Short-Term Rentals

Statement:
The Florida League of Cities SUPPORTS legislation that restores local zoning authority with respect to short-term rental properties, thereby preserving the integrity of Florida’s residential neighborhoods and communities. The Florida League of Cities OPPOSES legislation that preempts municipal authority as it relates to the regulation of short-term rental properties.

Background:
In 2011, the Florida Legislature prohibited cities from regulating short-term vacation rentals. A short-term vacation rental is defined as a property that is rented more than three times a year for less than 30 days at a time. The legislation passed in 2011 included a provision that “grandfathered” any ordinance regulating short-term rentals prior to June 1, 2011. Since that time, a number of cities, both “grandfathered” cities and those that did not have an ordinance in place, have experienced problems with these properties. The effect of the 2011 law is that two separate classes of cities were created respective to short-term rentals, those with Home Rule authority and those without.

In 2014, the Legislature passed SB 356 (Thrasher), which diminished the preemption on short-term rentals. The 2014 law allows local governments to adopt ordinances specific to these rentals so that they can address some of the noise, parking, trash and life-safety issues created by their proliferation in residential neighborhoods. Unfortunately, SB 356 left in place existing statutory language stating that cities cannot “prohibit” short-term rentals or regulate the duration or frequency of the rental.

Those cities fortunate enough to have had an ordinance in place prior to the 2011 preemption are still allowed to regulate short-term rentals, but the question remains whether these ordinances will continue to be valid if amended. Some city attorneys believe these ordinances are “frozen” and any future amendments would cause a loss of the “grandfather.” The problem with this is twofold. First, with the rise of popular rental websites like Vacation Rental by Owner (VRBO) and AirBnB making it easier to advertise and rent these properties, the number of properties used as short-term rentals in Florida has exponentially increased in the last four years. Second, as a result of this enormous growth in the rental market, the scope of the problem has changed and ordinances adopted before 2011 may no longer be effective.

It is important to note that many of Florida’s larger cities (with a larger professional staff) fell into the grandfathered category. They have retained the ability to regulate these properties through zoning and may have duration and frequency requirements. Some of these cities may want to amend their ordinances to adjust to a changing problem. They are reluctant to do so out of fear of losing their existing ordinance and with it their Home Rule authority relating to short-term rentals. Recognizing that the ordinances on the books are no longer effective, cities want the ability to come up with solutions that work for their respective community, but because of the potential loss of the “grandfather,” they are unable to do so. It is important to note that any potential amendments to existing ordinances would be vetted through numerous public hearings that allow neighboring

Contact: Casey Cook, Senior Legislative Advocate – 850-701-3609 – ccook@flcities.com
homeowners, short-term rental owners, property managers and local businesses to weigh in on proposed legislation.

Cities without short-term rental regulations in place prior to June 1, 2011, have had their zoning authority stripped and are now seeing these rentals completely overtaking residential neighborhoods. Long-time residents are moving out as a result, and the residential character of traditional neighborhoods is slowly being destroyed.

The impacts of problematic short-term rentals on neighboring residents are felt in a number of ways:

**The Hotel Next Door – Commercial Activity in Residential Neighborhoods**

Houses that sleep 26 people are now present in what were once traditional neighborhoods. Because of the inability to regulate the duration of a renter’s stay, these houses could experience weekly, daily or even hourly turnover. Obviously, the constant turnover of renters creates a number of issues for cities and neighboring property owners. Prior to the preemption, local governments were able to regulate this activity through zoning. Short-term rentals have become increasingly popular in the last five years. Because a city cannot “prohibit” these properties, they are powerless to exclude them from residential neighborhoods. As a result, investors, many of whom are located out of state or even in a different country, have purchased or built single-family homes with the sole intent of turning them into short-term rentals.

Cities use zoning as a tool to prepare for their future growth and also use it to control where commercial and residential properties are located. Hotels have different infrastructure needs than single-family residential properties. As residential neighborhoods are developed, the infrastructure installed is designed for the future use of the properties. Many neighborhoods have infrastructure in place with capacity for up to eight people per house. Now there are houses in these very same neighborhoods that sleep more people than the number originally planned for, placing a significant strain on existing infrastructure. Commercial properties like bars, hotels and restaurants typically need more parking than a single-family property, as well as have different operating hours and experience greater noise levels. The current law removes important land use and zoning tools that will impact how a city plans for future growth and levels of service.

**Noise Complaints**

In areas where short-term rentals are situated, many neighboring residents complain of the noise generated by the vacationing renters next door. When people go on vacation, often their behavior changes. They may stay awake later, consume more alcoholic beverages throughout the day, or participate in recreational activities that they would not participate in while at their own homes, such as swimming at midnight with music blaring. For those homes located near water, a lake or the ocean, it is important to note that sound travels easily over water – and residents located hundreds of yards away may be the ones calling and complaining to the police and their local elected officials.

Some cities have noise ordinances, but these have proved problematic to enforce. One such example is Lighthouse Point. Its ordinance requires sustained noise over a certain decibel threshold for 10 minutes. Many times after the police arrive at a residence, the noise dies down. These renters may leave the next day with new ones replacing them. The new renters are often unaware of the noise ordinance or past complaints and may cause the same problems. The out-of-state property owner may not even be aware of the problems created by their renters and with the constant turnover. The

**Contact:** Casey Cook, Senior Legislative Advocate – 850-701-3609 – ccook@flcities.com
problem ends as one renter leaves and begins again as new renters arrive. This causes a significant
drain on law enforcement resources. When law enforcement officers are called to respond to noise
complaints, one less officer is on the street either preventing or solving crimes.

Parking
Many short-term rentals are located in single-family neighborhoods. In most cases, the driveway was
built to accommodate two or three vehicles. When you now have a renovated house that acts as a
small hotel, there will be more than three cars needed to get these renters to the property. This leads
to cars that are parked on the street, making it difficult for emergency vehicles to respond to
emergencies and causes increased response times in these neighborhoods. Cities have begun to
adopt ordinances creating parking standards for short-term rental properties. Unfortunately, these
ordinances only solve the parking issue but fail to address any of the other issues created by this
commercial activity in residential areas.

Revenue Issues
As stated earlier, a property rented more than three times a year for less than 30 days at a time meets
the vacation rental definition and should be licensed by the state. The Department of Business and
Professional Regulation (DBPR) is tasked with investigating unlicensed vacation rentals but lacks the
resources needed to fully investigate every complaint. Unlicensed vacation rentals could be costing
Florida millions of dollars each year from lost licensing revenue.

Licensed short-term vacation rentals and hotels are also required to charge a sales tax to renters and
then remit this back to the state. Many licensed and unlicensed vacation rentals are not doing this.
The Florida Department of Revenue (DOR) has limited resources and cannot adequately monitor
these transactions, costing the state millions of dollars in lost revenue. Similarly, short-term rental
owners in some counties are required to collect and remit the tourist development tax to the state.
DOR is often unable to track down the vacation rental owners who are not paying the tourist
development tax.

The Legislature began the conversation on short-term rentals in 2014, and the Florida League of
Cities supported both HB 307 (Hutson) and SB 356 (Thrasher). The bills were a step in the right
direction, but they only partially restored Home Rule to Florida’s cities. Cities are still prevented
from regulating the duration and frequency of the rentals, and local zoning does not apply to these
properties. Without the ability to regulate these key areas, local governments will not be able to
adequately address the problems associated with these properties.

Status:
There have been several short-term rental bills filed for the 2019 legislative session.

SB 824 (Diaz) and HB 987 (J. Grant) – Oppose
• Preempt to the state the regulation of vacation rentals
• Any ordinances (noise, parking, trash, etc.), must apply to all residential properties, regardless
  of how the property is being used
• Local governments cannot prohibit rentals (not just STRs), impose occupancy limits on
  rental properties, or require inspections or licensing of rentals (specific to STRs)
• Create a process where city must prove by clear and convincing evidence that their
  ordinance or regulation complies with this section

Contact: Casey Cook, Senior Legislative Advocate – 850-701-3609 – ccook@flcities.com
• Remove the grandfather clause; also potentially jeopardizes HOA restrictions
• Require applicants for STR license to provide name, address, phone number, and email to Department of Business and Professional Regulation (DBPR) who must make this available to the public on the division’s website.

SB 812 (Simmons) and SB 814 (Simmons) – Support
• Requires short-term rental (STR) registration to be displayed in the establishment and the registration number to be included in any listing or advertisement
• Defines “commercial vacation rental”: five or more units under common ownership
• Defines “hosting platform”
• Clarifies that rental units, in whole or in part, and advertised for rental periods for less than 30 days, are classified as STRs
• Requires the Department of Business and Professional Regulation (DBPR) to inspect commercial vacation rentals at least biannually
• Requires that non-commercial STRs must be made available for inspection upon request
• Requires that local governments treat all residential properties the same, regardless of use…but there’s an exception…In single family residences where the owner is not occupying a portion of the property where the rental activity is taking place (home sharing), local governments can adopt specific regulations to the rental
• Requires that STR owners give the city a copy of their state license and the owner’s emergency contact information. Cities can’t charge for this information.
• Says that grandfathered cities can amend their ordinances if it’s the changes are “less restrictive”
• Says that DBPR can refuse to issue or renew, or suspend or revoke, the license of any public lodging establishment that is the subject of a final order from a local government directing the establishment to cease operations due to a violation of a local ordinance
• Requires any advertisements to list the license number, and the ad must also include the physical address of the property
• Adds several new requirements on hosting platforms including a prohibition on facilitating a rental if the property has not been licensed by DBPR
• Requires the hosting platform to maintain rental records of every property advertised on the platform and requires DBPR to audit at least annually, with penalties for noncompliance or failed audits.

SB 1196 (Mayfield) – Support
• Defines “hosting platform,” and provides for more accountability of the platforms
• Requires Department of Business and Professional Regulation (DBPR) to collect information relating to the bookings of each short-term rental and share this information with cities upon request
• Expands definition of transient public lodging establishment to include “group of units in a dwelling”
• Requires a license to be displayed inside the STR and the license number to be included in all advertising
• Prohibits platform from facilitating a booking transaction unless the operator has consented to the disclosure of the required information

Contact: Casey Cook, Senior Legislative Advocate – 850-701-3609 – ccook@flcities.com
- Requires hosting platform to remove noncompliant ads within three business days of DBPR’s notification
- Requires DBPR to revoke, refuse to issue, or renew a short-term rental license when the subject property violates the terms of an applicable lease or property restriction OR the agency determines that the operation of a short-term rental violates a local law, ordinance or regulation.

SB 1720 (Lee) and HB 1383 (Grant) would significantly amend the Bert J. Harris Act. These bills could have a serious impact on local government operations and expose cities and counties to substantial liability, especially for those who receive a flurry of Harris Act claims relating to vacation rental ordinances. For more information on this set of bills see FLC’s Issue Brief on Private Property Rights “Bert Harris Act”.

Revised: 3/21/2019

Contact: Casey Cook, Senior Legislative Advocate – 850-701-3609 – ccook@flcities.com