



## Legislation Text

---

**File #:** 2020-0888, **Version:** 1

---

**To:** Sonoma County Board of Supervisors  
**Department or Agency Name(s):** Permit Sonoma  
**Staff Name and Phone Number:** Tennis Wick, (707) 565-1925  
**Vote Requirement:** 4/5th  
**Supervisorial District(s):** Countywide

**Title:**

**8:45 A.M.** - Extension of Urgency Ordinance No. 6321-Temporary Cap on Vacation Rentals in Unincorporated Sonoma County

**Recommended Action:**

Conduct a public hearing. After the public hearing is closed, adopt the proposed ordinance to extend Ordinance No. 6321 until August 6, 2022. (4/5<sup>th</sup> Vote Required)

**Executive Summary:**

This item is a proposed ordinance to extend Urgency Ordinance No. 6321, which was adopted by your Board on August 18, 2020, and expires on October 2, 2020. Ordinance No. 6321 temporarily caps the number of vacation rental permits countywide at the number issued as of August 18, 2020, plus the number of vacation rental permit applications that were determined complete as of that date. The cap affects the permitting of new whole-house vacation rentals only; hosted rentals and bed and breakfast facilities are not impacted. Ordinance No. 6321 authorizes the Director of Permit Sonoma to create and administer a waiting list program for applications received while the temporary cap is in place. New permits would be issued to applicants on the waiting list when the total number of active permits within the unincorporated county falls below the cap. Ordinance No. 6321 has an initial life of 45 days in compliance with state law, but may be extended by a 4/5 vote of your Board for any length of time up to a maximum of 22 months and 15 days. If your Board does not extend the ordinance it will automatically expire on October 2, 2020. Staff recommends that the Board extend the ordinance until August 6, 2022; your Board may choose to extend the ordinance for a lesser time frame.

**Discussion:**

On August 18, 2020, the Board of Supervisors adopted Ordinance No. 6321 on a (4-0-1) vote. Ordinance No. 6321 initiated a temporary cap to keep the number of vacation rental permits inland countywide at the number issued and complete for processing as of August 18, 2020. Ordinance No. 6321 has an initial life of 45 in compliance with state law, but it may be extended by a 4/5 vote of your Board for any length of time up to a maximum of 22 months and 15 days.

**Capacity to Issue Permits within the Cap Established by Ordinance No. 6321**

As of the adoption of Ordinance No. 6321 on August 18, staff determined that the number of existing vacation rental permits and complete-for-processing applications was 1,948 and the temporary cap was established at

this level. Applications received after August 18, 2020 are processed and, when determined to be complete, are placed on a waiting list in order of completeness determination. New vacation rental permits are issued to applicants on the waiting list when the total number of permits falls below the cap. Since August 18, 2020, 12 permits have been expired due to change in ownership or cessation of use, creating capacity for 12 additional permits to be issued within the adopted cap. The six complete applications on the waiting list were issued permits, leaving capacity as of this writing for an additional 6 permits to be issued within the cap.

The Transient Occupancy Tax office has notified Permit Sonoma that there appear to be over 600 vacation rental properties on the books, which have filed transient occupancy tax exemption forms and have not paid transient occupancy taxes, indicating that they are not being used as vacation rentals. Staff estimates that about 200 of these properties are located within the coastal zone where vacation rental permits are not required. The remaining 400+ appear to be inactive permits outside of the coastal zone, and may be subject to revocation for non-use under Section 26-92-130 of the Sonoma County Code. Revocation of unused permits is subject to due process providing opportunity to show good cause of inactivity. Unused vacation rental permits will be revoked under 26-92-130 unless property owners can show good cause as to why their permits have not been used and pay any back taxes that might be due.

Once expired, permit holders would need to apply again and go through the waiting list before they can use their properties as vacation rentals. Permit Sonoma staff estimate that up to 400 existing, unused vacation rental permits would be revoked under these provisions, providing additional capacity under the temporary cap. At the average monthly rate of 14 vacation rental permits issued per month, these actions would provide 28 months of vacation rental permit capacity under the existing cap established by Ordinance No. 6321.

**Additional Data Requested by the Board**

At the August 18, 2020 hearing when the Board of Supervisors adopted Ordinance No. 6321, there was extensive public comment and discussion. In the 45 day initial period following ordinance adoption, staff has worked to identify preliminary data and past reports related to the discussion topics from the August 18 hearing. During the time of the initial ordinance period, resources were further constrained by the LNU Lightning Complex Fires as staff and mapping resources were temporarily reassigned to emergency duties.

Table 1 below provides a summary of the topic areas from the August 18 hearing where the Board requested additional information. The Table summarizes data that is available, data that still needs to be collected and analyzed, and community outreach that still needs to be conducted. A discussion of each of the topic areas follows the Table.

Table 1: Status of Additional Data Requested by the Board

Topic Area	Data collected to date	Data Needed	Possible Next Steps/Outreach
Impacts of Vacation Rentals on Housing	EPS Report	Census data by neighborhood Building records of VRs	Update to 2015 Report Industry Groups, NORBAR
Concentration of Vacation Rentals	Data and county-level mapping	Neighborhood-level data, mapping and surveys	MetroQuest neighborhood surveys Update records/expired permits prior to neighborhood-level mapping CACs MACs and Industry Groups
Current Tools and Enforcement	X Zones Code Enforcement	Neighborhood-level complaint data	Sheriff call-out data Public Outreach SoCo Report it ease of use
Data to Consider Ownership Option	Requested from Assessor	Locational data by neighborhood	Mapping by neighborhood Need county counsel guidance Public outreach
Community Outreach & Engagement	Established mailing list	Expand mailing list to neighborhood groups	MetroQuest Surveys Presentations to NORBAR, CACs MACs SVCAC

While staff has made every attempt to generate and compile data requested by the Board in time for this agenda date, more time is needed to gather and analyze the appropriate data and community input. Staff will identify projected target dates and actions necessary for items identified in Table 1 at the Board hearing. The extension of the temporary interim ordinance will allow staff to conduct further analysis and public outreach without increasing the number of vacation rentals countywide; during this period vacation rental permits will continue to be issued as capacity becomes available under the cap.

#### **Vacation Rentals impacts on housing availability and affordability**

The potential for conflict between the use of housing stock for vacation rentals and availability of housing for Sonoma County residents remains a pressing issue in our tight housing market. Staff recommends the 2015 EPS Report analysis be updated during the interim ordinance period if it is extended for up to 22 months and 15 days.

In July 2015 Economic and Planning Systems, Inc. (EPS) issued a report entitled “The Impact of Vacation Rentals on Affordable and Workforce Housing in Sonoma County” for the Community Development Commission as part of larger efforts to address homelessness, the inadequate supply of rental housing, and rising rental housing costs. The EPS report found that, between 2000 and 2015, unoccupied units increased at more than 5 times the rate of growth in the total housing supply in Sonoma County. Seasonal, recreational, or occasional use units, which include vacation rentals, comprised the largest share of total unoccupied units in Sonoma County, totaling 44 percent in 2015.

#### **Findings of the 2015 EPS Report:**

1. Vacation rentals are a rapidly increasing component of visitor accommodations nationwide and in Sonoma County.
2. The vacation rental marketing platforms have effectively incorporated single-family homes in residential neighborhoods to the County's lodging rental unit pool, thus competing with local residents for these units
3. There is a measurable shift in housing supply, otherwise available to the County's working families, to vacation rentals and other nonresident serving uses.
4. Additional regulation and mitigation can limit the loss of housing units otherwise available to the County's working families.

The EPS report concluded that, in 2015, Sonoma County was losing housing stock to vacation rental uses at a rate that exceeded its construction of new housing units. This trend continues today: during 2018, zoning permits were issued for 346 Vacation Rentals but only 273 permits were issued for primary housing units (homes or apartments). The total number of new vacation rental permits continues to exceed the number of primary units approved. Because of this, the continued conversion of single family residential units in the Urban Residential areas to visitor serving uses translates to the loss of housing availability for working families.

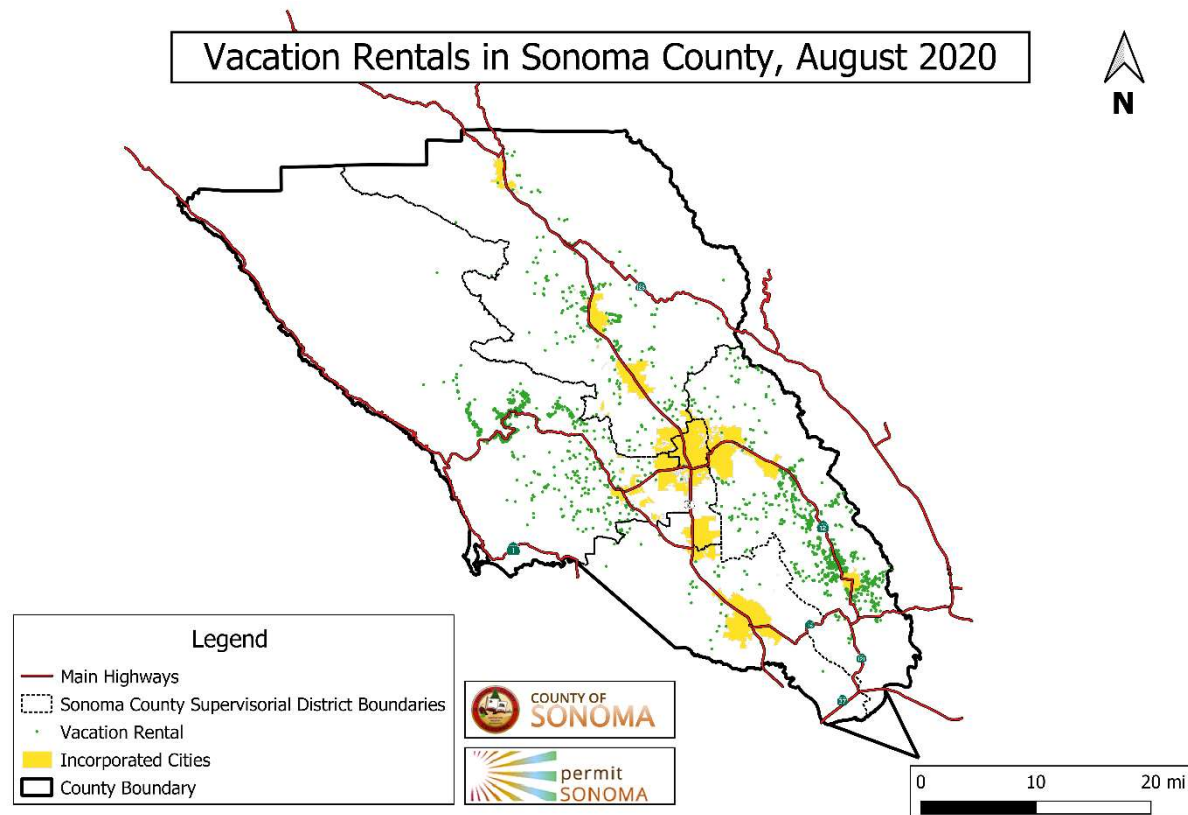
The 2015 EPS report also predicted the trend toward continued increase of vacation rentals:

"Given market trends, even with additional taxation and regulatory limitations, the shift of housing previously available to the County's working families to use by visitors is expected to continue."

Since the 2015 EPS report, Sonoma County has lost additional housing units to repeated disasters such as the 2017 Sonoma Complex Fires, 2019 Kincade Fire, and 2020 LNU fires, exacerbating an already dire housing crisis. The County has limited land with urban services where urban housing types can be accommodated. The General Plan discourages the use of any of our urban residential lands for visitor-serving uses, including the R1 Low Density Residential zones in the Sonoma Valley and the Russian River areas.

### **Concentration of Vacation Rentals**

Vacation rentals are not distributed evenly throughout the County. As of August 18, the 1st and 5th District contained the vast majority (856 rentals and 781 rentals, respectively), followed by the 4th District with 270 rentals. Areas with the highest number of vacation rentals may face impacts such as loss of school enrollment, neighborhood character, and loss of housing stock. Additional data on vacation rental distribution and potential impacts of overconcentration would be collected prior to recommending vacation rental ordinance revisions. As vacation rentals have continued to increase in the County since 2015, a comparison between the EPS Report concentration map and current concentrations of vacation rentals continue to show that the areas of highest concentration have remained the same, mostly within the Sonoma Valley and along the Russian River.



### Current Tools and Enforcement

In some areas, the County has implemented X (Vacation Rental Exclusion) combining districts which prohibit the establishment of new vacation rentals. In the exclusion zones, when permits expire, are revoked, or close operations, new permits cannot be established within that X-zone boundary. Exclusion zones are effective at limiting the conversion of housing stock and preserving neighborhood compatibility where most neighbors prefer to limit vacation rentals. Since exclusion zones prohibit all new vacation rentals but allow existing legal vacation rentals to continue to operate, the vacation rentals within these zones will phase out over time as they close or expire due to change of ownership. Eventually, X Combining Zones shift vacation rentals out of the X zoned sensitive areas of the County toward those areas that have not been designated as exclusion zones. However, establishment of the X Combining Zone is an expensive and often difficult process to implement.

Code enforcement plays a primary role in the implementation of the current vacation rentals ordinance. Upon the issuance of a vacation rental permit neighbors receive a notification that includes the contact information for a 24 hour certified property manager. When a property manager receives a complaint, she is required to file a report with Permit Sonoma. The form requires her to note the complaint and the actions taken to correct the violations. Additionally, complaints are filed directly with Code Enforcement. The majority of complaints associated with vacation rental activity received through Code Enforcement relate to the operation of unpermitted vacation rentals identified through the contracted web scrape process which searches online listings. Permits may be revoked for three strikes. Strikes are determined by the planning director for verified violations of the vacation rentals ordinance.

Year	Complaints to Code Enforcement (VCM's)
2020 (as of August 13, 2020)	89
2019	189
2018	102
2017	39
2016	52

### **Data for Consideration of Ownership Option**

One policy option discussed in the August 18, 2020 hearing that could be explored during the life of the interim ordinance if extended is to evaluate options to allow residents to continue to periodically rent their primary address as a vacation rental but to further limit the influx of active vacation rentals that are owned by outside or commercial entities as investment properties or by those who do not primarily reside within the residence. This approach may be based on the number of properties which file the homeowner's property tax exemption. Staff is currently working to identify the number of existing vacation rental permits which are owned and operated by residents of Sonoma County within their primary address.

### **Community Engagement and Outreach**

Each community in Sonoma County is unique, similarly the appropriate number of vacation rentals that would improve the balance between housing availability and economic benefit has the potential to vary significantly by area. An amendment of the vacation rentals ordinance to address issues of concentration, housing availability and local needs will include extensive public outreach with both vacation rental industry stakeholders, owners, and local communities.

Digital surveys conducted through Metroquest would allow for preliminary outreach. These surveys, can be targeted to individual areas of the County and include such topics as impacts and benefits to the community resulting from vacation rentals and the efficacy of current ordinance. Town hall meetings in areas of high concentration would be used to identify local needs or thresholds. These town hall meetings would be held digitally and in person once it is safe to do so. Municipal and Citizen Advisory Committees are considered to be essential stakeholders for receiving local feedback on potential ordinance revisions. Additional outreach with stakeholders including but not limited to corporate interests, including AirBnB, local property management agencies, Chambers of Commerce, Sonoma County Tourism, County Departments, and the North Bay Association of Realtors would also be conducted.

Outreach will also utilize targeted GIS mapping to identify areas of concentration and potential area boundaries for separate consideration. The level of detail for identifying potential discrete areas for outreach and local regulation will have a significant impact on the staff resources and on the complexity of future implementation.

### **Staff and Resources Availability for Revisions**

The June 23, 2020 direction from the Board to develop a cap of vacation rentals, to be locally refined during the term of the interim ordinance was identified as having a high impact to the Permit Sonoma comprehensive planning work plan. Projects that include significant public outreach, as described above, require a minimum of 400 dedicated staff hours over the life of the project. Staff estimates that an ordinance revision including scoping an outreach would take approximately 18 months to complete depending on the availability and effectiveness of outreach options given the current limitations due to Covid-19. Continued operation of the

interim ordinance capping the number of vacation rentals at levels as of August 18, 2020 can be accommodated through the existing vacations rentals program; however, development of policy options related to vacation rentals ordinance revision will require extensive public outreach and will likely cost \$80,000-\$130,000 dollars depending on scope.

### **Staff Recommendation**

In accordance with State law, this initial term of this urgency interim ordinance adopted August 18, 2020 was a maximum of 45 days. If your Board desires, it may on a 4/5 vote extend the ordinance for up to 22 months and 15 days while staff works on collecting additional data and proposed ordinance revisions related to the above. Staff recommends that the Board extend the ordinance capping the number of vacation rentals inland countywide at the levels as of August 18, 2020 until August 6, 2022. Staff further recommends that staff be directed to return to the Board in March of 2021 with additional data and a recommended approach for refinement of the ordinance.

### **Prior Board Actions:**

1. August 18, 2020 Adoption of Urgency Ordinance to Cap Vacation Rentals at August 18, 2020 levels
2. Ratification of Emergency Declaration
3. Urgency Ordinance--Chapter 40B Sonoma County COVID-19 Recovery June 23, 2020 direction to staff to freeze vacation rental permits at existing levels

### **FISCAL SUMMARY**

#### **Narrative Explanation of Fiscal Impacts:**

Continued operation of the interim ordinance capping the number of vacation rentals at levels as of August 18, 2020 can be accommodated through the existing vacations rentals program; however, the development of policy options related to vacation rentals ordinance revision will require extensive public outreach and will likely cost \$80,000-\$130,000 dollars depending on scope.

#### **Narrative Explanation of Staffing Impacts (If Required):**

Continued operation of the cap may be accomplished with existing staff, however ordinance revisions not currently accounted for in the work plan would require reallocation of staff resources away from other initiatives or augmentation of existing staff.

### **Attachments:**

- Attachment 1: Urgency Ordinance Extending Ordinance No. 6321 - Temporary Cap on Vacation Rentals
- Attachment 1 A: Exhibit A ORD 6321
- Attachment 2: 10-day report as required by Government Code 65858 identifying staff action on the Interim Ordinance No. 6321.
- Attachment 3: 2015 The Impact of Vacation Rentals on Affordable and Workforce Housing in Sonoma

County

**Related Items “On File” with the Clerk of the Board:**

N/A