

Agenda Item 20
Meeting of 12/17/08

ORDINANCE 08-12309

AN ORDINANCE RELATING TO INTERPRETATION OF THE CITY'S LAND DEVELOPMENT CODE AND TO THE DEFINITION OF "TRANSIENT LODGING FACILITY"; AMENDING SECTION 44-4 INTERPRETATION, SECTION 44-8 AND SECTION 58-1132, DEFINITIONS OF "TRANSIENT LODGING FACILITY AND TRANSIENT LODGING", OF THE CODE OF ORDINANCES, CITY OF NAPLES; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, it is beneficial to clarify that uses not permitted by this Code are prohibited; and

WHEREAS, the City of Naples has for a long time regulated the location of transient lodging facilities and has prohibited such facilities in many zoning districts; and

WHEREAS, a question has recently arisen as to whether one, two, three and four unit dwellings are included within the definition of "transient lodging facility"; and

WHEREAS, it is the intention of the City that transient lodging facilities continue to be prohibited in most zoning districts; and

WHEREAS, the City desires to clarify that the definition of "transient lodging facility" includes one, two, three and four unit dwellings and certain multifamily dwellings; and

WHEREAS, the City, by adopting this ordinance is not adopting a regulation of public lodging establishments to the exclusion of the state, but only confirming the locations where transient lodging facilities may not operate; and

WHEREAS, it is beneficial to make the definition more closely coordinate with Section 509.013, Florida Statutes (2007); and

WHEREAS it is critical to preserve the residential character of the City's existing residential neighborhoods through an appropriate allocation of non-transient occupancy and restriction of transient occupancy in residential neighborhoods;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That Section 44-4. Interpretation. of the Code of Ordinances, City of Naples, Florida, is hereby amended as follows with underlining indicating additions and ~~strikeout~~ indicating deletions:

Section 44-4. Interpretation.

- (a) In the interpretation and application of this land development code, all provisions shall be liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state statutes.

(b) No use, structure, condition or development shall exist upon any property unless permitted in its district and location pursuant to this code or by applicable general law.

Section 2. That Section 44-8. Definition of Transient lodging facility, of the Code of Ordinances, City of Naples, Florida, is hereby amended as follows with underlining indicating additions and ~~strikeout~~ indicating deletions:

Section 44-8. Definitions.

. . . .

Transient lodging facility means a hotel, motel, motor lodge, tourist court, or similar building or group of buildings in which sleeping accommodations and sanitary facilities are offered to the public and intended for rental to transients with daily, weekly or seasonal charge. A transient lodging facility includes a unit, group of units, dwelling, building, or group of buildings, within a single complex of buildings rented to guests more than 3 times in a calendar year for periods of less than 30 days or one calendar month, whichever is less; or which is advertised or held out to the public as a place regularly rented to guests for periods of less than 30 days or one calendar month, whichever is less. It does not include condominium common elements. A transient lodging facility is distinguished from multifamily dwellings (such as apartments) where rentals are for periods of a month or longer and occupancy is by residents rather than transients.

Section 3. That Section 58-1132, Definitions, of the Code of Ordinances, City of Naples, Florida, is hereby amended as follows with underlining indicating additions and ~~strikeout~~ indicating deletions:

Sec. 58-1132. Definitions.

. . . .

~~*Transient lodging facility* means a hotel in which sleeping accommodations and sanitary facilities are offered to the public and intended for rental to transients for periods of time less than a month. A transient lodging facility shall require a conditional use approval per section 46-34 shall have the same meaning as in Section 44-8.~~

. . . .

Section 4. If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 5. That all sections or parts of sections of the Code of Ordinances, City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

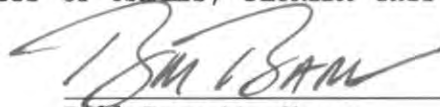
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Section 6. This ordinance shall take effect immediately upon adoption at second reading.


APPROVED AT FIRST READING THIS 3RD DAY OF DECEMBER, 2008.

PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 17TH DAY OF DECEMBER, 2008.



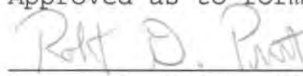
Bill Barnett, Mayor

Attest:



Tara A. Norman, City Clerk

Approved as to form and legality:



Robert D. Pritt, City Attorney

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Date filed with City Clerk: 1-2-09