



FILE: Vacation Rental Ordinance Update (ORD21-0005)

DATE: November 18, 2021

TIME: At or after 1:20 p.m.

STAFF: Gary Helfrich

SUMMARY

Supervisorial District(s): All
Location: Countywide
Description: Vacation Rental Ordinance Update Workshop
CEQA Review: This public workshop is not a project under CEQA

RECOMMENDATION

This report provides background, describes current efforts and identifies next steps to develop an updated Vacation Rental Ordinance (Section 26-88-120). This is an informational item to provide information and policy options for consideration by the Planning Commission as directed by the Board of Supervisors at their July 20, 2021 workshop. Staff request that the Planning Commission receive public comment and provide direction to staff for preparation of a draft Vacation Rental Ordinance tentatively scheduled to be heard on January 20, 2022.

EXECUTIVE SUMMARY

On March 15, 2016, the Board of Supervisors adopted Ordinance 6145, establishing the current regulations of vacation rentals in unincorporated Sonoma County outside of the Coastal Zone. Regulation of vacation rentals in the Coastal Zone would require amendments to the Local Coastal Plan and Coastal Zoning Ordinance. Ordinance 6145 also established the Vacation Rental Exclusion Combining District (X-Zone), which prohibits vacation rentals in certain areas to preserve housing stock, protect neighborhood character, and avoid adding vacation rentals to areas with access limitations and high fire severity. The current ordinance can be found in Attachment 1.

Direction from the Board of Supervisors:

On December 15, 2020, the Board of Supervisors adopted an urgency ordinance extending a more refined temporary cap on vacation rentals in specified locations within the unincorporated areas of the 1st and 5th Supervisorial Districts, as well as directed Permit Sonoma staff to return to the Board on July 20, 2021 with additional data and recommendations to improve the Vacation Rental program. After considering staff recommendations and input from stakeholders at the July 20, 2021 meeting, the Board of Supervisors directed staff to:

(1) Conduct public outreach and informational workshops with stakeholders to help inform policy development.

(2) Study the potential impact that Vacation Rentals may have on housing prices and housing availability.

- (3) Identify process that will shift from a zoning permit to business license program that will apply uniform standards countywide, including the Coastal Zone.
- (4) Improve tools for applications, reporting and resolving complaints, neighborhood notification, and enforcement of standards.
- (5) Improve standards for parking, road access, emergency response, water and wastewater capacity, and wildfire risk.
- (6) Develop land use policies to address Vacation Rental proximity and concentration in areas where high levels may adversely affect public health and safety, or neighborhood character.

Staff has developed policy options and process improvements based on a 3-month long public outreach program and research into best practices in other jurisdictions for consideration and recommendation by the Planning Commission. Based on direction received at this workshop, staff will prepare a draft ordinance and conduct additional public outreach in anticipation of bringing a draft Vacation Rental Ordinance to the Planning Commission on January 20, 2022.

Policy options materials from the July 20, 2021 Board of Supervisors meeting, including staff report and video of the hearing are available at: <https://sonoma-county.legistar.com/LegislationDetail.aspx?ID=5028766&GUID=8D2A9DC4-B392-47B9-9404-6D8B696CB155>. Policy options, and summary of regulations in surrounding areas is also provided as Attachment 1 to this memo.

CURRENT REGULATIONS

The Board of Supervisors adopted the current Vacation Rental Code in March of 2016 (Ordinance 6145, Section 26-88-120 of Sonoma County Municipal Code). Key provisions are:

1. Defines “vacation rental” as the short-term rental of homes for less than 30 days at a time where the primary owner is not in residence;
2. Establishes performance standards that include limits on occupancy and guestrooms; maximum number of guests and daytime visitors, parking, trash facilities, amplified sound, and neighborhood notification; · Allows only one rental per parcel;
3. Does not allow vacation rental permitting of accessory dwelling units, multi-family units, affordable housing units, farmworker housing, farm family units, or on lands under a Williamson Act contract; Tents, yurts, RVs, and other provisions intended for temporary occupancy are not allowed as a part of a vacation rental; and
4. Rentals must have a certified property manager who lives within 30 miles of each rental and must respond to complaints within 60 minutes during the day and 30 minutes during quiet hours during any rental period.

Fiscal Year 21/22 fees for a vacation rental permit are \$638 with an annual monitoring fee of \$224. Property managers pay a onetime \$67 certification fee, and changes in property management is subject

to an \$88 fee. Per County Municipal Code Section 12-11, permitted vacation rentals must remit payment of Transient Occupancy Tax, which is 12% of lodging revenue paid quarterly.

Ordinance 6145 also established Vacation Rental Exclusion Combining District that prohibits vacation rentals in the following areas outside the Coastal Zone:

1. Areas where there is inadequate road access or off-street parking;
2. Areas where the prevalence of vacation rentals is detrimental to the residential character of neighborhoods;
3. Areas where the residential housing stock is to be protected from conversion to visitor-serving uses;
4. Areas where, because of topography, access or vegetation, there is a significant fire hazard;
5. Areas where residential character is to be preserved or preferred; and
6. Other areas where the board of supervisors determines that it is in the public interest to prohibit the establishment and operation of vacation rentals.

REGULATION IN THE COASTAL ZONE

The current County practice to regulate vacation rentals through land use would require amending the Local Coastal Plan and Coastal Zoning Code, then have these amendments certified by the Coastal Commission as being consistent with the provisions of the Coastal Act. The Coastal Commission considers lodging provided by vacation rentals to be an important component of coastal access, and Commission staff has indicated that a Coastal Zoning Code amendment restricting vacation rentals on the basis of protecting housing or preserving neighborhood character would be difficult to certify. Commission staff indicated that a business license program establishing and regulating performance standards, without limiting location or number of Vacation Rentals, would likely be consistent with the Coastal Act, allowing inland performance standards to be applied in the Coastal Zone.

As there are not currently any provisions in the Coastal Zoning Ordinance regulating vacation rentals, the only current requirement to operate a vacation rental in the Coastal Zone is to obtain a Transient Occupancy Tax certificate and pay taxes on a timely basis. The County has no other regulatory mechanism at this time in the Coastal Zone.

RESPONSE TO BOARD OF SUPERVISORS DIRECTION

Public Outreach

Permit Sonoma Staff has presented workshops at meeting of Sonoma Valley Citizens Advisory Commission, Springs Municipal Advisory Council, Lower Russian River Municipal Advisory Council, Sonoma Coast Municipal Advisory Council, Geyserville Planning Committee, The Sea Ranch Association, Mission Highlands Homeowners Association, and Gehricke Rd Fire Safe Council. Outreach to industry stakeholder groups included North Bay Association of Realtors, Sonoma Coast Vacation Rental Owners, Sonoma County Coalition of Hosts, and The Sea Ranch Hosting Coalition.

Topics and comments raised during public outreach include:

1. Support for a licensing program was high among all groups, as was improved enforcement of standards. Industry groups were especially strong in support of a limiting Vacation Rental license to no more than two licenses per person.
2. Establishing a 24- hour complaint hotline, similar to the system used in Marin County, enjoyed near universal support from the public and industry stakeholders.
3. The public and industry stakeholders expressed concern regarding businesses that own and operate multiple Vacation Rentals. There was support for strengthening the existing policy prohibiting corporate operation of Vacation Rentals and limit licenses or permits to two per person.
4. The public and industry stakeholders support better enforcement of current Vacation Rental standards. Industry stakeholders also supported creating additional performance standards for property managers.
5. Industry stakeholders felt that the application process could be streamlined and simplified.
6. Process for neighbor notification of a Vacation Rental is inconsistent.
7. Vacation Rentals may interfere with evacuation during emergencies, especially during wildfires in areas with limited access. Renters should be provided with an evacuation plan, and property managers should be responsible for making sure that guests have left the premises when an evacuation order is issued.
8. The term “business license” may create problems with interpretation by home owners associations and CC&Rs that restrict business use of homes.
9. Regulation of vacation rentals by location, proximity, concentration, and rental days remains controversial. Residents who live near Vacation Rentals were strongly in favor of additional limits on vacation rentals, and industry stakeholders are skeptical that limits can be fairly implemented and are necessary in most situations.

Vacation Rental Impact on Housing

Through a Department Head authorization, staff has selected the services of Economic Forensics & Analytics to conduct a study of the impact of vacation rentals on the County’s housing stock. An administrative draft has been prepared, but gathering data necessary to generate actionable recommendations has proved more difficult than anticipated, as data sources with similar spatial boundaries are not available in all cases. Additionally, the housing market is influenced by multiple inputs, making it challenging to isolate the impact of Vacation Rentals on the housing market.

Economic Forensics & Analytics is in the process of gathering and analyzing additional data and report is still under review by County staff. It is anticipated the draft report will be released later this year.

Business License Program

Sonoma County remains the only jurisdiction in the Bay area that lacks a comprehensive business license program, and the only license program currently operating in Sonoma County is the Sonoma County Tobacco Retail License (Attachment 2). The significant advantage a license offers as compared to a Zoning Permit is streamlining enforcement and providing additional tools, such as progressive civil penalties, license suspension, and administrative revocation that are not available with a Zoning Permit.

Permit Sonoma Staff is proposing to use the Tobacco Retail License program as a template, and is recommending that the license be referred to as a “Vacation Rental License” rather than “Business License” to clarify this is a residential use.

Permit Sonoma staff recommends that a Vacation Rental License program be a component of the Vacation Rental Ordinance update with the following provisions in addition to those found in the current Vacation Rental Ordinance:

1. Vacation Rental Licenses automatically expire one year after the date issued and must be renewed. Renewal may be denied for Vacation Rentals with more than three violations within 12 months of the renewal date.
2. Vacation Rental Licenses are limited to one license per parcel
3. A Vacation Rental License shall not be issued to property owned by a corporation, as defined in Section 100-195 of the California Corporation Code.
4. No more than two Vacation Rental licenses shall be issued simultaneously to an individual.
5. Zoning permits issued for vacation rentals will automatically convert to a business license at least one year, but not more than two years from the effective date of the ordinance. Conversion will be on the same calendar day and month as the Zoning Permit was issued. Permits issued on February 29 of a leap year will convert on March 1. No fee is associated with the initial conversion, but fees will be required upon renewal.

Monitoring, Performance Standards, and Enforcement

Complaint Hotline

Permit Sonoma is currently evaluating vendors to provide a 24/7/365 complaint hotline. This is a process improvement that can be implemented under the current ordinance. The Vacation Rental hotline is a staffed central point of for all short term rental complaints and provides a simple easy to use reporting system. The hotline will log the call or text, contact the property manager, record the action taken, and contact the complainant to verify that problem has been resolved. Information collected will go into a reporting database, allowing Permit Sonoma to monitor performance of both Vacation Rentals and property managers.

Property Manager Performance Standards

Under the current ordinance, the property manager has limited accountability for resolving complaints. While Vacation Rental owners may have their permit or license revoked for non-compliance with

standards, there is not a similar mechanism in the current code to revoke certification of property managers that fail to meet standards for responding to and resolving complaints. Staff recommends adding a performance standard section for property managers. This section would establish thresholds for suspension or revocation of a property manager certificate for repeated failure to adequately respond to and resolve complaints.

Hazards and Evacuation

Staff recommends the following additions and modifications to the Vacation Rental Standards found in the current ordinance:

1. Evacuation plan: Vacation Rentals shall provide guests with a written evacuation plan identifying the Vacation Rental evacuation zone, evacuation route, and the Calfire Evacuation Checklist. Guests shall be informed that they are required to leave the property when a Voluntary Evacuation Order is issued by Calfire for their evacuation zone. The property manager is responsible for verifying that guests have been evacuated.
2. Emergency evacuation: Vacation Rental license or permit holders and Certified Property Managers of a Vacation Rental that does not comply with a voluntary or mandatory evacuation order are subject to permanent revocation of the Vacation Rental license and/or permit, and/or and permanent de-certification of the Certified Property Manager.
3. Additional restriction on outdoor fire areas: Outdoor burning, other than gas-fired appliances and gas-fired barbecues, is prohibited during Calfire Declaration of Fire Season and during Red Flag warnings outside of the Declared Fire Season.

Proximity and Concentration

The only regulation currently available to limit vacation rentals is the Vacation Rental Exclusion Zone. Staff has found this to be a limited tool, and often has the effect of concentrating Vacation Rentals in nearby areas. At this time there are also temporary caps on Vacation Rentals in the burn zones, and specific areas of Sonoma Valley and the Lower Russian River. Evaluating the success of these measures has been difficult due to the impact of COVID-19 on the tourism industry, but staff feels that other tools, such as limits on proximity, concentration, and rental days, are better suited at balancing the needs of Vacation Rental owners and the neighborhoods where they are located.

Proximity is the distance between vacation rentals, concentration is the percentage of homes within a given area being used as Vacation Rentals, and rental days is a limit on how many days per year a Vacation Rental may operate. Staff is not recommending specific guidelines at this time, but review of other jurisdictions show the following standards:

1. Proximity – A proximity standard is generally applied in areas with high residential density, with the intent to prevent individual residents from being surrounded by Vacation Rentals. Proximity is not an effective policy in areas with large parcels. Staff recommends a proximity limit of 300-500 feet between Vacation Rental represents an effective distance.
2. Density – A density of 10% was used by Permit Sonoma staff to establish the recent Vacation Rental Cap in the Guerneville area. Density is an effective tool for managing Vacation Rentals in areas where Vacation Rentals are distributed evenly and the goal is to preserve neighborhood character.

3. Rental Days – Many jurisdiction limit all Vacation Rentals to a specific number of days per year, and the most common limit is 90 days per year. Rental day limits reduce the intensity of Vacation Rentals and may be an effective alternative to proximity or density limits.

Parking

Off street parking is limited in many areas of Sonoma County, and often these areas are served by extremely narrow roads where on-street parking may interfere with emergency response. Additionally, the current ordinance is not clear on how a parking space is defined. Staff recommends the following standards for parking:

1. One on-site parking space for a Vacation Rental with up to two guestrooms or sleeping rooms
2. Two on-site parking spaces for a Vacation Rental with up to four guestrooms.
3. Three on-site parking spaces for a Vacation Rental with up to five guestrooms.
4. Off-street parking areas shall conform to standards of Sonoma County Code Section 26-82-030(q) Where on-site parking is limited or unavailable, one on-street parking space may be substituted for the required off street parking. Vacation Rentals with no on-site parking are limited to four persons.
5. Vacation Rentals may not block or obstruct parking on public streets, and signs may not be posted that “reserve” on-street parking for Vacation Rental guests or in any way indicate that parking on a public right of way is reserved for private use.
6. Vacation Rentals using on-street parking must demonstrate that adequate space is available on the public road for vehicles to be parked at least six feet from the road centerline, and provide a space that is twenty-four feet long by eight feet wide, consistent with Section 26-82-030(q). Where the roadway is less than twenty feet wide, evidence of adequate on-street parking area, in the form of photographs and/or drawings, shall be provided as part of the license application. Vacation Rentals are not permitted where no on-site parking exists and on-street parking is prohibited, or road width is inadequate to allow vehicles to park at least six feet from the road centerline.

Recommendations and Next Steps

1. Provide staff with direction on incorporating policy options identified in this memo to develop a Draft Vacation Rental Ordinance
2. Staff will review the Draft Vacation Rental Ordinance scope and conduct environmental review consistent with the requirements of CEQA
3. Public outreach will continue throughout development of the Draft Vacation Rental Ordinance.
4. Staff anticipates bringing the Draft Vacation Rental Ordinance back to the Planning Commission on January 0, 2022 for public hearing.

Attachments:

Attachment 1. Current Vacation Rental Code Section 26-88-120

Attachment 2. Ordinance 6149 Tobacco Retail License

Attachment 3. July 20, 2020 BOS Regulation Summary and Policy Options