

Resolution of. _____

MENDOCINO COUNTY PLANNING COMMISSION PROVIDING
CLARIFICATION REGRADING INTERPRETATION OF
THE APPLICABILITY OF SECTION 20.164.015
TO VACATION RENTALS

WHEREAS, a substantial and increasing share of the County's existing housing stock is being used as Vacation Rentals in residential zoning districts and, thereby reducing the ability of residents to engage in the quiet enjoyment of the neighborhoods; and

WHEREAS, the proliferation of internet based vacation rental services, such as Airbnb and VRBO, have resulted in a significant increase in the number of vacation rentals and the intensity of use of existing vacation rentals and the ability for an operator to operate many vacation rentals simultaneously; and

WHEREAS, these internet based vacation rental services essentially function as hotels, wherein vacation rentals are rented out to a very large number of visitors from an increasing pool of vacation homes in Mendocino County many of which are owned by businesses or out of County owners; and

WHEREAS, the Zoning Ordinance does not offer specific regulations for vacation rentals, instead the following definition has been interpreted by staff to apply to whole house vacation rentals:

20.164.015 - Residential and Agricultural Use Types (L) Room & Board: *"The renting of not more than two (2) rooms for occupancy by transient guests for compensation or profit, provided the parcel has frontage on a publicly maintained road. A Major Use Permit is required if the parcel does not have frontage on a publicly maintained road."*

WHEREAS, the zoning ordinance requires that a vacation rental be found to be *"accessory, incidental and subordinate to the principally established residential use of the property"*.

WHEREAS, County staff has in the past interpreted section 20.164.015 to apply to whole house rentals and has made the finding that such rentals are accessory, incidental and subordinate to the principally permitted residential use of the property.

WHEREAS, the County interpretation was initiated prior to the proliferation of internet based vacation rental services such as Airbnb and VRBO. These services have allowed vacation rentals to proliferate and become the primary use of many residential properties throughout the County. Often there is no existent residential use on these properties; and

WHEREAS, vacation rentals have become inconsistent with the Mendocino County Code Chapter 20.048, as whole house vacation rentals no longer qualify as an insubordinate and incidental use to an allowed residential use. These vacation rentals have replaced the residential use with a commercial visitor serving use; and

WHEREAS, a significant share (over 3%) of the County's housing stock has been converted to legal (registered) vacation rentals and an unknown additional number of housing units have been converted to vacation rental units illegally.

WHEREAS, the rental of residential units as vacation rentals has decreased the supply of units available for sale or rent and thereby contributed to rising housing costs and rising rental rates in Mendocino County;

WHEREAS, the lack of available and affordable housing for Mendocino County's workforce creates an impediment to retaining and recruiting residents and employees; and

WHEREAS, the increasing use of the County's housing stock for Vacation Rentals

effectively results in mini-hotels, without adequate oversight, in residential zoning districts; and
WHEREAS, the Board of Supervisors is working to develop a comprehensive vacation rental ordinance; and

WHEREAS, the Mendocino County Planning Commission desires to develop appropriate regulations for Vacation Rentals in both the Inland and Coastal areas of the County; and

WHEREAS, the existing interpretation of 20.164.015 - Residential and Agricultural Use Types (L) Room & Board poses a threat to the health, safety and welfare of the citizens of Mendocino County.

NOW, THEREFORE, THE MENDOCINO COUNTY PLANNING COMMISSION ORDAINS AS FOLLOWS:

Section 1. Findings.

(A) The Planning Commission finds that the above recitals are true and correct and incorporated herein by this reference.

(B) The Planning Commission finds that section 20.164.015 - Residential and Agricultural Use Types (L) Room & Board should be interpreted exactly as written and apply only to the rental of one or two rooms within a house that is also occupied full time as a residential unit.

(C) The Planning Commission finds that any property with a vacation rental must also be occupied by a permanent resident to ensure that the vacation rental component is clearly subordinate and incidental to the primary use.

(D) Notwithstanding any provision of the Mendocino County Code, this interpretation shall apply to all Vacation Rentals within the areas of the County governed by the Inland Zoning Codes as of the date of adoption of this ordinance.

(E) Additionally, all existing permitted vacation rentals which do not meet that above criteria shall be considered legal non-conforming uses.

(F) For purposes of this resolution, "Vacation Rental" or "Short-Term Rental" is defined as the use of all of a dwelling, detached bedroom, or guest cottage (as those terms are defined in Mendocino County Code chapters 20.008 or 20.308) for renting by the owner or operator to another person or group of persons for occupancy, dwelling, lodging or sleeping purposes for a period of thirty (30) consecutive calendar days or less. "Vacation Rental" includes, but is not limited to, a Vacation Home Rental as defined in Mendocino County Code section 20.308.125. "Vacation Rental" does not include month-to-month tenancies, but only includes rentals of properties under an agreement (written or oral) for a specified period of time of thirty (30) calendar days or less.

(G) The County and its agents, employees and departments shall not make any determination that would authorize or approve any application for any permit, license or entitlement which has as its result the approval or allowance of the operation of a Vacation Rental within the County's residential zoning districts during the term of this ordinance without compliance with the terms of this ordinance.

(H) This ordinance shall not apply to any Vacation Rental existing before June 1, 2022, if the person operating the Vacation Rental applied for a business license, including all related approvals (such as a zoning clearance or use permit), and is not denied thereafter. For purposes of this ordinance, a Vacation Rental may be determined by the Director of Planning and Building Services to have existed before adoption of this ordinance if the owner thereof can produce copies of all of the following:

- (1) A copy of a Mendocino County business license indicating that the holder thereof is operating a Vacation Rental business at the address located on the business license, which license must have been issued on a date prior to June 1,

2022.

(2) A copy of a federal or state income tax return covering all or a portion of the twelve (12) month period prior to June 1, 2022 indicating that the taxpayer was operating a Vacation Rental business during such period.

(I) Any and all such evidence presented as proof of operation of a Vacation Rental must relate directly to the real property for which the owner seeks to operate or continue operation of a Vacation Rental Business.

(J) If an owner of a Vacation Rental has been issued a business license and has been registered for the County's Transient Occupancy Tax either prior to June 1, 2022, or pursuant to subdivision (F) of this section, and the property of the Vacation Rental undergoes a change in ownership after the adoption of this Ordinance, the new owner may not apply for a business license to operate the Vacation Rental.

Section 3. The Planning Commission finds and determines that the immediate preservation of the public health, safety and welfare requires that this resolution be enacted.

Section 4. This resolution is categorically exempt from the California Environmental Quality Act under (a) Section 15060(c)(2) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; and (b) Section 15060(c)(3) of the State CEQA Guidelines because it is not a project within the meaning of CEQA since it has no potential for resulting in physical changes in the environment.

Section 7. If any section, subsection, sentence, clause phrase or portion of this resolution is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

PASSED AND ADOPTED by the Planning Commission of the County of Mendocino, State of California, on this _____ day of _____, 2022, by the following roll call vote:

AYES:

NOES: