

**TAB 3**

**POINT PAPER  
SHORT TERM OCCUPANCY ORDINANCE**

**FEBRUARY 18, 2008**

**Issue:**

The City currently does not have any regulations that prohibit the rental of residential units for a period of less than 30 days.

**Background:**

It is important to the preservation of the quality of life in residential neighborhoods that homes are not rented by the day or the week. Homes that are rented by the week not only function as commercial properties (i.e.: hotel/motel), but also have the propensity to become a nuisance in that vacationers are more prone to behaviors atypical of normal working families. Vacationers also may not maintain the property in a manner consistent with standards observed by more permanent residents.

Staff has recommended application of restrictions on the term of rentals in zoning categories RS-1, RS-2, RS-3, RS-4, ER, RM-5, PDH and PDMU (where applicable). The restrictions would not apply to RM-6 because boarding houses are permitted by right in this zoning district. In addition, the restrictions would not apply to MHP-1, because of the permitted use of rental to travel trailers, which is transient in nature.

At the February 2, 2008 Workshop Meeting, the City Commission expressed concern that the proposed ordinance unfairly burdened owners of real property who (1) purchased their property with the expectation of renting it out for short periods of time, or (2) were forced to rent their property out for short periods of time due to the fact that the current real estate market makes it difficult to sell real property for a reasonable price.

The attached draft ordinance includes revisions (shown in track changes format) intended to address City Commissions concerns. Staff welcomes additional comments.

**City Commission should provide staff with feedback to allow for any necessary revision then scheduling for first reading and advertisement.**

ORDINANCE NO. 08-\_\_

**AN ORDINANCE OF THE CITY OF PALMETTO, FLORIDA, PROVIDING FOR REGULATION AND AMORTIZATION OF SHORT TERM RENTALS AND OCCUPANCY IN THE ER, RS-1, RS-2, RS-4, AND RM-5, PD-H AND PD-MU ZONING DISTRICTS; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR AMENDMENT OF APPENDIX B, THE ZONING CODE, OF THE CITY CODE OF ORDINANCES BY ADDING ARTICLE VI, SECTION 6.22; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

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WHEREAS, the City of Palmetto, Florida ("City"), pursuant to Article VIII, Section 2(b), Florida Constitution, has governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services; and,

WHEREAS, pursuant to the referenced provision of the Florida Constitution, the City may exercise any power for municipal purposes except as otherwise provided by law; and,

WHEREAS, the above-referenced constitutional provision has been implemented by Section 166.021, F.S., et. seq., "The Municipal Home Rule Powers Act," authorizing municipalities to conduct municipal government, perform municipal functions and render municipal services and to exercise any power for municipal purposes except when expressly prohibited by law; and,

WHEREAS, a proper municipal function and purpose is the regulation of land uses within the City; and

**WHEREAS**, the City Commission previously has adopted zoning regulations that regulate commercial and residential uses of property within the City; and

**WHEREAS**, the primary purpose of such regulations is to provide for compatibility of land uses; and

**WHEREAS**, the City Commission is cognizant of the fact that there has been an increase in residentially zoned property being used for commercial purposes, such as short term vacation rentals and other transient accommodation uses; and

**WHEREAS**, such commercial-type uses frequently cause impacts that adversely affect the character and viability of residential neighborhoods, such as an increase in traffic and the number of vehicles parked at residences, excessive noise and improper disposal of refuse; and

WHEREAS, the City Commission seeks to reduce or eliminate such adverse impacts while allowing those who invested in real property prior to adoption of the ordinance to realize a reasonable economic return; and

**WHEREAS**, the City Commission finds that regulation of the short term occupancy of dwelling units or parcels in certain residential zoning districts is in the best interests of the public health, safety, and welfare.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PALMETTO, DULY ASSEMBLED THIS DAY, THE FOLLOWING:**

**Section 1. Findings of Fact.** The above referenced "whereas" clauses are adopted herein as findings of fact.

**Section 2. New language.** Appendix B, Article VI of the City of Palmetto Code of Ordinances is hereby amended by adding a new section 6.22, to read in its entirety as follows:

**Sec. 6.22. Prohibition against short-term occupancy.**

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*(a) Applicability.* The following regulations govern short term occupancy in the ER, RS-1, RS-2, RS-3, RS-4, RM-5, PD-H and PD-MU zoning districts:

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- (1) No dwelling unit or parcel shall be leased, subleased or occupied in exchange for any form of compensation for a term of less than 30 consecutive days by an individual or individuals who do not have an ownership interest in the dwelling unit or parcel.
- (2) No timeshare interval associated with any dwelling or parcel shall be for a term of less than 30 consecutive days.
- (3) No dwelling unit owned, leased, or occupied by any corporate entity (including not-for-profit entities), shall be made available to employees, contractors, subcontractors, executives, officers, clients or guests of said corporate entity for periods of occupancy of less than 30 consecutive days.
- (4) These short term occupancy regulations shall not apply to properly permitted bed and breakfast homes.

The City Commission shall have the authority to permit exceptions to the above regulations within the PD-MU zoning category provided that such exceptions are expressly set forth in the development order approving the general development plan for the subject property.

*(b) Amortization of nonconforming uses.* The following amortization provisions shall apply to nonconforming uses:

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(a) Any use of real property existing on [date of adoption of ordinance], which does not conform to the provisions of this section, but which was constructed, operated and maintained in compliance with all previous regulations governing said use, shall be regarded as a legal nonconforming use which may be continued until [ X years after adoption of ordinance].

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(b) The owner or operator of a nonconforming use may apply to the City Commission for an extension of time within which to terminate the nonconforming use. An extension shall be for a reasonable period of time commensurate with the investment involved and shall be approved if the City Commission makes all of the following findings or such other findings as are required by law:

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(1) The applicant has made a substantial investment (including but not limited to lease obligations) in the property or structure on or in which the nonconforming use is conducted and such investment was made prior to [date of adoption of ordinance].

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(2) The applicant will be unable to recoup said investment as of [date of adoption of ordinance].

(3) The applicant has made good faith efforts to recoup the investment and to relocate the use to a location to meet the requirements of this section.

(c) Any application for an extension of the amortization period shall be made prior to the expiration of the amortization period unless the commission determines that good cause exists for the late filing of the application. Application shall be made in writing to the [City Planner? City Clerk] and shall be accompanied by the required fee.

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**Section 3. Repeal of Ordinances.** This Ordinance hereby repeals all ordinances and parts of ordinances in conflict herewith to the extent of such conflict.

**Section 4. Severability.** It is the intent of this Ordinance to comply with all applicable law and constitutional requirements. If any provision, paragraph or section of this Ordinance or the standards and codes adopted hereby, shall be determined by a court of competent jurisdiction to be inapplicable, illegal, unenforceable or unconstitutional, then to that extent such provisions or portions shall be deemed null and void, but the remaining provisions of this Ordinance shall be in full force and effect as applicable.

**Section 5. Effective Date.** This Ordinance shall take effect as provided for by law and by City Charter, Section 14 upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

<b>FIRST READING</b>	
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PUBLICATION DATE	
SECOND READING	

PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, with a quorum present and voting, in regular session assembled, this \_\_\_\_, day of \_\_\_\_\_, 2008.

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CITY OF PALMETTO, FLORIDA, BY  
AND THROUGH THE CITY COMMISSION  
OF THE CITY OF PALMETTO

By: \_\_\_\_\_  
LAWRENCE E. BUSTLE, JR. MAYOR

ATTEST: James R. Freeman

By: \_\_\_\_\_  
City Clerk/Deputy Clerk

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