



Sonoma County Planning Commission **STAFF REPORT**

FILE: Vacation Rental Ordinance Update (ORD21-0005)
DATE: March 17, 2022
TIME: At or after 1:05 p.m.
STAFF: Gary Helfrich

A Board of Supervisors hearing on the project will be held at a later date and will be noticed at that time.

Supervisorial District(s): All
Location: Countywide
Description: Vacation Rental Ordinance Update
CEQA Review: Categorically exempt from the California Environmental Quality Act under Section 15061(b)(3) of the CEQA Guidelines as this project extends land use regulations previously found exempt under Section 15061(b)(3) and proposes implementation of a licensing program and minor modification to existing regulations that will not have potential to create a significant adverse impact on the environment.

EXECUTIVE SUMMARY

The update to the Vacation Rental program will retain the existing requirement for a zoning permit outside of the Coastal Zone to establish eligibility of a parcel for use as a Vacation Rental and require a Vacation Rental License that must be renewed annually, countywide for operation of a Vacation Rental. Vacation Rentals would continue to be allowed on all parcels within the Coastal Zone without a Zoning Permit, but operation would now require a Vacation Rental License.

Operational performance standards, such as parking, noise, trash collection, will be clarified as part of the Vacation Rental License program. Both daytime and nighttime occupancy will be limited to 12 persons, and there will no longer be a provision to exceed this limit with a Use Permit.

A provision will be added to the Vacation Rental Exclusion Combining District allowing establishment of areas where Vacation Rentals will be capped to no more than 10% of the existing single family units within the cap area. Permit Sonoma staff will return at a future date with recommendations for specific areas and changes to the exclusion area boundaries.

In addition to legislative changes, a 24/7 customer service hotline will be deployed and permitting for Vacation Rentals will transition to an online system.

BACKGROUND

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.

To aid in wildfire recovery, the Board of Supervisors passed a series of urgency ordinances prohibiting Vacation Rentals within identified burn areas. All of the urgency ordinances expire on December 31, 2022.

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 in June of 2021 with additional data and recommendations to improve the Vacation Rental program. The urgency ordinance expires on August 6, 2022, automatically terminating the temporary vacation rental cap.

On July 20, 2021 the Board of Supervisors directed Permit Sonoma staff to reach out to stakeholders and return with a recommendations for improving the Vacation Rental program, including development of a Vacation Rental License Program, improving response to complaints, clarifying land use and performance standards, and code changes that provide for permanent caps on vacation rentals within neighborhoods to improve public health and safety and preserve community character.

Permit Sonoma hosted 20 stakeholder meetings between July 2021 and March 2022, including neighborhood organizations, Municipal Advisory Committees, and Vacation Rental industry organizations. In response to input received from these workshops, a revised Vacation Rental ordinance and a series of policy options have been developed that will create a countywide Vacation Rental license program, clarify performance standards, and allow permanent caps to be established to protect community character.

Current Regulations

The Board of Supervisors adopted the current Vacation Rental Code in March of 2016 (Attachment 1: Ordinance 6145). Key provisions are:

1. Defines “vacation rental” as the short-term rental of a single family dwelling unit 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;
3. Allows only one rental per parcel;
4. 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

5. 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 (“X”) 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

As there are no provisions in the Coastal Zoning Ordinance (Sonoma County Codes Chapter 26C) that regulate or authorize vacation rentals, and 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.

The current County practice to regulate vacation rentals through land use would require amending the Local Coastal Plan and Coastal Zoning Code, and certification of these amendments by the Coastal Commission. The Coastal Commission considers lodging provided by vacation rentals to be an important component of coastal access, it is likely that restricting location, concentration, or occupancy of vacation rentals would be found inconsistent with the Coastal Act unless limited to measures necessary to protect coastal resources. Because of these requirements, Permit Sonoma staff is not proposing changes to the Coastal Zoning Ordinance (Chapter 26C) at this time.

Section 30005(b) of the Coastal Act states that *“No provision of this division is a limitation on any of the following: (b) On the power of any city or county or city and county to declare, prohibit, and abate nuisances.”* The proposed Vacation Rental License program (Chapter 4) is drafted to be consistent with this provision, establishing enforceable performance standards for operation of Vacation Rentals countywide, including the Coastal Zone.

BOARD OF SUPERVISORS DIRECTION

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 Board workshop meeting, the Board of Supervisors directed staff to:

1. Study the potential impact that Vacation Rentals may have on housing prices and housing availability.
2. Conduct public outreach and informational workshops with stakeholders to help inform policy development.
3. Develop a Vacation Rental 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.

Impact to housing – Eyler Report

Staff consulted with Dr. Robert Eyler who conducted an econometric study to examine short-term rental impacts on the county's single-family housing stock (Attachment 4). Dr. Eyler finds little to no connection between increasing numbers of single-family housing units being offered as short-term rentals and changes in single-family home prices. However, the data finds that long-term rental prices are more likely to be affected by rising volumes of short-term rentals. Dr. Eyler also cautions that the report was only able to evaluate impacts on a countywide basis and should not be relied upon to evaluate impacts to a specific neighborhood, market segment, or demographic.

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, Fitch Mountain Homeowners, 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 recommended a limiting Vacation Rental license to no more than two or three licenses per person.

2. Establishing a 24/7 customer service 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 support better enforcement of current Vacation Rental standards. Industry stakeholders also supported creating additional performance standards for property managers.
4. Industry stakeholders recommended streamlining and simplifying the application process.
5. Require that guests are provided with an evacuation plan, and that property managers have an active role in making sure that guests are aware of evacuation orders have left the premises when an evacuation warning is issued.
6. “Business License” may create problems with interpretation by home owners associations and areas with CC&Rs that restrict business use of homes, and identifying the license as a “Vacation Rental License” was preferred.
7. Regulation of vacation rentals by location, proximity, concentration, and rental days in specific areas was controversial but limiting vacation rentals to less than 10% of the single family homes within a specific area emerged as the preferred option.
8. Consideration of relaxed standards for homes infrequently used as Vacation Rentals (“Dual Use”) was requested.

Recommendations provided during public outreach have been incorporated into the draft ordinance with the exception of Recommendation 8 “Dual Use”. In the context of public comments on this topic, Dual Use is a situation where a second home is primarily used by the owner and occasionally rented on a transient basis. Staff reviewed policies in other jurisdictions and found that these exceptions apply to primary residences, not second homes. For example, the City of San Francisco Code Section 41A.5 (g) states that;

“A Permanent Resident may offer his or her Primary Residence as a Short-Term Residential Rental if: The Permanent Resident occupies the Residential Unit for no less than 275 days out of the calendar year in which the Residential Unit is rented as a Short-Term Residential Rental or, if the Permanent Resident has not rented or owned the Residential Unit for the full preceding calendar year, for no less than 75% of the days he or she has owned or rented the Residential Unit;”

Applying an exception to occasional transient rental of second home would be difficult to monitor and performance standard challenging to enforce, as the request was to waive permit and license requirements for “dual use”. Alternatively, if a separate less restrictive zoning permit and vacation rental license needs to be used for “dual use”, there does not appear to be any advantage to the applicant, community, or the County.

Vacation Rental License

In addition to the current requirement to obtain a zoning permit to operate a vacation rental, staff recommends all vacation rental permit holders to obtain a license. This provision would apply to new applications and renewals. Furthermore, this requirement would expand into the Coastal Zone where vacation rentals are not required to obtain a permit. A licensing program would allow for administrative revocation for non-compliance rather than requiring a public hearing associated with a zoning permit. Staff does not propose any new costs or fees with the proposed change.

Administrative Process Improvements

Permit Sonoma is undergoing extensive process improvements in response to public input and in advance of legislative changes to the program. Staff has secured a contract with Host Compliance, a third-party service, to manage and administer a 24-hour customer service hotline and database. This will simplify processing of complaints by creating a single point of contact for the public, improve transparency of the enforcement process with a comprehensive database of complaints and responses, and allow easy identification of non-compliant vacation rental operators and property managers. This service will be expanded to provide online application services for zoning permits and licenses

NEW PROGRAM ELEMENTS

Updated Performance Standards

New performance standards include:

- Require property managers to live within 30 road miles of all parcels they manage and investigate (and resolve, if necessary) any complaints that are received through the new 24-hour customer service hotline within 1 hour during the day and 30 minutes after 10:00pm in the evening.
- Allow decertification or temporary suspension of certification for property manager with a record of non-compliance or failure to enforce standards.
- Clarification of parking standards, limiting Vacation Rentals to 4 persons if no off-street parking is provided.
- Prohibit Vacation Rentals on parcels with code enforcement violations that are not resolved.
- Where Vacation Rentals are served by a septic system, limit rentals to 4 guests on parcels where no record exists to show the condition or capacity of the septic system.
- Provide all guests with a rule book explaining current regulations and consequences, and an evacuation plan that provides information for monitoring evacuation alerts, maps evacuation routes, and outlines legal obligations associated with evacuation alerts and orders.
- Reduce the number of daytime guests on site from 18 to 12.
- Eliminate provision for allowing large Vacation Rentals to exceeding zoning standards with a Use Permit.
- Annual re-notification of neighbors when Vacation Rental license is renewed.
- Move performance standards from zoning requirements to the new Vacation Rental License found in Sonoma County Code Chapter 4, Article VIII.

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.

Proximity and Concentration

Under current regulations, the only tool available to address high concentration of Vacation Rentals adding an area to the Vacation Rental Exclusion Zone. Staff has found an absolute prohibition often lacks the necessary flexibility to balance the needs of Vacation Rental owners and the neighborhoods where they are located. Excluding Vacation Rentals in portions of high demand areas often results in overconcentration in surrounding areas, disrupting those neighborhoods.

At this time there are 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.

Staff considered three regulatory alternatives to prohibition: proximity, caps, and limiting rental days. Proximity is the distance between vacation rentals, a cap limits the number of vacation rentals relative to homes in an area, and rental days is a limit on how many days per year a Vacation Rental may operate.

Limiting rental days per year had limited public support and is unlikely to reduce conversion of single family homes into vacation rentals.

Establishing a minimum distance between Vacation Rentals may be effective in urbanized residential areas but the wide variety of residential development and parcel size in the unincorporated County would require multiple standards and be difficult to regulate.

Limiting Vacation Rentals by establishing a cap based on percentage of housing within a specific area is the recommended policy for controlling Vacation Rental concentration. A cap maintains a balance between full time residents while allowing a reasonable number of vacation rentals to be interspersed throughout an area. Permit Sonoma staff recommends using a 10% limit for cap area, which means that within a defined area one vacation rental is allowed for every 10 homes in the same area.

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.

RECOMMENDATION

Recommend approval of the Vacation Rental Program Update to the Board of Supervisors, which includes the following actions:

1. Add Article VIII to Sonoma County Code Chapter 4 to create a Vacation Rental License program.
2. Rescind and replace Section 26-88-120 to revise land use standards, require a Vacation Rental License for operation, and move performance standards to Chapter 4, Article VIII of Sonoma County Code
3. Rescind and replace Chapter 26, Article 79 “X Vacation Rental Exclusion Combining District” with a new article that allows creation of a cap on Vacation Rentals as well as establishing exclusion zones.
4. Direct staff to analyze and identify specific areas of the County for inclusion in cap or exclusion zones, meet with local communities to refine recommendations, and return at a future date with rezoning recommendations for these areas.

Attachments:

ATT 1 Current Vacation Rental Ordinance 6145
ATT 2 Previous Ordinances 6336 6332 6221 6063 5908 2300
ATT 3 Fire Recovery Ordinances 6289 6325 6362 6329
ATT 4 Eyler Report Impacts on Single-family Housing Report March 2022
ATT 5 Chapter 26 Mother Ordinance

Sonoma County Planning Commission
Staff Report – Vacation Rental Ordinance
March 17, 2022
Page 9 of 9

ATT 6 Vacation Rental License Mother Ordinance
ATT 7 Exhibit A Vacation Rental Permit Ordinance
ATT 8 Exhibit B Vacation Rental Exclusion and Cap Combining District
ATT 9 Exhibit C Vacation Rental License Ordinance
ATT 10 Maps
ATT 11 Draft Resolution