



Legislation Text

File #: 2022-0780, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): Permit Sonoma

Staff Name and Phone Number: Gary Helfrich, 707 565-2404

Vote Requirement: Majority

Supervisory District(s): Countywide

Title:

Vacation Rental Ordinance and Establishment of Vacation Rental License Program ORD21-0005 Ordinance and Vacation Rental Urgency Moratorium

Recommended Action:

Hold a public hearing and adopt:

- A) An Ordinance amending Sonoma County Code Chapter 26 and the Local Coastal Program, including the Local Coastal Plan and Chapter 26C on regulation of Vacation Rentals;
- B) A Resolution introducing, reading the title of, and waiving further reading of an Ordinance adding Chapter 4 Section VIII to the Sonoma County Code to create a Vacation Rental license program;
- C) A Resolution authorizing submittal of amendments to the Sonoma County Local Coastal Program pertaining to vacation rentals;
- D) An Urgency Ordinance amending the moratorium on vacation rentals to allow processing of permits in the pipeline.

Executive Summary:

On July 20, 2021, the Board of Supervisors directed staff to revise the county's Vacation Rental Ordinance and evaluate policy options to address the concentration of Vacation Rentals.

On May 5, 2022, the Sonoma County Planning Commission, on a 5-0 vote, recommended that the Board of Supervisors adopt the following amendments to the Sonoma County Code:

- Zoning Code (Chapter 26) amendments:
 - Prohibit Vacation Rentals in R1-zoned neighborhoods.
 - Amend the Vacation Rental Combining Zone (X) to establish a 5% cap for areas of concentration.
 - Requires Vacation Rental license for operation.
 - More restrictive parking and occupancy standards
- Coastal Zoning Code (Chapter 26C) amendments:
 - Add a Vacation Rental Program to the Local Coastal Plan
 - Requires a Vacation Rental license for operation
 - Establishes standards for allowable structures, maximum occupancy, and parking requirements.
- Vacation Rental License (Chapter 4):
 - Establishes countywide Vacation Rental license program regulating operation of Vacation

Rentals.

- Limit licenses to properties owned by natural persons or trusts, and limit Vacation Rental licenses to one per individual.

Additionally, the Planning Commission recommended adding a program in support of developing Vacation Rental standards to the Local Coastal Plan Development Element.

Should the Board adopt changes to the Vacation Rental Ordinance, including adding a cap provision to the Vacation Rental Exclusion Combining Zone (X), staff would return at a later date to propose any potential rezoning, which would require public hearings held by the Planning Commission and the Board of Supervisors.

Discussion:

Vacation rentals play an important role in Sonoma County's tourism economy; however, they also have potential to cause detrimental impacts and pose a risk to the public safety, health, and welfare of the county and its residents. Vacation rentals exacerbate the housing crisis that has been worsened by consecutive fire events. They can also have an adverse impact on residential character, neighborhood stability, public safety, and quality of life; the County regularly receives complaints related to noise, garbage, parking, septic capabilities, and safety indicating a need for heightened operating standards and enforcement. After public meetings on December 15, 2020, and July 20, 2021, the Board of Supervisors directed staff to undertake a comprehensive Vacation Rental Program update to address these negative impacts, including the following actions:

- 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 in 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:

Prior to the March 17, 2022 Planning Commission hearing, workshops were presented 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 Road Fire Safe Council. Additional 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.

At the end of the March 17, 2022 hearing, the Planning Commission voted 4-1 to continue the hearing until May 5, 2022 to allow time for additional outreach to housing advocates, communities of color, and groups representing disadvantaged and underserved communities. Primary outreach was through the General Plan Update Housing Advisory Committee comprised of nonprofit housing

providers, service providers, nonprofit and for-profit developers, and representatives of farmworkers, people with the lived experience of homelessness, and renters. This outreach included in-person workshops held in Spanish and input from Sonoma County Tenants Union, Legal Aid of Sonoma County, North Bay Jobs with Justice, Graton Day Labor Center, North Bay Organizing Project, Indivisible Petaluma, La Luz, and North Bay Organizing Project Petaluma.

This extended outreach resulted in three new policy recommendations license holders be persons rather than corporations, limit licenses to one per homeowner, and reduce the staff recommended 10% cap on Vacation Rentals to 5%.

Planning Commission Recommendation:

At the March 17, 2022 hearing, the Planning Commission added a recommendation to prohibit Vacation Rentals in the Low Density Residential (R1) Zoning District. At the reopened May 5, 2022 hearing, the Planning Commission also recommended reducing the cap on Vacation Rentals to 5% and commented that the Vacation Rental License should be limited to “natural persons” and limited to one license per person.

Planning Commission recommendations and comments on the Vacation Rental Program Update are shown in the following table:

Planning Commission Action	Details
Amend Zoning Code (Chapter 26)	Prohibit Vacation Rentals in R1-zoned neighborhoods.
	Amend the Vacation Rental Combining Zone (X) to establish a 5% cap for areas of concentration.
	Establish stricter parking requirements.
	Limit occupancy based on bedrooms and/or septic system capacity instead of sleeping areas under the land use permit.
	Limit daytime and nighttime occupancy to no more than 12 persons regardless of the size of the home.
	Remove allowance for additional daytime guests.
	Remove the provision for additional guests with a Use Permit.
Amend Coastal Zoning Code (Chapter 26C) and Local Coastal Plan	Add a program to the Local Coastal Plan governing vacation rentals.
	Amend Chapter 26C to require a land use permit that restricts allowable structures, sets maximum occupancy, and establishes parking requirements.
Planning Commission comments on revisions to Chapter 4 creating a Vacation Rental license program	License required for all new vacation rental applications inland and in the Coastal Zone, as well as existing permits upon the next annual monitoring payment and existing vacation rentals in the Coastal zone within a year.
	Limit licenses to properties owned by natural persons or trusts, and limit Vacation Rental licenses to one per individual.

	Provide neighborhood notification whenever the Vacation Rental License is renewed.
	Move performance standards from Zoning Code (Chapter 26) to proposed Vacation Rental License (Chapter 4)
	Night time noise standard begins at 9:00 pm rather than the recommended 10:00 pm.
	Outdoor fires using solid fuel are prohibited

POLICY OPTIONS FOR BOARD CONSIDERATION:

Note on Existing Uses:

Staff recommends that existing Vacation Rentals operating under a valid Zoning Permit (inland) or TOT certificate (coastal) be allowed to continue under current land use regulations until the property is sold, but will be required to obtain a Vacation Rental license and comply with the operational standards associated with the License.

Prohibiting Vacation Rentals in the Low Density Residential (R1) Zoning District:

In the County's urban residential zoning districts, Vacation Rentals are currently prohibited in the medium- and high-density residential zones (R2 and R3), but allowed in the low-density residential zone (R1). The policies and objectives of the Sonoma County General Plan specify the need to limit the loss of residential housing stock to visitor-serving uses, and direct the county to avoid using urban residential land for visitor serving uses. Extending this prohibition to the county's other urban residential zone (R1) would help to prevent the further loss of housing stock, and is consistent with General Plan Housing Policy HE-1j, which states: "Avoid the loss of residential land in urban land-use designations for vacation or time-share uses".

Most vacation rentals located in the R1 Zoning District are within Sonoma Valley or the Guerneville area along the Russian River. Attachment 3 provides a series of maps showing areas of the County with R1 zoning.

As part of the 2016 Vacation Rental Ordinance, the Vacation Rental Exclusion Zone was applied to all R1 zoned properties within the communities of Boyes Hot Springs, Fetters Hot Springs, El Verano, Agua Caliente, Glen Ellen, and Kenwood. As a result, prohibiting vacation rentals in R1 would have no effect in Sonoma Valley.

Areas within the Guerneville Urban Service Area experience some of the highest levels of Vacation Rental in Sonoma County with the majority located in the R1 Zoning District. Guerneville's economy is dependent on tourism, and concerns have been raised by the public that prohibiting Vacation Rentals in R1 may create considerable hardship for local business owners due to lack of local lodging for visitors. While this is a serious concern, existing Vacation Rentals would be allowed to continue operation until the property is sold or permits are revoked for non-compliance so impacts would occur gradually and likely provide sufficient time to revise policies to mitigate impacts.

Concentration of Vacation Rentals in R1-zoned areas outside of Sonoma Valley and the Lower Russian River is relatively low and not likely to have an impact on housing stock or availability of long-term rentals.

Policy Options:

1. Prohibit Vacation Rentals in R1.
2. Do not prohibit Vacation Rentals in the R1 zone and instead use the provisions of the amended Vacation Rental Exclusion and Cap Combining District to rezone parcels in the R1 Zoning District for caps or exclusion consistent with neighborhood character and local needs.

Planning Commission Recommendation: Option 1

Staff Recommendation: If the Board does not approve the Planning Commission recommendation to prohibit Vacation Rentals in R1, Option 2 is recommended as an alternative method of balancing economic development with preservation of neighborhood character and protection of housing stock.

Establishing Vacation Rental Caps in areas of concentration

“Cap” is defined as a limit on the percentage of single family homes within a specified area that are being used for Vacation Rentals. For example, a 10% cap on would allow one Vacation Rental for every 10 homes, and a 5% cap would allow one Vacation Rental for every 20 homes within a specified area where Vacation Rentals are currently permitted.

The current Vacation Rental Exclusion Combining Zone (X) is applied to prohibit new Vacation Rentals in areas where Vacation Rentals have been found to be detrimental to neighborhood character and/or to protect existing housing stock. At the July 20, 2021 Board workshop, staff discussed amending the X Combining Zone to add the option for a cap in addition to the ability to completely prohibit Vacation Rentals. A 10% cap was recommended to the Planning Commission, consistent with the threshold adopted by the Board as part the December 2020 Urgency Ordinance (Ordinance 6326)

In response to additional outreach and public input, at the reopened May 5, 2022 hearing the Planning Commission reduced the recommended cap to 5% from the staff recommended 10%. In order to improve protection of housing stock and preserve neighborhood character. Regardless of the percentage, staff recommends adding the ability to cap the number of vacation rentals to the County’s existing Vacation Rental Exclusionary (X) Zone. Staff also notes that allowing for both a 10% cap and 5% cap would provide additional flexibility in regulating historic resort areas versus areas that have historically been residential neighborhoods.

Establishing an effective cap area is important to successful implementation of a cap. If a very small area, for example a single street with a few dozen homes, is identified for a cap, demand for Vacation Rentals would likely expand into surrounding areas outside of the capped area, essentially moving the impact from one place to another. If a very large area is used, for example an entire supervisorial district, the relatively large number of homes would make it unlikely that even a 5% cap would ever exceeded, allowing new permits to be issued in neighborhoods experiencing overconcentration, making the policy ineffective at controlling local areas of overconcentration.

Analysis of areas of overconcentration was conducted to support recommendations found in the December

2020 Urgency Ordinance, and this work indicated that caps generally work well when applied to areas of contiguous parcels containing between 150-500 homes. This range generally corresponds to discreet areas of high concentration identified as part of this analysis done in the Lower Russian River, and shown in the table below. Note that this data is from 2020 and does not necessarily reflect current conditions.

Neighborhood	Homes	Vacation Rentals	Concentration
Neely Road	105	27	25.7%
Northwood	113	20	17.7%
Monte Rio East	147	23	15.6%
Vacation Beach	189	27	14.3%
Guernewood/Monte Rosa	640	86	13.4%
Terraces/Villa Grande	381	49	12.9%
Guerneville North	223	24	10.8%
Drake Road	408	43	10.5%
Austin Creek	293	27	9.2%
Armstrong	166	12	7.2%
Hacienda	292	21	7.2%
Summerhome Park	162	11	6.8%
Rio Dell	338	17	5.0%
Rio Nido	504	25	5.0%

These limits should be seen as guidance rather than rigid standards to allow flexibility to establish caps within the local neighborhood context. Staff recommends evaluating new areas of concentration on an annual basis moving forward.

Policy Options

1. Amend the X combining zone to provide for a 5% cap on vacation rentals.
2. Amend the X combining zone to provide for a 10% cap on vacation rentals.
3. Amend the X combining zone to provide for both a 5% and 10% cap as determined upon rezoning.

Planning Commission Recommendation: Option 1.

Staff Recommendation: Option 3, as it allows additional flexibility in applying different caps to accommodate local neighborhood character and circumstances.

Additionally, staff requests that the Board 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.

Coastal Zone Amendments

Coastal Commission staff advised Permit Sonoma that the Coastal Zoning Ordinance (Chapter 26C) does not specifically allow for any transient occupancy of residential units other than farm stays and bed and breakfast inns. The addition of Section 26C-325.10. "Vacation Rentals" formalizes permitting of Vacation Rentals and establishes the requirement for licensing of Vacation Rentals in all zones where they are currently allowed.

In addition to amendments to the Coastal Zoning Code, a new program will be added to the Local Coastal Plan that supports the Coastal Zoning Code amendment that contains a portion of Program C-LU-1P, which is part of the Planning Commission Recommended Local Coastal Plan draft that will be heard by the Board on August 30, 2022. Policy C-LU-1P is shown below with the portion recommend as part of this update of the Vacation Rental Program shown in bold:

Program C-LU-5-1P: **Establish performance standards for the use of existing residences for vacation rentals and hosted rentals. In developing standards consider: requirements for designated property managers, safety, parking, noise, and number of guests allowed for day time and nighttime occupancy.** In addition to performance standards, identify areas where high concentration of vacation rental would impact environmentally sensitive habitat areas, water quality, or coastal access and develop land use policy to avoid these impacts.

Coastal Commission staff recommended that any changes to the current Local Coastal Plan be limited to what is necessary to implement the Vacation Rental License program within the Coastal Zone and not include the third sentence in the amendment at this time. Once the Local Coastal Plan is adopted by the Board of Supervisors and certified by the Coastal Commission, the broader program will become effective.

Amendments to the Coastal Zoning Ordinance and Local Coastal Plan will not go into effect until certified by the California Coastal Commission. Staff is anticipating certification by the Commission at their November 15-17, 2022 meeting.

Planning Commission Recommendation: Adopt changes to the Coastal Zoning Ordinance and Local Coastal Plan.

Vacation Rental License Program

Under existing regulations, a zoning permit is required to operate a Vacation Rental. This permit both identifies

the home as qualifying for use as a Vacation Rental as well as establishing standards for operation of the Vacation Rental. Under the recommended program, the Zoning Permit qualifies the home for use as Vacation Rental and the operational standards are regulated by Vacation Rental license that must be renewed annually. Under the license ordinance, the Director could move to revoke a license or property manager certification with the opportunity to appeal to an administrative hearing officer, instead of requiring a hearing before the Board of Zoning Adjustments.

As proposed, the Vacation Rental License Ordinance would apply equally to existing and future vacation rentals, with the exception of ownership discussed below. Many of the operating standards in the license ordinance are equivalent to what is currently required under the Zoning Code. For standards that are more restrictive, like those related to outdoor burning and emergency evacuation, the importance to public safety is tantamount while the impact to the operation of the vacation rental is limited.

Determining eligibility of a Vacation Rental License holder

Ownership requirements are not recommended to be retroactive and current holders of a valid Vacation Rental zoning permit or TOT certificate in the Coastal Zone may obtain a license regardless of how the property is owned.

The purpose of putting limits on ownership, and particularly corporate ownership, is that natural persons with ownership in one or few vacation rentals are more likely to stay at the property themselves, to know the neighborhood in which the property is located, to be accountable to their neighbors, and to thus run vacation rentals that are more in conformance with the ordinance standards and less likely to become a nuisance.

Option 1: Natural Persons and Trusts (Proposed in the draft ordinance)

Under this policy option, all property owners would need to be natural persons and each could only have an interest in one vacation rental in the county. This option is the most restrictive and is proposed in the draft ordinance, but also likely to be easier to implement and enforce and because ownership documentation will be simpler. Properties could be held in trust so long as the beneficiaries are natural persons.

Standards:

- a. A licensee must be a property owner and all property owners must be natural persons.
- b. A property owner may only have an ownership interest in one licensed vacation rental at a time.
- c. If the vacation rental property is held in trust, the trustee may apply for a license on behalf of the trust beneficiaries.

Option 2: All Property Owner Restriction

This policy options allows for corporate ownership of property, however, the corporation must be wholly owned by natural persons (only one layer of corporate ownership). Each of those individuals would only be allowed ownership in one vacation rental. This option is fairly restrictive but would be more difficult to implement as it requires ascertaining all corporate owners and then tracking each individual. Further, corporate ownership can be separated from control, profits, etc.

Standards:

- a. A licensee must be a property owner.
- b. A property owner can only have an ownership interest in one licensed vacation rental at a time.
- c. If the property owner is an entity, that entity must be wholly owned by natural persons.

Option 3: Licensee Ownership Requirement

Under this option, the licensee must be a natural person who owns at least 20% of the property, which may be held in a corporation. This would be the least restrictive in that the County would not restrict or track 80% of ownership, but likely easier to implement for that reason. Only the licensee would need to be tracked, however, it still poses the same challenges of allowing corporate ownership as discussed above.

Standards:

- a. A licensee may only hold one license at a time.
- b. A licensee must be a natural person with at least 20% ownership interest in the vacation rental property.
- c. If the vacation rental property is held in trust, the trustee can only apply for a license with the consent of a present beneficiary with at least 20% interest in the vacation rental property in the trust. In this case, the one license restriction in subsection (a) is attributed to the consenting present beneficiary.
- d. If the property owner is an entity, that entity must be wholly owned by natural persons.

Planning Commission Comment: Option 1 was preferred by the Planning Commission

Note: Because the Vacation Rental License Ordinance is not a zoning ordinance nor proposed to be codified within the Zoning Code, it is not within the Planning Commission's purview. However, it is closely related to the proposed zoning code amendments and was provided with the packet for the Planning Commission's review and comment.

Staff Recommendation: For determination by the Board

Amendments to the Vacation Rental Urgency Moratorium

On May 10, 2022, the Board adopted an urgency moratorium on new vacation rentals outside the Coastal Zone to address a rush on permits that may be in conflict with the new vacation rental program update and pose risks to the public health, safety, and welfare. The Board extended that moratorium on June 13, 2022, but asked staff to review applications in the pipeline and provide additional information on August 2 to potentially amend the moratorium. Staff has reviewed the approximately 107 applications submitted prior to May 10 that are currently on hold due to the moratorium and finds that they are reasonably distributed throughout the county. Further, County Counsel recommends allowing all applications in the pipeline to be processed in accordance with the current regulations. While some applications may be contrary to future zoning ordinances, the policy interests in allowing those applications to continue to be processed outweighs the potential harm. As such, staff has included a modified urgency ordinance that would allow all applications submitted prior to the enactment of the moratorium to continue to be processed under the rules in place at the time their applications were submitted.

Staff Recommendation: Amend the Vacation Rental Urgency Moratorium to allow processing of applications submitted prior to adoption of the moratorium on May 10, 2022.

Strategic Plan:

N/A

Prior Board Actions:

1. Ordinance 6384 (June 13, 2022) Extension of Vacation Rental Urgency Moratorium
2. Ordinance 6377 (May 10, 2022) Vacation Rental Urgency Moratorium
3. Ordinance 6384 Extending Ordinance 6377
4. Ordinance 6362 (December 14, 2021) Sonoma Complex Fire Disaster Recovery
5. Ordinance 6332 (December 15, 2020) Extending Ordinance No. 6321 in certain parcels in the First and Fifth Supervisorial Districts until August 6, 2022.
6. Ordinance 6329 (November 17, 2022) Glass Incident Disaster Recovery
7. Ordinance 6326 (September 22, 2020) Extending Ordinance No. 6321 until December 31, 2020.
8. Ordinance 6325 (September 15, 2020) LNU Lightning Complex Fires Recovery
9. Ordinance 6321 (August 18, 2020) Adoption of Urgency Ordinance No. 6321 to Cap Vacation Rentals at August 18, 2020 levels.
10. Ordinance 6221 (May 8, 2018) Adds parcels in Glen Ellen to the Vacation Rental Exclusion Combining District ("X" Zone)
11. Ordinance 6145 (March 15, 2016) Established current vacation rental regulations and performance standards, special use standards for hosted rentals and bed and breakfast inn, and created the Vacation Rental Exclusion ("X") Combining District.
12. Ordinance 6063 (April 15, 2014) Established limited time extension for Vacation Rentals in the Land Intensive Agriculture Zoning District as an economic stimulus measure.
13. Ordinance 5908 (November 9, 2010) Established first Vacation Rental Ordinance with requirement to sunset vacation rentals in the Land Intensive Agriculture Zoning District.

FISCAL SUMMARY

Expenditures	FY 22-23 Adopted	FY23-24 Projected	FY 24-25 Projected
Budgeted Expenses	\$500,000		
Additional Appropriation Requested			
Total Expenditures	\$500,000		
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other	\$500,000		
Use of Fund Balance			
Contingencies			
Total Sources	\$500,000		

Narrative Explanation of Fiscal Impacts:

The new license program will require additional staff resources or contract services to run and monitor the program. The license renewal fee would be the same (\$224 per year) as the current Vacation Rental monitoring fee, which would end with the new ordinance, resulting in no new costs to Vacation Rental operators. Staff currently spends time renewing the zoning permit annually and instead would expend the same effort renewing the license annually. The total number of Vacation Rentals is continuously varying, but averages between 2,300 - 2,400, including the coastal zone, and the existing fee structure will generate more than \$500,000 annually. This is anticipated to be adequate to fund staffing and contract services necessary to administer and operate the program and would be subject to fee studies and adjustments in the future.

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Att 1: Planning Commission Staff Report (2022)

Att 2: Planning Commission Resolution (2022)

Att 3: Proposed Ordinances and Exhibits - Land use and Vacation Rental License (2022)

Att 4: Resolution Introducing, Reading Title, and Waiving Further Reading of the Vacation Rental License Ordinance

Att 5: Vacation Rentals in R1, Map (2022)

Att 6: Vacation Rental Urgency Moratorium (2022)

Att 7: Local Coastal Plan Amendment Resolution (2022)

Related Items "On File" with the Clerk of the Board:

N/A