

**SEMINOLE COUNTY  
LOCAL PLANNING AGENCY/  
PLANNING AND ZONING COMMISSION  
COUNTY SERVICES BUILDING  
1101 EAST FIRST STREET  
SANFORD, FLORIDA  
BOARD CHAMBERS, ROOM 1028**

**MINUTES**

**WEDNESDAY, JUNE 6, 2018  
6:00 P.M.**

**Vacation Rentals Land Development Code Amendment** – Consider an Ordinance amending the Land Development Code to provide regulations for vacation rentals, as defined in F.S. 509.242, within unincorporated Seminole County; Countywide; (Jeff Hopper, Project Manager).

Jeff Hopper, Senior Planner, stated that this item is a proposed amendment to the Seminole County Land Development Code to provide regulations for vacation rentals within unincorporated areas of the County. Florida Statutes Chapter 509 has created a category of temporary lodging called vacation rental, which is a dwelling unit rented more than three (3) times per year for periods less than one (1) month, but is not a Timeshare. State law prevents local governments from prohibiting vacation rentals or regulating their duration or frequency; however, local government regulations may be adopted to address compatibility issues with surrounding residential properties, including noise, parking, and the number of persons occupying a vacation rental unit. Requirements of the new proposed regulations would include a maximum occupancy of two (2) persons per sleeping room, a landline telephone capable of contacting 911 on a 24 hour basis, and for each sleeping room in excess of two (2) rooms, an additional parking space would be provided. The amendments would establish a registration process and require certification by the owner or other responsible party that all requirements are met while tenants occupy the units. As a result, County Staff would have a record for each unit of a location, maximum occupancy, ownership, and persons responsible in the event of a violation. Violations could be addressed through the Code Enforcement process of Chapter 53 of the County Code. Also, the County Manager would have the power to revoke or suspend the Certificate of Compliance for vacation rental facilities upon a finding of repeat violations. Staff recommends approval of the proposed Code Amendments to provide regulations for vacation rentals as defined in Florida Statutes Chapter 509.242 within unincorporated Seminole County.

**\*\*\*\* Commissioner Jeanne Miller arrived late to the meeting at 6:11 p.m. \*\*\*\***

Commissioner Rob Wolf asked if this is reactive or proactive, if complaints have driven us to do this, and is this like an AirBnB. Mr. Hopper stated yes, that is the idea.

Commissioner Wolf asked if this would be up to the owners to disclose and register themselves or how would the County find out. Mr. Hopper responded that it would be a question of them bringing us an application within 60 days from the date of application. Commissioner Wolf asked what would be the motivation for them to do it unless they receive some sort of complaint.

Commissioner Carissa Lawhun stated that she understands the enforcement mechanism is Code Enforcement and it was referenced that some complaints were from neighbors about parking and noise.

Commissioner Wolf stated that Code Enforcement is a very weak arm of the County and wonders, although good in spirit, how effective it will be as well as how much it would cost to manage.

Commissioner Matt Brown stated that he would like to hear about the complaints and the proactive/reactive answer from the Senior Assistant County Attorney.

Paul Chipok, Senior Assistant County Attorney, responded to these questions by stating that the answer is a little bit of both. He further stated the following:

- \* On our books right now, there is nothing to address these vacation rental types of situations.
- \* State Statutes prevent us from prohibiting vacation rentals or regulating their duration or frequency, which is in the Preamble and Whereas clauses in the Ordinance.
- \* When complaints related to vacation rentals have occurred in the past, we have had to rely on other provisions of the Code which are not always effective when applied to vacation rentals.
- \* For example, with regard to parking, if you have a home that has more bedrooms than normal, there are no requirements for additional parking.
- \* However, if you're using it as a vacation rental under this Ordinance, you would have to accommodate parking for the additional bedrooms.
- \* We are trying to address the concerns and the practical applications of using a facility or a residential structure as a vacation rental.

Commissioner Wolf asked if this would be an existing subdivision and a house next to you could be one of these houses, Mr. Chipok responded that it can be so now.

Commissioner Wolf asked how this differs from someone leasing a house. Also, is there a distinction in the Code where the rental becomes more of a commercial operation and therefore not allowed? Mr. Chipok responded that you can rent out any piece of property. He further stated that if it's a longer term rental for residential purposes, there is really no discernable distinction between home ownership and rental in that situation. Commissioner Wolf stated that a niche is being created for these vacation rentals and asked if they are trying to say it's a commercial operation in an urban environment. Mr. Chipok responded that the niche has already been created. He further stated that under State Statutes, if you're leasing property on a short term basis, or 30 days, then you need

to register with the State and pay the appropriate taxes and also the Tourist Development Tax. Mr. Chipok further stated that we cannot prohibit short term vacation-type rentals, as under State Statutes we are pre-empted. However, we can regulate certain aspects of the process. In order to balance between the private property rights of the homeowner that wants to use his property as a vacation rental unit, lease it out on a short term basis, and the rights of the surrounding neighbors, who have bought into a single family neighborhood in anticipation of that neighborhood being operated as a residential community, these regulations are geared towards attempting to minimize the impacts on the surrounding neighborhood.

Commissioner Wolf asked if enforcement would be proactive or reactive and would someone research the websites, like an AirBnB website, to see if there are places in the County that are available and not registered, or will it just be based on complaints. Mr. Chipok responded that there is a provision that states within so many days of the Ordinance there will be a notice program put out in general to notify people that the Ordinance has been adopted and that there is a compliance period. Beyond that he is not sure and he would anticipate like most of the County's Code Enforcement provisions, they are more reactive than proactive.

Commissioner Lawhun stated that it reads like it is driven on complaints, because the wording is centered on parking, noise, and little bit of safety. She asked if some things have been left out. She stated that she's aware of other counties that do things such as a minimum number of days or nights that can be leased to keep it from being like a hotel. It can also keep out commercial activities, like larger properties being rented for a wedding for a day. She stated that she knows Brevard County has a minimum of seven (7) nights, and she's not sure if this would be the appropriate vehicle for that, but if this is in reaction to complaints then this may help address it.

Mr. Chipok responded that in regards to the duration or frequency of the rentals, State Statutes specifically prohibits us from doing that. He further stated that there was a grandfathered provision in there, but the Ordinance would have had to be in existence prior to 2011.

Commissioner Brown asked about Group Residential Homes and do we have similar requirements that were just addressed, like having the land line for 911 and parking requirements. Mr. Chipok responded that those facilities are specifically regulated by the State and if they are a Group Residential Home, they are recognized and permitted through the State. He further stated that on vacation rentals, other than having to register with the State and pay the appropriate taxes, there are no operational requirements on these vacation rental facilities at the State level.

Commissioner Brown asked if he knows how many complaints we've had in the past year where Code Enforcement had to get involved because of what we suspect was an AirBnB. Mr. Chipok deferred to the Acting Planning & Development Manager.

Kathy Hammel, Acting Planning & Development Manager, responded that they have not kept a count on the number of complaints that have come in from Code Enforcement. She further stated that there are numerous AirBnB's throughout the County.

Commissioner Wolf asked if Staff had an estimate of how many of these types of residences are located in unincorporated Seminole County, and Mr. Chipok responded that there are about 350.

Commissioner Lawhun asked about the Economic Impact section where it states that it is expected to have limited or no impact to the County. She further stated that if there are 350 of these, then the County is foregoing some Tourism Tax that it otherwise should be paid, unless the Tax Collector's office has some kind of process where they look for these. Mr. Chipok responded that he doesn't know what our sister agencies do, specifically in this matter, but in regards to enforcement it is anticipated to be complaint driven.

Commissioner Wolf asked if the County can include in their motion, that it include active, rather than complaint-driven, Code Enforcement.

Commissioner Lawhun stated that the County would be entitled to 5% of the rental revenues from any of these and she thinks they may be flying under the radar.

Mr. Chipok stated that this is an emerging area and we are trying to address it as appropriately as we can. He further stated that with emerging technology, this situation didn't exist 10 years ago. He said that there are bits and pieces already in place through State Statutes, which make it very clear that we cannot prohibit these types of activities. What we are trying to do with this Ordinance is to provide a degree of safe-guard to the residents in the neighborhoods and also to the renters of these properties, because a lot of this is geared towards providing information for the renters so that they have appropriate knowledge of safety resources -- hospital facilities for example.

Commissioner Lawhun stated that even if enforcement would be challenging right now, having an Ordinance like this might be a vehicle that we could amend as we learn more, should there be other changes at the State level.

Mr. Chipok stated that from an enforcement standpoint, the majority of our Code Enforcement is reactive and it would be a policy decision for the Board of County Commissioners if they wanted to be more proactive, and it is within their prerogative to do so.

Commissioner Brown asked if there are costs for someone to register with Seminole County and Kathy Hammel stated that they are looking at an application fee of \$75.00, which would need to be approved by the Board of County Commissioners. At this time it is only a proposed fee and has not yet been adopted. Commissioner Brown asked if the \$75.00 fee would run continuously as per the Code until the property stops being an AirBnB or would it be an annual fee. Ms. Hammel stated it would be an annual fee.

Commissioner Wolf asked if we would get the 6% tax plus the tourism tax on the rentals. The Board discussed this and Commissioner Wolf stated that he would think the application fee should be as low as possible, since the revenue is not from the fee it's from the use of the rental.

George Sellery, of Sanford, stated that he is in the unincorporated area of Seminole County and in the Lake Forest HOA, which he is representing. He further stated the following:

- \* Code Enforcement is run by the Sheriff's Office with five (5) employees, they don't work nights or weekends, and is the main issue.
- \* He doesn't have a problem with the County Ordinance so far as it has been put forth.
- \* This is a big issue, which Mr. Chipok indicated earlier being pre-emptive on the State's part, because there is a huge vacation rental Lobby really lobbying for this.
- \* This year on the last day of the session, they failed to get language into the HOA Statute in Chapter 720; specifically that would pre-empt governance and governing documents from not allowing these type of rentals. It failed at the last minute.
- \* The history reflects that most of the communities in unincorporated Seminole County are primarily HOA's and a lot of them are gated.
- \* Being that way and having private roads, their tax dollars go to the County, but they don't come back to us.
- \* We do not get sidewalks, roads, or regular Sheriff's patrols, which they have to pay for those, unless there is a 911 call.
- \* Primarily they have enterprise funds, which are water, sewer and garbage.
- \* State and County oversight for HOA's is typically limited to health, safety and welfare types of items and why it was so strange for the Legislature to come after HOA's.
- \* The reason is because that is where people want to have vacation rentals.
- \* Wouldn't it be great to have one in Isleworth so you could walk by Shaq's house and homes in Alaqua?
- \* The HOA's are liable for their roads and whatever happens in their community.
- \* He started out in Deltona in the 1980's and it was a beautiful area until everything changed with fire pits in the front yard, purple houses, Christmas lights up all year long, 9' statues in the front yard, and nine cars parked in front yards.
- \* He gave up his property rights, somewhat, by going to an HOA in Seminole County in lieu of the greater good; meaning the entire community has their governing documents.
- \* Anyone who lives within an HOA understands those are the rules that everyone has agreed to live by.
- \* House Bill 841 failed on the last day and they know that is coming back again.
- \* Most of the HOA's have governing documents that are very old and they are all in the process of updating these documents, including Heathrow and Alaqua, to address the vacation rental issue.
- \* The problem they have with the way the Ordinance is written is that for example, he could buy a house right next to someone, own the house and rent out rooms to UCF students, who sit in their front yard and drink beer all night long.
- \* Call the Code Enforcement officer on Friday night and you'll see someone on Monday or Tuesday and then it's a "he said/she said" type of thing.

- \* He understands where the County is going with this, but it's difficult, and he applauds them. He feels there should be more added to it.
- \* They have rules in their neighborhood, but the first thing they hear is "I didn't know" as they don't look at the County Ordinance and no one will really know right away on this.
- \* What he is asking, as this Ordinance goes forward, is language that is written in the Backyard Chicken Ordinance, under Section 20.161 – Intent/Definitions:

*This Ordinance does not authorize persons to violate applicable restrictive covenants or homeowner's association rules and regulations. The County does not police or enforce private restrictive covenants or homeowners' association rules and regulations. Persons applying for and receiving (temporary goes away) permits under this Ordinance are solely responsible for compliance with all applicable restrictive covenants and homeowners' association rules and regulations.*

- \* They would like this language used and included in this Ordinance.
- \* They have rules and they say they don't allow backyard animals in the HOA.
- \* This is putting some of the onus on the HOA's, but it doesn't help those who live in unincorporated Seminole County.
- \* Code Enforcement is reactive, they just don't have enough people, and it's been that way for a number of years.
- \* There are ways to strengthen this.
- \* Regarding occupancy, it says two (2) per room, but it also allows three (3) children ages 13 and under. That is five (5) in a room.
- \* If they're not staying the night, they can double that, the way he is reading the Ordinance.
- \* If they do stay the night, then you have to contact Code Enforcement two (2) days later and prove that they did or they didn't.
- \* They have a lot of amenities in Lake Forest with a junior Olympic swimming pool, a lot of tennis courts, and a basketball court.
- \* They have enough issues with neighboring communities trying to get in and use those.
- \* They would hope that since they're paying for them and AirBnB people are not, that the Board would consider including this language in the Ordinance.
- \* Hopefully, if they get another chance at this, it will be advertised not in the Thursday newspaper in the fine point legal ad, which he knows is required by State Law, but they're going to put it on Nextdoor.
- \* The County sent him six (6) different things this week on Nextdoor and they will put these issues on Nextdoor, so that all of the public can see what impacts them and give the Board the input they need from the public.

Commissioner Jeanne Miller ask about F.S. Chapter 720 and when they change their HOA rules is that going to require a 100% change or an 80% change. Mr. Sellery responded no, most of them are 50% plus 1 of the membership. They have already talked to their membership and it's about 99 to 1 and the only one person against it is somebody that is running an AirBnB. He further stated that everybody is worried about this. There is language in the State Statute about sexual offenders. Is the name of an AirBnB guest

going to be run through the State database before they rent it out? You don't know who you're going to get.

Commissioner Miller re-stated that her question was about what the percentage was to have the Bylaws changed in F.S. Chapter 720 and he thinks it is 50%. Mr. Sellery stated that the Legislature is trying to change it, but usually for all HOA's it is 50% plus 1 voting membership.

Commissioner Brown asked if the person that owns the home is paying dues to the HOA and Mr. Sellery responded yes, they are paying the same dues. Commissioner Brown then stated that they would have the use of the amenities.

Commissioner Brown stated that he's been an AirBnB person in communities and they're not sexual predators, just coming in to have a nice time, and not actually in the house that much, because they're out doing what they want to do in the community.

Mr. Sellery stated that he agreed, but he also stated that there are nefarious folks out there that would use that as a way to get into an exclusive gated community. He further stated that there are also a bunch of liability issues associated with that. When the resident brings in their own guest, that resident is aware of what is going on and they usually don't have any control. They are gated like Alaqua and Heathrow. Guests using AirBnB's are a little bit different than the residents of a community.

Chairman Michelle Ertel stated that his concern is about an undesirable type of person coming into the community and making a mess of the neighborhood. Mr. Sellery responded yes and the liability issue, which they are responsible for if something happens in their community.

Commissioner Miller stated that the HOA has the ability to control it in their neighborhoods, but vacation rentals in the rest of the County could potentially have registered sex offenders without neighbors being aware.

Mr. Sellery stated that Lake Forest is very wooded and rural and the reason why they weren't in favor of chickens is because they attract rats. That is why in Lake Forest's governing documents they don't allow those kinds of animals in their neighborhood. This is the same reason why they try to shy away from orange and other fruit trees, because they attract bears. He is asking that HOA's be given the same courtesy until they can all address this issue. Mr. Sellery stated that he talked with Alaqua Lakes tonight and they weren't aware of this issue, but they'll come back to the Board meeting and he can get Sweetwater, Magnolia Plantation, Wekiva, and a ton of the HOA's here if they need to talk about this further.

Commissioner Wolf stated that they are just a recommending body, but this does go to the Board of County Commissioners and that is where they'd want to show up.

Mr. Sellery stated to the Board that he hopes that they will add and recommend this language to their motion.

Commissioner Wolf asked if the recommended Backyard Chicken Ordinance language condition is something this Board could impose. Mr. Chipok responded that the Backyard Chicken Ordinance is in the Seminole County Code rather than the Land Development Code. The County Code does not have blanket existing language stating that its provisions do not override private deed restrictions, and therefore this language was needed in the Backyard Chicken Ordinance. However, the vacation rental Ordinance would be part of the Land Development Code, which states, in Chapter 30, Section 30.48, that the Land Development Code operates independently of private deed restrictions and that the provisions of this Code do not repeal or rescind private legal rights and obligations between private parties. In other words, the Land Development Code already contains broad language addressing this situation. Mr. Chipok stated that the Land Development Code acknowledges that there are private deed restrictions in certain communities, and does not supersede additional restrictions made privately between parties.

Commissioner Wolf stated that this language is inherent and Mr. Chipok responded that the language is already in there as part of the overriding Land Development Code section and all of Zoning.

Commissioner Brown asked if the Florida Statute overrides an HOA, whereas an HOA says they don't want to have an AirBnB or any short term rental. Mr. Chipok responded that Florida Statute Chapter 509 addresses local laws, ordinances, and regulations, so anything the local government would put in place is pre-empted. As far as private deed restrictions, to his knowledge, there is no prohibition at this time. However, there was a proposed amendment to the HOA regulations this past year. Commissioner Brown said they could pass it and then they wouldn't have it in their community. Mr. Chipok responded that is happening at the State level and we have no control over that.

Commissioner Wolf asked whether from a legal position the requested supplementary language is redundant and Mr. Chipok responded that it is already in there. Commissioner Brown asked if he is saying don't add this information and Mr. Chipok responded it is already in there.

Mr. Sellery stated that respectfully, there is only one person in this room that's going to know this and if you're going to run an AirBnB and they are given the Ordinance, are you going to look at the Preface of the Land Development Code to know that doesn't apply. If somebody from Lake Forest comes into the County and asks for the Ordinance, there is nothing there, unless somebody in Planning & Development says they need to read the top of Chapter 30 that private deed restrictions are applicable, will be the only way somebody's going to know. He further stated that even Code Enforcement won't know that. He stated that he agrees it's probably there, but there's nothing that precludes it from being at the start of this Ordinance to reinforce that to anybody that's reading it.



Grey Wilson, of Heathrow, stated that he applauds the County Attorney for bringing this forward and he thinks it is a good idea. He further stated the following:

- \* He's had three (3) rental properties, mainly VRBO, and this language is a good start.
- \* He is in a community that restricts rentals to a one year lease.
- \* The lobby wants to get the language in there, so the HOA's cannot restrict it and they don't consider it a lease, they are defining vacation rentals as a separate category.
- \* Even though Heathrow has a one year restriction, it doesn't apply to a vacation rental.
- \* It's good that the County is getting ahead on this.
- \* His concern is that sales tax needs to be included and wondered if the County was getting any of that.
- \* He suggests it be funded as it looks like it is an unfunded mandate.
- \* People have to fill out an application for this and he asked who is going to enforce it.
- \* George is an expert on Code Enforcement.
- \* The County is going to be shackled with this and he doesn't know what department is going to oversee it.
- \* He sat on this Board 20 years ago and this is where the comments need to be heard.
- \* He thinks it is something that needs to be carefully looked at with more participation, rather than just moving it forward.
- \* Unless this Board is 100% clear on this document and how it should go forward, he thinks it needs more time and more advertising.
- \* He thinks input from the HOA's is important.
- \* He is not representing Heathrow, but he's spoken with Blaine, and he thinks there are seven or eight communities there and each of their community's Chairperson votes on a document change and then they inform the owners.
- \* Each association does it differently.
- \* The HOA's should be notified directly on this issue.
- \* Seminole County is probably 60% HOA's.
- \* This Ordinance is important to protect the HOA's.

Commissioner Brown asked if we include the recommended language into the Ordinance will they just take it back out. Mr. Chipok stated under Part 3, Chapter 30 Administration, Section 30-48. Mr. Chipok read the following:

*Interpretation of Code – The provisions of this Chapter shall operate independently upon property subject to the Land Development regulatory authority of Seminole County notwithstanding any private legal relationships between and among various land owners. Although land owners may have legal rights and obligations with regard to one another, the provisions of this Chapter shall operate independently of such obligations, but do not repeal or rescind such legal rights and obligations.*

Mr. Chipok stated that they don't enforce private deed restrictions.

Further discussion occurred between the Board and Staff.

Mr. Chipok stated that it is not an annual registration it is a one-time permitting fee. He added that administratively, they don't want to have a department of short-term rentals, so it is a one-time registration requirement for the permit, which lasts until a change of ownership or the permit is otherwise revoked.

A motion was made by Commissioner Rob Wolf, seconded by Commissioner Carissa Lawhun to Approve and Refer the Vacation Rentals Land Development Code Amendment to the Board of County Commissioners, with the Condition to incorporate the following language into the Ordinance:

*"This Ordinance does not authorize persons to violate applicable restrictive covenants or homeowners' association rules and regulations. The County does not police or enforce private restrictive covenants or homeowners' association rules and regulations. Persons applying for and receiving permits under this Ordinance are solely responsible for the compliance with all applicable restrictive covenants and homeowners' association rules and regulations".*

*Ayes 5: Chairman Michelle Ertel, Commissioner Matt Brown, Commissioner Carissa Lawhun, Commissioner Jeanne Miller, and Commissioner Rob Wolf*

*Absent 2: Commissioner Jennifer Dane and Commissioner Richard Jerman*