

M E M O R A N D U M

To: Tom Harmer, Town Manager

From: Allen Parsons, AICP
Director, Planning, Zoning & Building Department

Report date: June 3, 2022

Meeting date: June 20, 2022

Subject: Proposed Ordinance 2022-13, Establishing Chapter 115,
Residential Rental Registration Requirements and Program

Recommended Action

Forward Ordinance 2022-13 to the September 12, 2022 Regular Meeting for first reading.

Background

The Town of Longboat Key (Town) has had longstanding protections in place regarding the predominately residential character of the Town. In 1982 (via Ordinance 82-10) the Town implemented a Goal of the Land Use Element of the Comprehensive Plan by amending the Zoning Code to encourage the separation of residential and resort (i.e. tourism) uses. The distinctions between a Residential Use¹ and a Tourism Use² were also established and continue today.

In 1995 the Town added provisions (via Ord. 95-07) that put in place the distinctions between where tourism uses are allowed (within the T-3, T-6 and MUC-2 Zoning Districts) and not allowed (all other Zoning Districts, including Residential Zoning Districts). The Town also provided the opportunity for properties that were operating as legally conforming tourism uses prior to October 1982, in residentially zoned areas, to identify themselves and become "grandfathered in" and be recognized as legal non-conforming uses. There are approximately 30 such properties that were recognized and retain that status.

In establishing these distinctions, the Town recognized that there can be unmitigatable adverse impacts caused by tourism uses to the residential character and the peace and quiet of the community. Impacts include, but are not limited to vehicular traffic, parking, property maintenance, and noise, that can be detrimental to nearby residential uses.

¹ "Residential use" The use of a building, or portion thereof, designed for and used for occupancy periods of not less than 30 days. "Residential use" may allow for occupancy periods of less than 30 days by one family, and only that same family, and shall not preclude visitation by guests, provided that such property is not used as a tourism use for remuneration.

² "Tourism use." Use, or occupancy, or the design for such use or occupancy, by any person, of any property for transient lodging purposes where the term of occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession or tenancy is less than 30 consecutive calendar days or one entire calendar month, whichever is less.

The Town's longstanding regulations regarding tourism uses continue to be recognized by the Florida Legislature. This is relevant because in 2011, the State preempted local jurisdictions from enacting local laws, ordinances, or regulations that would prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals (Section 509.032(7)(b), Florida Statutes). This preemption does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011. The Town has maintained its tourism related provisions and has been careful not to revise the substantive text within these regulations to avoid any potential loss of "grandfathered" status.

Importantly, for the staff recommendation that follows, that same Statute (Section 509.032(7)(b), F.S.) allows local governments to regulate vacation rentals so long as such regulation does not prohibit them or limit the duration or frequency of rental.

Like many jurisdictions across the State, and the Country, including the neighboring jurisdictions of Anna Maria (program adopted 2016), Holmes Beach (program adopted 2016) and Bradenton (program adopted 2022), staff are recommending the adoption of a Residential Registration Registry Program to proactively address potential negative impacts that can be associated with residential rental properties and to ensure the safety of structures that are used as residential rental units.

The recommendation derives from two primary sources. First, is a recognition that home rentals, while not a new concept, have been made more popular and easier to do, by online platforms such as Airbnb, HomeAway and Vacation Rentals By Owner (VRBO). According to Sarasota County Tax Collector's Fiscal Year 2021 Report on Tourist Development Tax collections (Countywide), online platforms (21%), houses (5%) and apartments (2%) comprise a significant percentage of the over \$31 million dollars of revenue collected. Manatee County does not provide similar breakdowns, but according to Manatee Tax Collector staff, residential property rentals comprise a relatively high percentage of tourist tax revenue collections (compared to counties that have more hotels).

The second primary reason is that residential rental unit violation reports consistently are one of the most received Code Enforcement complaints within the Town and accounted for almost 40% of all Code Enforcement cases in 2021.

The proposed Residential Rental Registry Program contains a number of requirements designed to protect residential neighborhoods. The program will be applicable to all residentially zoned residential rentals within the Town that are rented for periods of less than 6 months. This includes those residential properties that have been grandfathered as a legally nonconforming tourism use, but the program would not apply to existing legally zoned tourism properties (such as the Zota Beach Hotel, Sand Cay, Four Winds Beach Resort, St. Regis) as they are already regulated by the Florida Department of Business of Professional Regulation. This time period was chosen because rentals of 6 months or less are required to: pay Tourist Development Taxes to either Manatee or Sarasota Counties; pay applicable Sales Tax to the Florida Department of Revenue;

meet Life/Safety requirements for transient and non-transient lodging; and obtain a Business Tax Receipt from the Town.

The Program's requirements, summarized below, will not add or modify any of the requirements or definitions of Tourism Uses in Title 15, Land Development Code, of the Town's Code of Ordinances, consistent with (Section 509.032(7)(b), F.S.), which allows local governments to regulate vacation rentals so long as such regulation does not prohibit them or limit the duration or frequency of rental.

Primary Program components include:

- Contact information for a designated responsible party to be available 24 hours a day, seven days a week and capable of handling issues arising from the use of residential rental units when occupied by a renter. The designated responsible party will be required to respond to urgent or emergency situation type problems or issues within one hour of notification from an occupant, or the Town. Non-urgent or emergency type complaints will be required to be responded to within the next business day.
- Requiring all vehicles associated with a residential rental unit to be parked on site or in a designated area. Residential rental units on Jewfish Key, which are only accessible by boat, have to provide vessel parking such as a boat dock.
- Requiring posting of information within the residential rental unit to include items such as: owner/responsible party contact information; maximum number of vehicles that can be parked at the residential rental unit; the minimum stay requirement (1-month or longer, unless the unit is a recognized legally nonconforming tourism property); emergency contact information; notice regarding the Town's Noise Ordinance requirements; the days/times of solid waste/recycling/yard waste pick-up; and copies of building emergency evacuation maps.
- Providing evidence that the residential rental unit meets minimum standards for habitable structures in the Town Code, the Florida Building Code, the Florida Fire Prevention Code, the Florida Life Safety Code, and applicable Federal Emergency Management Agency regulations.
- Providing proof of having a: current and active license (for a transient or nontransient public lodging establishment) from DBPR; current and active Certificate of Registration with the State of Florida Department of Revenue for the purposes of collecting and remitting sales taxes, transient rental taxes and any other taxes required by law to be submitted to the Florida Department of Revenue; and a current and active account with the County Tax Collector for the purposes of collecting and remitting tourist development taxes and any other taxes required by law to be remitted to the County Tax Collector.
- Advertising (print or internet-based) requirements that include: inclusion of the residential rental permit number that will be provided by the Town; the minimum stay requirement; and the maximum available parking on the property.

Residential rental units that: meet the above listed and applicable criteria; do not have any violations with the Town or subject to any unpaid fees, fines or civil penalties or liens; and pass an inspection will be issued a Residential Rental Certificate of Registration. A Residential Rental Certificate of Registration will be valid for two years from the issue date. Violations of the requirements of these provisions will be enforceable by citations or code enforcement proceedings.

Staff have identified approximately 1,300 properties that are engaged in rentals that would be subject to these new requirements. Staffing for administering the program, including performing inspections is anticipated to be covered by increasing the part-time Code Enforcement position to full-time, and the adoption of fees to cover the activities and services performed by the Town in carrying out its responsibilities under this Chapter.

Next steps would include the development of a fee resolution to cover administrative costs, which will accompany consideration of Ordinance 2022-13. The program is proposed to begin on April 1, 2023 to allow for an extensive education effort and to phase in the inspections.

Staff is recommending adoption of this program as a proactive measure to address the growing number of residential rental properties, to mitigate impacts to nearby residential properties, and to encourage the appropriate management of these properties, and to protect the general health, safety, and welfare of the residents and visitors to the Town.

Staff Recommendation

Forward Ordinance 2022-13 to the September 12, 2022 Regular Meeting for first reading.

Attachments

- A. Ordinance 2022-13
- B. PowerPoint Presentation

End of Agenda Item