

LODGING ISSUES

The 1999 Fort Myers Beach Comprehensive Plan examined prior regulatory treatments of hotels and motels and then established the basis for more appropriate development regulations for the town’s future.

Prior Lee County regulations had alternated between quite strict and quite lenient regulations for timeshare buildings, hotels, and motels, while distinguishing these uses from residential dwelling units by the existence or absence of full kitchens.

For many years Lee County set the number of hotel and motel rooms as either a multiplier of the number of permitted dwelling units or at fixed rates not connected to residential density. For example, just prior to incorporation, the county approved construction of the Diamondhead Resort because it complied with a 50-room-per-acre rule for convention hotels. The city of Sanibel uses multipliers that result in *fewer* motel rooms than the number of dwelling units that are allowed; as a result, developers simply do not build hotels or motels on Sanibel. (Further background discussion of these issues can be found on pages 4–19 through 4–20 of the Future Land Use Element.)

To set the town’s new policy, the 1999 Comprehensive Plan added Policy 4-C-6:

POLICY 4-C-6: MOTEL DENSITIES: The Land Development Code shall specify equivalency factors between motel rooms and full dwelling units. These factors may vary based on size of motel room and on land-use categories on the Future Land Use Map. They may vary between a low of one motel room and a high of three motel rooms for each dwelling unit. (These factors would apply only where motels are already permitted.)

To implement this policy, the new land development code defined the new term “guest unit” (to distinguish these units from residential “dwelling units”) as follows:

Guest unit means a room or group of rooms in a hotel/motel or bed-and-breakfast inn that are designed to be used as temporary accommodations for one or more people traveling together. All guest units provide for sleeping and sanitation, although sanitation may be provided through shared bathrooms.

The number of guest units that may be constructed was then established as a multiplier of the number of permitted dwelling units (see § 34-1803 of the land development code):

<i>Comprehensive Plan land-use category:</i>	<i>Equivalency factors for guest units of various sizes (in square feet):</i>		
	<i>< 450</i>	<i>450 to 750</i>	<i>750 to 1,000</i>
Mixed Residential	2.0	1.5	1.0
Boulevard	2.5	2.0	1.5
Pedestrian Commercial	3.0	2.5	2.0
(all others)	0.0	0.0	0.0

Policy 4-C-6 and its implementation through the land development code have been successful in clarifying the rules for new hotels and motels. However, the Comprehensive Plan and code have never been able to distinguish exactly where in the full spectrum of lodging establishments that a residential dwelling unit becomes a guest unit. Consider the following variety:

- A condominium building where owners rent their dwelling units for 30-day periods.
- Timeshare buildings where the individual units are no different than a residential condominium but are occupied by their owners for 7-day periods or are rented to the public for 3-day periods.

- A resort that rents full-size condominium units for stays of 3 days or more.
- A hotel or resort where the individual guest units or dwelling units are purchased by individuals condominium-style, but the units are actually rented to the public by the resort operator on a daily basis.
- A hotel which sells some or all of its guest units as timeshares.

These distinctions can be resolved on a regulatory basis if there is a clear public policy basis for the distinctions. Here are some of the policy issues to be considered:

- **LENGTH OF STAY:** The town now regulates short-term rentals in residential areas by *minimum* length of stay. However, there are questions about the *maximum* length of stay in lodging establishments, even in commercial districts. It may be intuitive that hotels and motels are for stays of limited duration, but what are the implications of someone purchasing a motel room that is being sold off as a condominium and then discovering that the unit does not meet building code and other requirements for permanent habitation? What are the implications of a condo hotel that becomes permanent residences because there are no enforceable maximum length-of-stay requirements?
- **BUILDBACK AND CONVERSIONS:** These policy issues are sometimes complicated further when an existing over-density building is being completely replaced (“buildback”) or when an existing building is being converted from one use to another without being reconstructed (“conversion.”) The Comprehensive Plan and land development code are quite clear about the regulations for “buildback” of the same use, but not as clear about buildback for a different use: for instance, should the equivalency factors in § 34-1803 be usable “in reverse” to convert an over-density hotel or motel into fewer but greatly expanded dwelling units? Nor are they clear enough about “conversions” of existing buildings; conversions would seem to be more straightforward, but new issues are created regarding compliance with the current building codes and compliance with floodplain and other regulations.
- **KITCHENS:** Partial or even full kitchens are not uncommon in lodging establishments at Fort Myers Beach, and the boundary between partial or full kitchens is not well defined. Are the current limitations on kitchens in guest units a sensible distinction between dwelling units and guest units, or are they an unnecessary regulation?
- **CONFORMANCE WITH STATE LAW:** The state of Florida regulates the broader lodging industry under different chapters of state law:
 - Chapter 509 which regulates public lodging establishments such as hotels and motels.
 - Chapter 475 which regulates rentals by real estate brokers.
 - Chapter 721 which regulates timeshares.
 The town does not currently regulate uses differently based on these patterns of state law, but these distinctions may have potential for addressing some of the town’s complex situations (for instance, the rental of full-size dwelling units in a resort setting).