

**MEMORANDUM**

To: Courtney Barker, City Manager  
From: James P. Beadle, City Attorney

Re: Short-Term/Vacation Rentals

Pursuant to your request regarding the City's regulation of short-term/vacation rentals, the following is provided.

***(A) Current Regulatory Environment***

**(i) State of Florida**

The Florida Legislature adopted legislation in 2011 that preempted the ability of local governments to regulate short-term/vacation rentals, §509.032(7)(a), Florida Statutes, unless a local government adopted a "local law, ordinance, or regulation" regulating these uses "on or before June 1, 2011." See §509.032(7)(b), Fla. Stat. That preemption excluded "the authority of a local government or local law enforcement district to conduct inspections . . . to ensure compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206."

At the time of adoption of this preemptive legislation, the City had in place certain regulations regarding short-term/vacation rentals. As such, the City's regulations would fall within the exception to the preemption language contained in §509.032(7)(b).

**(ii) City of Satellite Beach Regulations**

The City has not allowed short-term/vacation rentals or transient rentals as permitted, conditional or accessory uses since its incorporation in 1957 (with three limited exceptions that will be discussed below). Further, the City's land development regulations prohibit any use not authorized as a permitted, conditional, or accessory use. Sec. 30-421, Satellite Beach City Code. Because they are not a permitted, conditional or accessory use, short-term/vacation rentals are prohibited under the general land use regulations of the City.

The only instance where the City allowed what can be considered short-term/vacation rentals was a code amendment to the RM-3 zoning district in 2007. In that situation, the City was requested by several condominiums to authorize an amendment to the general prohibition on short-term/vacation rentals only for condominiums east of A1A. The City Council favorably considered the proposed amendment, but only for the RM-3 zoning district based, in part, upon the unique characteristics of condominiums in the City as it related to this issue. The following amendments were made to the code, which were referred to as "resort dwellings," and remain in place to date:

**Sec. 30-415. — RM-3, residential-mixed use district.**

\* \* \* \* \*

(b) *Permitted Uses.* Permitted Uses are as follows:

\* \* \* \* \*

(5) Resort dwelling rental.

- a. East of Highway A1A.
- b. 30-day minimum rental period.
- c. Local Management. Each resort dwelling shall have a designated local manager. Contact information for the local manager shall be on the local business tax receipt and shall include a 24-hour contact number. The information shall be posted in each dwelling unit and on the property in a manner visible from the public way. The posted information shall include the non-emergency police number.
- d. Penalty. The resort dwelling's local business tax receipt may be revoked under the following conditions: Code enforcement finds a violation or recurring violation of the Satellite Beach Code of Ordinances or by another means provided by law.

“Resort Dwelling” is defined in Sec. 30-107, *Definitions*, Satellite Beach City Code to “mean any unit in a multi-family dwelling which is rented for less than 181 days.”

The City adopted various regulations in 2008 to address issues related to home occupations in single-family residential zoning districts of the City. These regulations provided in relevant part as follows:

**DIVISION 1. — HOME OCCUPATIONS.**

**Sec. 30-601. — Intent.**

This section recognizes that the intended purpose of residential zoning is the quiet enjoyment of one's home. Home occupations are not authorized by residential zoning; they are allowed only when specifically authorized by the city council. While there are always other locations to conduct any business, residential areas are the only place where city residents can peacefully enjoy their homes. Accordingly, any home occupation that interferes with another's quiet enjoyment of home is inappropriate in a residential area.

**Sec. 30-602. — General provisions.**

(a) The use of a residence for any home occupation shall be clearly incidental and subordinate to its use as a residence.

\* \* \* \* \*

(c) No interruption, congestion, or change in the character of the neighborhood in terms of appearance, noise, traffic, or vehicular parking shall result from the operation of a home occupation.

\* \* \* \* \*

**Sec. 30-605. — Business Activities.**

\* \* \* \* \*

(c) No business activity . . . shall create a nuisance or hazard due to noise, traffic .

...

**Sec. 30-606. — Prohibited Uses.**

(a) Any use which brings clients, prospects, customers, buyers . . . patrons, or traffic to the home.

\* \* \* \* \*

(c) Tourist or transient residential units, including any business commonly referred to as a bed and breakfast.

(d) Any business or occupation conducted in or from a residence where the business owner does not reside full time.

As noted in Sec. 30-606(c) of the City Code, these regulations specifically acknowledged and reinforced the prohibition of tourist or transient rentals, which are now commonly referred to as short-term/vacation rentals.

To the extent the creation of §559.955, Florida Statutes, regulates home occupations, that legislation’s preemptive language does not apply to transient public lodging, otherwise exempt under ch. 509, Florida Statutes §559.955(5)(5)(9b), Fla. Stat. which includes short term/vacation rentals. As noted above, the City’s regulations pre-dated June 1, 2011.

The only other instances where the City has allowed what can be characterized as transient uses were for hotel uses on two separate occasions, which were specifically authorized by City Council. The first was for a Ramada Inn approved as a conditional use in 1984, which was built east of Highway A1A. The Ramada Inn was damaged in the 2004 hurricanes and never reopened. The property upon which the Ramada Inn was located is currently the site of the Oceana Condominiums. The second hotel use was the result of 2019 ordinance allowing hotels as an approved commercial use in the CITY’s PCN-3 PUD zoning district fronting A1A (“The Vue”), and the subsequent conceptual plan approved the same year. That hotel has yet to be constructed.

***(B) Application to short-term/vacation rentals in Satellite Beach***

The preemption by the State of Florida, and its treatment of short-term/vacation rentals as “transient public lodging establishments” clearly recognizes these uses as commercial enterprises subject to licensure. The City has clearly prohibited such uses except for the three occasions noted. Because the City’s regulatory framework predated the June 1, 2011 legislative preemption date, the City’s regulations remain in effect and short-term/vacation rentals are prohibited in the City other than as may be permitted pursuant to the regulations contained in its RM-3 zoning district.

The City also recognized these transient uses as commercial/non-residential uses that are specifically prohibited in its single-family residential zoning districts by Sec. 30-606(c) of the City Code. However, it is my understanding that staff, at one point, took the position that property owners could rent out a room in their home as long as they continued to reside in the home. Apparently, that was based upon an interpretation construing Sec. 30-606(c) and (d) together. In reviewing the plain language of those two sections, as well as the other subsections of Sec. 30-606, each of the subsections of Sec. 30-606 constitute separate and distinct prohibitions. These subsections are not cumulative, but are separate prohibitions. Further, the tourist or transient rentals prohibition is an outright prohibition, while the prohibition in subsection (d) is conditional - only if the owner of a business or occupation does not reside full time in the residence.

Based upon the foregoing, short-term/vacation rentals are prohibited in the City other than pursuant to the requirements set forth in the City's RM-3 zoning district.

Please advise if you wish to discuss further or have any questions about any of the foregoing.