

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: October 6, 2022

Meeting date: January 23, 2023

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

Recommended Action

Forward Ordinance 2022-13 to the February 6, 2023 Regular Meeting for first reading.

Background

The Town Commission considered staff recommendations for the establishment of a Residential Rental Registration Program at their June 20, 2022 Regular Workshop. Like many jurisdictions across the State, and the Country, including the neighboring jurisdictions of Bradenton Beach (program adopted in 2015), Anna Maria (program adopted 2016), Holmes Beach (program adopted 2016) and Bradenton (program adopted 2022), staff is recommending the adoption of a Residential Rental Registration Program to proactively address negative impacts that can be associated with residential rental properties and to ensure the safety of structures that are used as residential rental units.

At the June 20, 2022 Regular Workshop, the Commission expressed concerns about establishing additional regulations for those who rent their properties for periods of less than 6-months and provided direction to staff to review the ordinance to both simplify the language and to make it more user-friendly.

Staff will be presenting a revised version of Ordinance 2022-13 that is reduced in length (from 16 pages to 8 pages) and provides clearer programmatic distinctions between rentals of Residential Uses¹ and a Tourism Uses². The proposed Residential Rental Registration Program is more clearly directed towards establishing registration requirements for residentially zoned properties where, over the past several years, it has become much easier to rent out such properties for periods less than a month. These updates are described further below.

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 of Longboat Key (Town) has had longstanding protections in place (dating back to 1982) regarding the predominately residential character of the Town. They established clear distinctions between residential and tourism uses and, following a density referendum and Comprehensive Plan update in 1984, changed the underlying zoning of approximately 30 tourism properties to residential zoning with an intention of reducing the overall balance of tourism uses, over time. In all of these actions, the Town recognized the potential for unmitigatable adverse impacts caused by tourism uses to the residential character, peace and quiet of the neighborhoods, and the island as a whole. Impacts can include, but are not limited to, vehicular traffic, parking, property maintenance, and noise, that can be detrimental to nearby residential uses.

With the growing popularity of home rentals, by online platforms such as Airbnb, HomeAway and VRBO, predominately residential areas of the Town are now experiencing more short-term rentals (i.e. less than one month). Citizen complaints about short term rental violations, in residential neighborhoods, are among the highest consistently received by Code Enforcement, accounting for almost 40% of all Code Enforcement cases in 2021. Concerns with enforcement of short term rentals have also been one of the primary pieces of Code Enforcement feedback provided on the Town's 2021 and 2022 Citizen Survey.

Enforcement of such complaints can be difficult to prove because the presence of people at a residence, who are not known by neighbors as a property's owners, including different people showing up in the following weeks or months, etc. are not necessarily evidence of rental activity. In order to pursue Code Enforcement, there has to be evidence that a property is being rented for some form of compensation (i.e. 'remuneration'). There further has to be proof of the length of a rental in order for there to be a violation of the Town's Short-Term Rental requirements³.

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 residential properties that have been grandfathered as a legally nonconforming tourism use. The program would not apply to existing legally zoned tourism properties (such as the Zota Beach Resort, Sand Cay, Four Winds Beach Resort, St. Regis, etc.) as they are 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;

³ Rentals of 1-month or longer are allowed in residential zoning districts. Residentially zoned 'grandfathered' tourism uses and tourism-zoned properties are allowed to have rentals of less than 1-month.

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:

- Registering with the Town those properties rented for periods of 6-months or less. Such properties are currently required to remit Tourist Development Taxes to Manatee or Sarasota Counties and are required to obtain a Business Tax Receipt with the Town (per Sec. 111.02(2)(c)). Issuance of Residential Rental Certificate of Registration will require demonstration of remittance of applicable 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.
- Providing contact information for a Designated Responsible Party who can be called upon to answer for the maintenance of the Residential Rental Unit and to respond to inquiries or complaints regarding the conduct of the occupants of the Residential Rental Unit and their guests.
- 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.
- Advertising (print or internet-based) requirements that include: inclusion of the residential rental certificate of registration (RRCR) number that will be provided by the Town and the minimum stay requirement.
- A safety inspection requirement. Note: Grandfathered properties that have a current and active license, for a transient public lodging establishment, from the Florida Department of Business and Professional Regulation (DBPR) will not be

subject to a Town inspection, as they are currently subject to inspection by the DBPR. Such properties will pay a lower registration fee.

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 has identified approximately 1,300 properties that are engaged in rentals that would be subject to these new requirements. Staffing and costs for administering the program, including performing inspections would be covered by the two Code Enforcement positions within the Planning, Zoning & Building Department, 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 October 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, 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 February 6, 2023 Regular Meeting for first reading.

Attachments

- A. Ordinance 2022-13 (Available in Town Clerk's Office)
- B. PowerPoint Presentation (Available in Town Clerk's Office)

End of Agenda Item