 approval process. A development shall be determined to be a major development if it
108 involves any of the following:

- 109 a. Group homes, foster care facilities or community residential homes;
- 110 b. New subdivisions or replatting which results in the creation of three or more lots;
- 111 c. Nonresidential development; or
- 112 ~~d.—Any development requiring a special exception; or~~
- 113 d.e. Any other development determined to be a major development by the building
114 official.

115
116 Sec. 78-64. - Adopted levels of service and management procedures.

117
118 (a) *Transportation system.*

119 (1) *Adopted level of service.* The operational level of service D peak hour shall be the
120 standard for all collector roads in the city.

121 (2) *Management procedures.*

122 a. *Minor developments.*

123 1. The city has only limited potential for new development. Data and analyses in
124 the city's comprehensive plan indicate that combined development potential of
125 all remaining vacant residential land in the city will not result in a lowering of
126 the level of service of collector roadways in the city to less than the adopted
127 minimum level of service of D. Therefore, minor developments shall be
128 deemed to be concurrent with regards to the city's adopted traffic level of
129 service.

130 2. For purposes of ensuring that development does not result in unanticipated
131 levels of traffic that may degrade the city's collector roadways below level of
132 service D, the city shall include a reevaluation of its level of service and
133 roadway capacities during the required five-year update of its comprehensive
134 plan. The revised traffic levels and growth projections shall then be used to
135 determine if there is sufficient remaining capacity to continue the exemption
136 for single-family and two-family development from individual concurrency
137 determinations.

138 b. *Major developments.* Traffic levels of, impacts upon, and available roadway
139 capacities of collector roadways in the city shall be determined in the following
140 manner:

- 141 1. *Determination of existing traffic levels.*
- 142 i. Until such time as new traffic counts are available, traffic levels shall be
143 calculated using available average daily traffic counts for 1986, multiplied
144 by an annual compound growth factor of 1.01 for each additional year
145 from 1986 to the present year, and adjusted to peak hour by multiplying by
146 0.09.
- 147 ii. When new counts are available from the state department of
148 transportation, those counts shall be the basis for calculating peak hour
149 traffic levels by multiplying the most recent average daily count by the
150 1.01 compound annual growth factor, and adjusting to peak hour by
151 multiplying by the peak hour factor most recently accepted by the state
152 department of transportation.
- 153 2. *Levels of service.* Maximum peak hour volumes acceptable to maintain level
154 of service D for the city's collector roadways are as follows:
- 155 i. Gulf Drive, from south city limits to Palm Avenue: 891.
156 ii. Gulf Drive, from Palm Avenue to Pine Avenue: 891.
157 iii. Pine Avenue, from Gulf Drive to N. Bay Boulevard: 891.
- 158 3. *Calculation of project impact.*
- 159 i. The impact of any given project on the roadway system will be calculated
160 using the most applicable trip generation standards contained in Trip
161 Generation, most recent fourth edition, as amended, published by the
162 Institute of Traffic Engineers.
- 163 ii. It shall be the responsibility of the applicant to provide all traffic data
164 necessary for a determination of concurrency. Traffic data and analysis
165 shall be prepared a certified traffic engineer.
- 166 iii. Calculation of traffic to be generated by the proposed project will assume
167 100 percent build-out and occupancy.
- 168 4. *Determination of available capacity and concurrency.* The sum of the existing
169 traffic level plus the estimated number of trips to be generated by the proposed
170 project will be subtracted from the level of service peak hour volume
171 (capacity) of the roadway to determine whether or not the available capacity is
172 adequate to support the project.

173
174 (b) *Sanitary sewer.*

- 175 (1) *Adopted level of service.* Adopted levels of service are as follows:
- 176 ~~1990:~~ 115 gallons per person per day.
177 ~~1996: 103.5 gallons per person per day.~~
- 178 (2) *Management procedures.*
- 179 a. *Certification of capacity.* In January of each year, the building official will obtain a
180 letter or formal allocation agreement from the county public utilities department,
181 certifying that it has the capacity to treat the volume of wastewater projected to be
182 generated within the city during following year. The projected volume will be

183 based upon the projected city resident population for the applicable period
184 multiplied by the city's adopted per capita level of service.

185 b. *Minor developments.*

- 186 1. Minor developments shall be considered to be concurrent with respect to the
187 availability of sanitary sewer services, provided that the number of residential
188 building permits issued by the city, multiplied by 2.2 persons per household,
189 does not result in a population in excess of that upon which the county's
190 certification of capacity was based.
- 191 2. If the resulting population exceeds that upon which the county's certification
192 was based, the building official shall request a letter from the county certifying
193 its capacity to serve the new projected population.

194 c. *Major developments.*

- 195 1. *Calculation of project impact.* The impact shall be provided by the applicant,
196 and approved by the city building official.
- 197 2. *Determination of existing demand.* The city building official shall determine
198 the present demand for sanitary sewer services in the following manner:
 - 199 i. Multiplying the estimated city resident population at that time by the
200 adopted level of service; and
 - 201 ii. Adding the projected demand from all approved developments.
- 202 3. *Determination of available capacity and concurrency.* If the sum of the
203 existing demand plus the project impact exceeds the capacity certified to be
204 available to the city by the county, the building official shall request a letter
205 from the county stating whether or not the county has the capacity to treat the
206 volume of wastewater to be generated by the proposed project.

207
208 (c) *Solid waste.*

- 209 (1) *Adopted level of service.* Adopted levels of service are as follows:

210 ~~1990: 7.1~~ 4.5 pounds per day per capita.

211 ~~1996: 6.4 pounds per day per capita.~~

- 212 (2) *Management procedures.*

- 213 a. *Certification of capacity.* In January of each year the building official will obtain a
214 letter or formal allocation agreement from the county certifying that the county
215 landfill has the capacity to handle garbage projected to be generated within the city
216 during the following year. The projected volume of solid waste will be based upon
217 the projected city resident population for the applicable period multiplied by the
218 city's adopted per capita level of service.

219 b. *Minor developments.*

- 220 1. Minor developments shall be considered to be concurrent with respect to the
221 availability of solid waste disposal facilities, provided that the number of
222 residential building permits issued by the city, multiplied by 2.2 persons per
223 household, does not result in a population in excess of that upon which the
224 county's certification of capacity was based.
- 225 2. If the resulting population exceeds that upon which the county's certification
226 was based, the building official shall request a letter from the county certifying
227 its capacity to serve the new projected population.

228 c. *Major developments.*

- 229 1. *Calculation of project impact.* The impact shall be provided by the applicant,
 230 and approved by the city building official.
 231 2. *Determination of existing demand.* The city building official shall determine
 232 the present demand for solid waste disposal in the following manner:
 233 i. Multiplying the estimated city resident population at that time by the
 234 adopted level of service; and
 235 ii. Adding the projected demand from all approved developments.
 236 3. *Determination of available capacity and concurrency.* If the sum of the
 237 existing demand plus the project impact exceeds the capacity certified to be
 238 available to the city by the county, the building official shall request a letter
 239 from the county stating whether or not the county has the capacity to dispose
 240 of the amount of solid waste to be generated by the proposed project.
 241
- 242 (d) *Drainage.*
- 243 (1) *Adopted level of service.*
- 244 a. *Interim level of service.* Prior to the completion of a master drainage plan and the
 245 subsequent establishment of a permanent level of service, the drainage system shall
 246 have the interim capacity to manage a ten-year frequency, 60-minute storm event.
 247 b. *Permanent level of service.* Upon completion and acceptance of the master
 248 drainage plan, the drainage system shall have the capacity to manage a 25-year
 249 frequency, 24-hour duration storm event.
- 250 (2) *Management procedures.* The city building official shall review drainage plans and
 251 calculations for all development and shall make and record a determination that the
 252 impact on the drainage system will not lower the established level of service.
 253
- 254 (e) *Potable water.*
- 255 (1) *Adopted level of service.* Adopted levels of service are as follows:
 256 ~~1990: 135~~ 110 gallons per day per capita.
 257 ~~1996: 121.5 gallons per day per capita.~~
- 258 (2) *Management procedures.*
- 259 a. *Certification of capacity.* In January of each year the building official will obtain a
 260 letter or formal allocation agreement from the county public utilities department,
 261 certifying that it has the capacity to provide the volume of potable water projected
 262 to be generated within the city during following year. The projected volume will be
 263 based upon the projected city resident population for the applicable period
 264 multiplied by the city's adopted per capita level of service.
- 265 b. *Minor developments.*
- 266 1. Minor developments shall be considered to be concurrent with respect to the
 267 availability of potable water facilities, provided that the number of residential
 268 building permits issued by the city, multiplied by 2.2 persons per household,
 269 does not result in a population in excess of that upon which the county's
 270 certification of capacity was based.
- 271 2. If the resulting population exceeds that upon which the county's certification
 272 was based, the building official shall request a letter from the county certifying
 273 its capacity to serve the new projected population.
- 274 c. *Major developments.*

- 275 1. *Calculation of project impact.* The impact shall be provided by the applicant,
 276 and approved by the city building official.
 277 2. *Determination of existing demand.* The city building official shall determine
 278 the present demand for potable water in the following manner:
 279 i. Multiplying the estimated city resident population at that time by the
 280 adopted level of service; and
 281 ii. Adding the projected demand from all approved developments.
 282 3. *Determination of available capacity and concurrency.* If the sum of the
 283 existing demand plus the project impact exceeds the capacity certified to be
 284 available to the city by the county, the building official shall request a letter
 285 from the county public utilities department stating whether or not the county
 286 has the capacity to provide the volume of potable water to be needed by the
 287 proposed project.
 288

289 (f) *Recreation and open space.*

290 (1) *Adopted level of service.* Adopted levels of service are as follows:

Facility	Level of Service Standards
Mini-parks	1 park/2,500 population
Neighborhood parks	1 park/5,000 population
Community parks	1 park/10,000 population
District parks	1 park/50,000 population
Open space	1 acre/1,000 population
Beach access	1 access/0.5 mile of shoreline
Tennis	1 court/2,000 population
Basketball	1 court/5,000 population
Baseball/softball	1 field/3,000 population
Football/soccer	1 field/6,000 population
Swimming pools	1 pool/25,000 population
Shuffleboard	1 court/5,000 population
Golf (18 holes)	1 course/25,000 population
Fishing sites	1 site/5,000 population
Boat ramps	1 ramp/5,000 population
Picnic areas	1 acre/6,000 population
Bicycle paths	1 mile/5,000 population

291 (2) *Management procedures.*

- 292 a. The city's comprehensive plan recognizes that the present inventory of recreational
 293 facilities is adequate to maintain the adopted level of service until the population
 294 projected for the year 2000 is achieved.
 295

296 b. Until such time as the annual estimate of the city's resident population for the year
297 2000 is reached, it is assumed that the city has adequate recreational facilities to
298 maintain its adopted level of service, and that all new development in the city is in
299 compliance with concurrency requirements for recreational facilities.

300
301 Sec. 78-65. - Redevelopment.

- 302
303 (a) Redevelopment shall be exempt from concurrency determinations relative to
304 transportation, sanitary sewer, solid waste, potable water, and recreation and open space,
305 provided the following conditions are met:
- 306 (1) Residential redevelopment: There is no increase in the density from that existing prior
307 to redevelopment.
 - 308 (2) ~~Commercial~~ Nonresidential redevelopment: There is no increase in the square footage
309 of the buildings or intensity of use of the property from that existing prior to
310 redevelopment.
- 311 (b) Redevelopment which is not determined to be exempt shall be subject to concurrency
312 determinations only with respect to those impacts in excess of that attributable to the
313 property prior to the redevelopment; except, however, that concurrency with respect to the
314 city's drainage level of service shall be determined and based upon the drainage needs of the
315 entire use of the property.

316
317 Sec. 78-66. - Determination of vested rights.

318
319 A development order or right is determined to be vested pursuant to any prior judicial
320 determination made through any administrative procedure subsequently established by the city
321 council based on the owner's establishment by the presentation of competent, substantial
322 evidence that he acted in good faith and in reasonable reliance upon some act or omission of the
323 city and has made such a substantial change in position and has incurred such extensive
324 obligations or expenses based upon that act or omission. A land use designation in a prior
325 comprehensive plan, or a zoning designation, is not sufficient to constitute an act or omission of
326 the city. The treatment of similar cases by state courts, as reviewed by the city attorney, as well
327 as recommendations of staff, shall be relevant to the determination of the extent of vested rights
328 established, if any. Any person who claims that he has vested rights must file an application for a
329 vested rights determination on or before a date six months from the adoption of the ordinance
330 from which this chapter is derived. Such application not filed by that date shall not be accepted
331 or reviewed and any such rights claimed after that date shall be irrevocably waived and
332 abandoned. Vested rights determinations shall be deemed to be an action taken on a development
333 order and shall be subject to challenge in the manner provided in F.S. § 163.3215.

334
335 Sec. 78-67. - Expiration of concurrency determinations.

- 336
337 (a) Longevity and validity of concurrency determinations are contingent upon building permit
338 issuance, and are subject to the following limitations. Concurrency determinations shall
339 expire with the expiration of the development plan approval or building permit, as
340 applicable.
- 341 (1) *Expiration of development plan approval.* An approved development plan shall be
342 valid for a period of six months from the date of approval. If a building permit is not

343 obtained within this period, a new development plan approval, and payment of
344 applicable fees, shall be required before a building permit may be issued. If the
345 applicant can prove that a continuing substantial effort has been made to receive other
346 necessary governmental approvals, and through no fault of his own has suffered a valid
347 delay, the building official may approve a three-month extension.

348 (2) *Expiration of building permit.* Substantial construction shall begin within six months
349 after issuance of a building permit. For the purposes of this section, substantial
350 construction shall mean any construction, reconstruction, repair or improvement of a
351 structure, the cost of which equals or exceeds 25 percent of the value declared on the
352 building permit. If, for any valid, unforeseen or unavoidable reason, the permit holder
353 cannot meet the deadline, a single six-month extension may be granted by the building
354 official. Requests for extension must be accompanied by a proper fee. No additional
355 extension shall be granted.

356 (b) Nothing in this section shall prevent an applicant from resubmitting a new application for a
357 development permit.

358
359 **Sec. 78-68. - Appeals.**

360
361 The planning and zoning board shall consider any appeals which may be taken from actions
362 or rulings of the city building official under this chapter, and such appeals may be made by any
363 person, or by any officer, department, board or bureau affected. The planning and zoning board
364 is hereby empowered to act on all such appeals in accordance with its rules and the provisions of
365 section 2-21 et seq.

366
367 **Sec. 78-69. Fees and consultant reimbursements.**

368
369 **The city is authorized to hire consultants and attorneys to assist it in administering this**
370 **article. The city may, when deemed appropriate by the city planner, request and collect a deposit**
371 **from the applicant to cover the reimbursement of the city's costs relating to fees for consultants**
372 **and attorneys for the project ("review fees"). Review fee deposits not utilized by the city shall be**
373 **returned to the applicant. The city commission is also authorized to adopt reasonable fees for**
374 **administering this article by resolution from time to time. Any additional review fees incurred**
375 **during the course of the review over and above any deposit made shall be paid prior to issuance**
376 **of a building permit.**

377
378 **SECTION 2. CONFLICTS.** All Ordinances or parts of Ordinances, insofar as they are
379 inconsistent or in conflict with the provisions of this Ordinance, are hereby repealed to the extent
380 of any conflict.

381
382 **SECTION 3. CODIFICATION.** The provisions of this Ordinance shall be codified as
383 and become and be made a part of the Code of Ordinances of the City of Anna Maria. The
384 sections of this Ordinance may be renumbered or relettered to accomplish such intention.

385
386 **SECTION 4. SEVERABILITY.** In the event that any word(s), phrase(s), portion(s),
387 sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, or application thereof, is
388 contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid,

389 illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s),
390 portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and
391 void, and shall be deemed severed, and a separate, distinct, and independent provision from the
392 remaining provisions of this ordinance, and such holding shall in no manner affect the validity of
393 the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this
394 Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a
395 manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as
396 expressed herein.

397
398 **SECTION. 5. EFFECTIVE DATE.** This Ordinance shall be effective upon adoption
399 by the City Commission and approval by the Mayor in accordance with the Charter of the City of
400 Anna Maria.

401
402 **PASSED AND ADOPTED,** by the City Commission of the City of Anna Maria, Florida,
403 in regular session assembled, this _____ day of _____, 2020.

404
405 Jonathan Crane, Commissioner
406 Amy Tripp, Commissioner
407 Carol Carter, Commissioner
408 Mark Short, Commissioner
409 Joe Muscatello, Commissioner

410
411 _____
412 Carol Carter, Chairman

413 I hereby approve this Ordinance:

414
415 _____
416 Dan Murphy, Mayor

417
418 _____, 2020

419 ATTEST: Approved as to form and legality for
420 the use and reliance of the City of
421 Anna Maria only

422
423 _____
424 LeAnne Addy, City Clerk

425 _____
426 Gretchen R. H. "Becky" Vose
City Attorney



CITY OF ANNA MARIA

P.O. Box 779, 10005 Gulf Drive, Anna Maria, FL 34216

Phone (941) 708-6130 Fax (941) 708-6134

MINUTES

JULY 30, 2020

IMMEDIATELY FOLLOWING THE BUDGET MEETING CITY COMMISSION REGULAR MEETING

DUE TO THE COVID-19 PANDEMIC AND PURSUANT TO GOVERNOR'S EXECUTIVE ORDER #20-69, THIS COMMISSION MEETING IS BEING HELD USING TELECOMMUNICATIONS MEDIA TECHNOLOGY. TO ATTEND YOU MUST:

Dial in using your phone.

United States: +1 (646) 749-3112

Access Code: 718-139-405

***OUT OF COURTESY TO OTHERS, PLEASE MUTE YOUR PHONE WHEN NOT SPEAKING.**

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 Carter called the meeting to order at 6:35 p.m.

PLEDGE TO THE FLAG

ROLL CALL

Present: Mayor Dan Murphy, Commissioner Joe Muscatello, Commissioner Amy Tripp, Chair Carol Carter, Commissioner Jonathan Crane, Commissioner Mark Short.

Others Present: City Clerk LeAnne Addy, CMC, Deputy Clerk Debbie Haynes, City Attorney Becky Vose, City Planner Chad Minor, City Building Official Luke Curtis, AMI Sun, Islander Newspaper.

REGULAR MEETING

General Public Comment regarding non-agenda items and items not scheduled for future agendas will be taken at the beginning of the meeting with a limitation of three minutes. The Commission's intent is that General Public comment is to be used for the public to inform the Commission of new issues within the City. Public Comment regarding agenda items will be taken with each agenda item with a limitation of three minutes.

1. General Public Comment

Mr. Bill Hatch who resides at 416 Alamanda Road appeared in person today. He presented pictures of flooding on his lot. He stated that he is disappointed that his lot is covered with water.

Dean Jones, Public Works Manager displayed pictures of his lot showing 24 hours later that it is all drained. He stated that this system works. He praised LeAnne Addy, City Clerk/Treasurer for bringing this stormwater program from shambles back into order.

2. City Pier Restaurant Offer – Mike Ross

Mayor Murphy stated that we have four offers:

1. Accept offer as is
2. Reject offer and continue with more fact finding and discussion
3. Reject offer and terminate future discussions
4. Consider offer but postpone action tonight

Mr. Ross had presented a floor plan layout and their offer for the lease of the City Pier Restaurant and Bait Shop specifically the points below.

1. Maintenance
2. Insurance
3. Parking = Total of 64
4. Lease Terms

5. Lease Payments
6. Cost of Buildout

Chair Carter asked why you added this many seats.

Mr. Ross stated that the seats were increased for guaranteed revenues to make it a win-win situation for both.

Mayor Murphy stated that Mario had approximately 70 seats that he was authorized to use.

Commissioner Crane stated that he is asking for many options, for about 50 years, this would have to be amortized and you will be using it, why would the City have to pay that. He also mentioned parking spots and how he proposes to get the parking spots that he is looking for. He understood that having the number of seats would help with getting a good alcohol license.

Mr. Ross stated that people get there without having a parking spot. He stated that he was asking the city to pay for the items that are not easily removable such as the drywall, coolers, range hood, fire suppression, etc.

Commission Muscatello asked if we had a seat number in the RFP and now opening up the common area that we marked off limits.

Mayor Murphy stated that we did not have the seats in the RFP.

Mr. Ross stated that the common area was in the shaded area but thought that the city would be open to any ideas. He stated that the seats in the common area would be subtracted leaving them at 126 seats.

Commissioner Tripp brought up why he is asking the landlord for the loss of income. She asked why he feels that 25% of the maintenance costs would be adequate.

Mr. Ross stated that he went with what some insurance people see commonly. He stated that he would look at it more closely. He stated that him and his team looked at the maintenance costs and felt that the people that will be coming to eat will be the most clean and use it the least and the people fishing would be the dirtiest, with the fish and the bait.

Commissioner Short stated that all the commissioners did a great job using up his questions but he referenced the dollar amounts and was wondering if there is a spreadsheet.

Mayor Murphy stated that he just received the bids yesterday from Mr. Ross and they are the basis of the costs but the city has not had time to verify the costs as of yet. He stated that he has enough data on the estimates that he can hand it to a contractor to find out if it is actual or legitimate costs. He has not had the opportunity to go through those items.

Mr. Ross stated that we can look at what the city would provide.

Commissioner Short stated the total cost of build out and infrastructure costs and wanted to know if the infrastructure costs are included in the buildout costs. He stated that his investment would be about \$560,000.

Mr. Ross stated that our cost would be \$620,000 without the liquor license and \$970,000 with the liquor license.

Commissioner Tripp asked if we were asking for the cost of the buildout up front.

Mayor Murphy clarified that in the RFP it stated that it was an empty shell.

Commissioner Muscatello asked about the insurance cost estimates for the city covering the insurance.

Mayor Murphy stated that the cost would be high but hard to estimate.

Public Comment:

Bob Carter who resides on Willow Avenue stated that to him it looks like a large increase in cost to the city. He doesn't think that the City should belong in the business of paying for more costs. He also doesn't like the fact of changing the concept of a fishing pier to a restaurant. He stated that he would be happy with a beer and wine license and a liquor license is the tenant's responsibility. He stated that 25% of maintenance but based on the number of seating the restaurant would have more usage, so it should be more like 75% restaurant, 25% city. He stated that this seems risky and he recommends the city deny this offer.

Doug Copeland 708 N. Bay Blvd. was disappointed when he read this as it no way reflects what their RFP stated. It went from a million-dollar buildout to now making it the city's responsibility. The 50 year lease is ridiculous. He feels that their offer should be rejected as they are not offering what was asked.

Mr. Ross stated that he is offering more than Sean Murphy's bid that was approved. He felt it was negotiation and we were told to tell you what we wanted. This is not a bad faith effort and they are open to everything reasonable. He stated that we are offering better than

what was accepted and they are still open to negotiate. He is open to what is reasonable. He is willing to work with the City and he feels that he is within realm of reason.

Chair Carter stated that we are here to discuss the proposal from you. It is not the Commissions intent to negotiate tonight.

Commissioner Short stated that the city engaged a consultant and wanted to know if the city received any feedback.

Mayor Murphy stated that the consultant weighed in on the cost of the buildout and the costs were exceptionally high and he also discussed getting a set of plans and we didn't get the plans. Yesterday he received high level bids that are as good as the plans. He received the floorplan about a week ago with two door changes moving the entrance from the middle of the breezeway to the back and moving the door to the bait shop and moving it but it would be an ADA issue.

Mayor Murphy stated the options again for the Commissioners.

Mayor Murphy stated that we have four offers:

1. Accept offer as is
2. Reject offer and continue more fact finding and discussion
3. Reject offer and terminate future discussions
4. Consider offer but postpone for a few weeks

Motion: To reject the offer and terminate all future discussions.

Action: Motion made by Commissioner Crane, seconded by Commissioner Tripp.

Upon roll call vote, motion passed 3-2, Commissioner Short and Commissioner Muscatello opposed.

Commissioner Short looks at it as a beginning offer and he has also heard that they are willing to negotiate. He doesn't see any harm continuing discussions/negotiations to hone in and address some of these concerns with the commission with a time limit set on this. He mentioned given COVID-19 and delays from that we continue negotiations.

Commissioner Muscatello agrees with Commissioner Short and to put a timeline on this, like maybe a week or two. We know that we are a ways apart but given the COVID-19 situation we could give a little more time.

Chair Carter stated that she agrees with Commissioner Crane and Commissioner Tripp.

Commissioner Tripp stated the offer gives the city nothing.

Commissioner Short believes that they should have a couple of more weeks to negotiate.

3. Ordinance 20-867 Alcoholic Beverages – (Second Reading) – Vose

City Attorney Vose read the title to Ordinance 20-867 Alcoholic Beverages. They made modifications on indecent exposure and removing the word female.

Chad Minor, City Planner stated that removing the word female makes it more gender-neutral status.

Commissioner Crane disagrees with the gender-neutral status and feels it is problematic.

City Attorney Becky Vose stated it would be in any place with an alcoholic beverage license. She stated that this is to prevent topless bars as it could lower the quality of the clientele and make families uncomfortable.

Commissioner Muscatello asked if he could go to the Sandbar with his swim trunks on with no shirt on.

Commissioner Short is not opposed to keeping this gender neutral.

Commissioner Crane does have concerns with construction workers coming in for a beer after working with a shirt with cutout arms.

Doug Copeland who resides at 708 North Bay noted that someone getting a special use permit and that is the only way someone would be able to sell alcohol. If he wants to open a bar can he open just a bar? Isn't it a requirement to get a special use permit to have a restaurant?

City Attorney Vose stated that on line 147, "Operate an establishment where alcoholic beverages are sold or dispensed within the city limits unless a special use permit is obtained therefor."

Chad Minor, City Planner stated that we have an ordinance in the ROR that stated that bars are prohibited.

Doug Copeland stated that he does not want to see any late night bars in the City of Anna Maria.

Motion: To approve Ordinance 20-867 Alcoholic Beverages.

Action: Motion made by Commissioner Short, seconded by Commissioner Tripp.
Upon roll call vote, motion passed 4-1, Commissioner Crane opposed.

4. Ordinance 20-868 Local Construction Board – (Second Reading) – Vose
City Attorney Vose read the title to Ordinance 20-868 Local Construction Board.

Motion: To approve Ordinance 20-868 Local Construction Board.

Action: Motion made by Commissioner Muscatello, seconded by Commissioner Crane.
Upon roll call vote, motion passed unanimously.

5. Ordinance 20-869 Uses Within Right-of-way – (Second Reading) – Vose
City Attorney Vose read the title of Ordinance 20-869 Uses Within Right-of-way.

Motion: To approve Ordinance 20-869 Uses Within Right-of-way.

Action: Motion made by Commissioner Muscatello, seconded by Commissioner Crane.
Upon roll call vote, motion passed unanimously.

6. Mayor's Comments

Mayor Murphy stated that since you have turned down the Ugly Grouper bid he is hoping to have some alternatives back to you for the next meeting. He stated that we need to open up this pier and enjoy the time on the pier. He stated that we need something out there quickly.

Mayor Murphy stated that we had a prohibition on scooters, and it was a six-month ordinance and now we have an order in place that we can renew every seven days due to COVID-19.

7. Commissioners Comments

Commissioner Crane stated that last time he commended Debbie Haynes for getting the contractors off of the road but there is one landscaper going southbound on North Bay near the hump back bridge. He stated that he wanted to commend LeAnne for the stormwater project and all the good comments he has heard with it.

LeAnne Addy City Clerk/Treasurer stated that it has been a long hard road but Dean has also assisted with this.

Commissioner Muscatello brought up parking on Magnolia.

Chair Carter stated that when we discuss staging of construction we need to discuss this.

Commissioner Short stated as the liaison for the Community Center they are in a net positive cash flow. The generosity of many people in this room and the local communities giving has really helped them be in the net positive.

Chair Carter stated that now that we had the mangrove presentation how do we move ahead with suggestions.

Mayor Murphy stated that Commissioner Short brought forth some items and he will be meeting with Chad tomorrow about that.

8. City Attorney Comments

None.

9. Staff Comments

None.

10. CONSENT AGENDA: The following items are considered routine in nature and should be considered in a single motion. Items which warrant individual discussion should be removed from this list prior to the motion to adopt. Such items will be discussed separately.

- a. Approve Minutes: Special Meeting 7/16/20
- b. MCSO Bayfront Park Enforcement

Motion: To approve the Consent Agenda with a possible increase on the MCSO Bayfront Park Enforcement.

Action: Motion made by Commissioner Muscatello, seconded by Commissioner Crane.
Upon roll call vote, motion passed unanimously.

Mr. Bill Hatch, 416 Alamanda Road, stated that he went and took more pictures and asked to present them.

Commissioner Crane noted he did not want to see them.

Chair Carter noted Mr. Hatch has a meeting set up with Mayor Murphy and to leave it at that.

Press Comment

None.

Adjournment

Chair Carter adjourned the meeting at 8:40 p.m.

INTERLOCAL AGREEMENT*regarding***CARES ACT FUNDING**

MANATEE COUNTY, FLORIDA
CITY OF ANNA MARIA, FLORIDA

This Interlocal Agreement (“Interlocal Agreement” or “Agreement”) is made and entered into as of the ___ day of _____, 2020, by and between **Manatee County**, a political subdivision of the State of Florida, hereinafter referred to as the “County”, and the **City of Anna Maria**, a municipal corporation, created and existing under the laws of the State of Florida, hereinafter referred to as the “Agency”.

RECITALS

WHEREAS, on March 9, 2020, the Governor of the State of Florida issued Executive Order No. 20-52 in which the Governor declared that a State of Emergency exists in the State of Florida due to the COVID-19 pandemic; and

WHEREAS, on March 16, 2020, the Board of County Commissioners of Manatee County (“Board”) adopted Resolution No. R-20-098, declaring a County-wide Public Health Emergency pursuant to Section 2-13-17 of the Manatee County Code of Ordinances due to the COVID-19 pandemic; and

WHEREAS, on March 27, 2020, Congress passed and the President signed the “Coronavirus Aid, Relief, and Economic Security Act” (“CARES Act”); and

WHEREAS, on April 22, 2020, the U.S. Treasury Department issued Guidance (“Treasury Guidance”) for State, Territorial, Local, and Tribal Governments relating to payments made available under the CARES Act; and

WHEREAS, the Federal CARES Act, section 601(d) of the U.S. Social Security Act, created the Coronavirus Relief Fund and provided Florida with \$8,328,221,072, 55% of which was allocated to the State of Florida and 45% of which was allocated to counties, including \$17,500,000 (with an expected \$52,500,000 to follow) that has been allocated to the County pursuant to a CARES Act Funding Agreement (“Funding Agreement”) between the County and the Florida Division of Emergency Management (“Division”); and

WHEREAS, pursuant to the Funding Agreement, CARES Act funds allocated to the

County may be used for, among other things, expenditures incurred to allow government entities such as the Agency to respond directly to the emergency, so long as funds are not used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the CARES Act; and

WHEREAS, Agency has requested that the County provide Agency with CARES Act funds to be used in accordance with the CARES Act, the Funding Agreement and Treasury Guidance, to fund the eligible expenditures incurred by the Agency more particularly described in Exhibit “A” attached hereto and incorporated herein by reference (the “Expenditures”); and

WHEREAS, Section 163.01, *Florida Statutes*, the “Florida Interlocal Cooperation Act”, permits the County and any public agency to enter into this Interlocal Agreement to exercise the powers, privileges and authority which they share in common and which each might exercise separately, in order to make the most efficient use of their powers; and

WHEREAS, the County and the Agency wish to enter into this Interlocal Agreement to establish their mutual rights and obligations with respect to joint participation in the funding of the Expenditures with CARES Act revenues received by the County pursuant to the Funding Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the County and the Agency agree as follows:

Article I
AUTHORITY

This Interlocal Agreement is entered into pursuant to the powers and authority granted to the parties hereto under the Constitution and laws of the State of Florida, including expressly (but not limited to) Sections 1 and 2 of Article VIII of the Constitution of the State of Florida, Chapters 125 and 166 of Florida Statutes and Section 163.01 of Florida Statutes.

Article II
COUNTY CONTRIBUTION TOWARD PROJECT
FUNDING

2.1 Eligible Expenditures. The Agency has identified the Expenditures as expenses which have been incurred due to COVID 19 that qualify in accordance with the CARES Act, the Treasury Guidance and the Funding Agreement. Expenditures may include expenses incurred prior to the effective date of this Interlocal Agreement so long as they are otherwise eligible for CARES Act funding and comply with Section 2.3, hereof.

2.2 County Contribution Toward Funding. The County shall reimburse the Agency for actual costs incurred to pay Expenditures up to the allocation of 10% of the CARES ACT funding based upon population estimates identified by the US Census and can be amended by County Administrator based upon unexpected needs.

2.3 Invoice and Payment. The County shall reimburse the Agency for Expenditures described in Section 2.2, within sixty (60) days of receipt of an application for payment that meets the requirements of this Section. The Agency applications for payment shall be submitted as written requests to the County Administrator and shall:

- (i) identify all Expenditures funded by the Agency in accordance with the following requirements:
 - (1) only necessary Expenditures incurred by the Agency due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) shall be included;
 - (2) Expenditures shall not have been accounted for in the Agency budget most recently approved as of March 27, 2020; and
 - (3) Expenditures shall have been incurred by the Agency during the period that begins on March 1, 2020 and ends on December 30, 2020;
- (ii) demonstrate that all Expenditures reflect eligibility as defined within the Funding Agreement and the Treasury Guidance; and
- (iii) include detailed invoices (indicated as paid with reference to date of payment and check number), copies of cancelled checks (front & back) and a completed W-9, and any other documentation acceptable to the County reasonably necessary to identify the Expenditures incurred and funded by the Agency.

The Agency shall apportion reimbursable costs on a submission schedule beginning on _____, and shall submit applications for payment no more frequently than once every three (3) weeks.

2.4 Use of County Payments. The Agency shall use the funds paid by the County to the Agency hereunder solely for the purpose of reimbursement for Expenditures as provided herein.

2.5 Reimbursement to County for Ineligible Expenditures. In the event that the State of Florida or the United States, or any department or agency thereof, determines that any Expenditure funded pursuant to this Agreement is ineligible for such funding for any reason, the Agency shall reimburse to the County one hundred percent (100%) of such Expenditure and any interest thereon that is due and owing to the State of Florida or the

United States. Once notified by the County of such a determination of ineligibility, the Agency shall pay such reimbursement to the County within thirty (30) days. The obligation of the Agency pursuant to this Section shall survive the termination of this Interlocal Agreement.

2.6. Records and Accounting. The Agency shall maintain records of the receipt and use of CARES Act funds in accordance with general accepted governmental accounting principles, and shall allow access to such records by the County, the Clerk to the Board of County Commissioners and their independent auditors, for purposes of verifying the legal use of CARES Act funds.

**Article III
TERM AND TERMINATION.**

3.1 Effective Date. This Interlocal Agreement shall take effect as of its date set forth above.

3.2 Termination. Unless terminated for cause in accordance with applicable law, this Interlocal Agreement shall terminate on September 30, 2021.

**Article IV
AMENDMENTS; ENFORCEMENT**

4.1 Amendments Generally. This Interlocal Agreement may be amended, and its material provisions may be waived, only by written instrument expressly approved for the County by the Board of County Commissioners and for the Agency, by the City Council, and only if properly executed by all the parties hereto.

4.2. Enforcement. The parties to this Interlocal Agreement shall have all legal and equitable remedies provided by Florida law for enforcement hereof.

**Article V
MISCELLANEOUS PROVISIONS**

5.1 Validity. After consultation with their respective legal counsel, the County and the Agency each represents and warrants to the other its respective authority and power under Florida law to enter into this Interlocal Agreement, acknowledges the validity and enforceability of this Interlocal Agreement, and waives any future right of defense based on claim of illegality, invalidity or unenforceability of any nature. The Agency and the County each hereby represents, warrants and covenants to and with the other (i) that this Interlocal Agreement has been validly approved by its respective governing body at a duly held public meeting, or in the case of the Agency, by its duly authorized officer, and (ii) that this Interlocal Agreement constitutes a legal, valid and binding contract enforceable against

the respective party in accordance with the terms hereof (assuming the due authorization, execution and delivery hereof by the other party hereto).

5.2 No General Obligation; Availability of Funds.

A. Notwithstanding any other provisions of this Interlocal Agreement, the obligations undertaken by the parties hereto shall not be construed to be or constitute general obligations, debts or liabilities of the Agency, the County or the State of Florida or any political subdivision thereof within the meaning of the Constitution and laws of the State of Florida, but shall be payable solely in the manner and to the extent provided in or contemplated by the respective authorizing instruments and this Interlocal Agreement.

B. The County intends to fund the reimbursements to be made hereunder with legally available CARES Act funds. The obligations of the County to reimburse the Agency for Reimbursable Costs hereunder is subject to the discretion of the Board of County Commissioners to budget legally available funds, including without limitation CARES Act funds, as well as other revenues, in amounts sufficient to fund the reimbursements described in Article II, hereof. To the extent of any conflict between this subsection and any other provision of this Interlocal Agreement, this subsection shall control.

5.3 Indemnification. To the extent permitted by law, including without limitation Section 768.28, Florida Statutes and the dollar limitations set forth therein, and from legally available funds, each of the parties hereto (in such context, an “indemnifying party”) shall defend, indemnify and save harmless the other, its officers, agents, employees and assigns, from and against any and all liabilities, claims, damages, losses and expenses, including costs and attorney’s fees, arising out of or resulting from the negligent or wrongful acts or omissions of such indemnifying party, its officers, agents or employees, made in connection with the performance of the acts, duties, covenants and obligations contemplated in, or imposed pursuant to, this Interlocal Agreement.

5.4 Force Majeure. No party shall be liable for any failure to perform, or delay in the performance of, any obligation under this Interlocal Agreement if such failure is caused directly by hurricane, tornado, fire, earthquake, civil commotion or failure or disruption of utility services, or other like cause beyond the reasonable control of the party obliged to perform.

5.5 Ambiguities. Both parties have been allowed equal input regarding the terms and wording of this Interlocal Agreement and have had the benefit of consultation with legal counsel prior to its execution, such that all language herein shall be construed equally against the parties, and no language shall be construed strictly against its drafter.

5.6 Headings; Construction. The headings or captions of sections or paragraphs used in this Interlocal Agreement are for convenience of reference only and are

not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Interlocal Agreement. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine and neuter, singular or plural, as the identities of the party or parties, personal representatives, subcontractors, successors or assigns may require.

5.7 Severability. The provisions of this Interlocal Agreement are declared by the parties to be severable.

5.8 Governing Law; Venue. This Interlocal Agreement shall be governed by and construed in accordance with laws of the State of Florida, and venue for any action arising out of or related to this Interlocal Agreement shall be in the Circuit Court for the Twelfth Judicial Circuit in Manatee County, Florida.

5.9 Full Agreement; Filing with Clerk of Circuit Court. This Interlocal Agreement contains the entire agreement of the parties with respect to the matters addressed herein. Previous agreements and understandings of the parties with respect to such matters are null and void and of no effect. As required by Subsection 163.01(11) of Florida Statutes, this Interlocal Agreement and all amendments thereto shall be filed with the Clerk to the Circuit Court for Manatee County.

5.10 Notices. All notices, elections, requests and other communications hereunder shall be in writing and shall be deemed given in the following circumstances: when personally delivered; or three (3) business days after being deposited in the United States Mail, postage prepaid, certified or registered; or the next business day after being deposited with a recognized overnight mail or courier delivery service; or when transmitted by facsimile or telecopy transmission, with receipt acknowledged upon transmission; and addressed as follows (or to such other person or at such other address, of which any party hereto shall give written notice as provided herein):

If to County: Manatee County Administrator
Manatee County Administration Center
1112 Manatee Avenue, Suite 920
Bradenton, Florida 34205
Facsimile: (941)745-3790

With copies to: Manatee County Clerk of the Circuit Court
Angelina Colonnese, Clerk
1115 Manatee Avenue West
Bradenton, Florida 34205
Facsimile: (941)741-4082

And

Manatee County Attorney's Office
1112 Manatee Avenue West, Suite 969
Bradenton, Florida 34205
Attention: County Attorney
Facsimile: (941)749-3089

If to Agency: City of Anna Maria
P.O. Box 779
Anna Maria, FL 34216

In all cases, notices shall be deemed delivered to a party only upon delivery of copies to the persons indicated above in the same manner as for the party being notified.

*[signature page to
follow]*

WHEREFORE, the County and the Agency have executed this Interlocal Agreement as of the date and year first above written.

MANATEE COUNTY, FLORIDA

By: Board of County Commissioners

By: _____
County Administrator

City of Anna Maria

By: _____

ATTEST: _____, Clerk

EXHIBIT "A"
to
Interlocal Agreement
Description of Expenditures

All expenditures must qualify
under the CARES Act Grant
Agreement Number: Y2264