

Mendocino County
JUN 16 2022
Planning & Building Services

MENDOCINO COUNTY PLANNING COMMISSION PROVIDING CLARIFICATION REGARDING 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
Short-term rentals are rarely problematic regarding noise and safety. If a disturbance occurs there are appropriate recourses; calling authorities, fines, mediation, legal action, etc., that do not include removing a homeowner's right to legally rent their property. The neighbor complaining may one day be the neighbor who needs to rent their house short-term too. It is not in the interest of the homeowner to restrict their ability to rent their property for short or long periods of time.

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

The exact nature of how home owners use, enjoy, and make ends meet on their property should be of no interest to the commission, so long as it not illicit activity. Homes are investments. Rented, or not, homeowners are building equity and depend on the long range security of their housing asset. If they determine short-term renting is a good fit for them and better secures their financial security that is their business and no one else's as long as they are law abiding and ensuring their guests are too.

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

Corporations that operate exclusively as businesses, owning three or more vacation rentals in the county, who do not provide rental housing (longer than 28 day periods) for nurses, teachers, or other county professionals who live in the area, or are indeed operating as hotels, should be regulated and restricted differently than private property homeowners who are short-term renting their home to build equity and secure their family's financial security.

Before restricting short-term rentals specific details around corporate home purchases for investment purchases and international/foreign ownership, all of which is legal, should be addressed as it relates to short-term rental. It's also important to do the accounting to determine the real potential income loss that may result from adopting the resolution; rental restrictions will greatly affect purchases of second homes and/or investment properties which is an integral part of the Mendocino County economy. The resolution before the Planning Commission, if adopted, may devastate the economy across broad sectors; and in most cases, these restrictions on rentals will not meet the goal of significantly providing low income and affordable workforce housing.

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".

Short-term rental is still residential use. It is the primary use of a home to be resided in. It doesn't matter if the guest is there for a family reunion, finding shelter from wildfire, housing a traveling nurse, a visiting woodworker or art student attending week's long classes in a center or shop, or perhaps a rural resident choosing to have a home birth close to a hospital (All true examples), a short-term rental is residential. it's an important part of a local economy, and it provides an essential service, temporary housing.

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.

A rushed and ill-conceived ordinance restricting short-term rental and the revenue, jobs, and housing they provide, will negatively impact our economy, property values, the livelihood of service personnel, local small businesses, and property owners. Adopting the resolution is premature without first having input from the county at large, the code consultants hired by the county to update the zoning code, and the tax paying homeowner.

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

Far more research would be required to know how often landowners do or do not occupy their property, share it with friends, family, or others. Simply counting business licenses tied to housing stock and not counting the number of structures per property, checking to see how many days per year the rentals were occupied, homeowners holding licenses they are not using just to keep them active for future use, etc. does not provide an accurate assessment of primary or short-term rental use.

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

Short-term rentals are for sleeping, eating, and housing people. Even if it is a temporary residence, it's still a residential use and should be treated as such. A person may own a home they reside in for short periods of time. Whether they rent it or not in between their time there, or live there themselves full time or someone else does, it's still residential use one way or the other. A rental or primary residence is still a residence no matter how many nights it's occupied.

The code 20.048 includes the use type of community recreation as well as essential services. Short term rental use is not only for recreation, it provides an essential service, temporary shelter. For example: When fires rage inland the coast is flooded with people fleeing their homes. They find shelter in vacation homes. Short-term rentals are an important part of the residential housing demographic that serves the public by providing temporary shelter benefitting the renters as well as the local community through the jobs created and funding it provides for local businesses and Mendocino County at large.

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.

The legally registered vacation rentals contribute a significant amount of money through the business and property taxes they pay and the sales taxes their clients pay. Bringing visitors to the county supports local businesses and in large part funds the success and quality-of-life our rural economy enjoys.

Rather than potentially devastating the local economy and undermining personal property rights, which may subsequently lead to litigation by adopting this resolution, a better use of time and resources would be to enforce the code already in place and bring the illegal vacation rentals into compliance so they are contributing to the tax base too. It's important to understand the impact restricting short-term rentals will bring: For example:

A large part of the Planning Commission's Resolution and HAT's proposal includes statements that a substantial and increasing share of the County's housing stock is being used as Vacation Rentals. It's stated to be over 500 registered, plus possibly an additional 50-100 units, not registered. On the [Census Bureau's website](#) the number of Housing units, according to Census data (as of July 1, 2021), were 41,552 housing units in Mendocino County. If this is correct, the 2% of housing stock allowed to be short-term rental would be 831 units! If the proposed resolution restricts short-term rentals to this number it will have a tremendous impact on Mendocino County's tax revenue and broader local economy.

Rather than restricting short-term rental, another option is to provide property owners incentives and streamlined, inexpensive, and easier ways to convert structures on their properties into ADUs, which will add to the housing stock. Not everyone has an environment that will work as a vacation rental; and not everyone wants a short-term rental. As with anything there is a saturation point. "The market will self-correct" Provide a better pathway to ADUs, tiny homes, RVs and camping on acreage, new housing development, etc. and more affordable housing stock will happen organically "Build it and they will come".

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;

Most short term rentals are luxury homes or not suitable in some way for the homeowner to rent it long-term. Some may look at a home and think that it's a "normal house" that could be used as a long-term affordable rental. That is subjective by the viewer. No one but the owner knows what they owe on their mortgage or other obligations they may have that makes short-term over long-term rental more feasible for them; Or personal reasons they may have that makes short-term rental more viable for them. Ultimately it is the homeowner, as the property owner with private property rights, who should decide, when, how and to whom they choose to rent their home.

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

This is true! But restricting short-term rental will not solve this problem. Existing housing is not affordable workforce housing. New units need to be built and Mendocino County needs to focus on streamlining the permit process, easing red-tape regulations, eliminate redundant reviews, and free property up for measured, reasonable, development by re-zoning for ADUs, JrADUs, and high-density developments.

The choice to long-or-short-term rent is the homeowner's prerogative as a private property owner. Vacation rentals are not a major driver of the housing crisis in this county.

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;

Vacation and short-term rentals are not mini-hotels! They are a residence used for a variety of purposes by the people residing there, who for whatever their reason/s, feel a motel is not suitable for them. Short-term and vacation rentals are specifically chosen because they are not motels. Vacation rentals have plenty of oversight; many rules, restrictions, and codes/ordinances to abide by. Property managers add another layer of oversight. 70% of them are managed by a small business owners who also provide good paying jobs for service contractors.

and WHEREAS, the Board of Supervisors is working to develop a comprehensive vacation rental ordinance; and

The Interwest Consulting Group has already been tasked with providing an update to the commission about the zoning changes in light of their extensive experience helping communities navigate a changing landscape, it is the best interest of the commission and the people to hear from the county appointed code consultants before making any recommendations.

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

Then do not restrict short-term rental. Instead embrace the very important part it has in Mendocino County's economy and housing demographic, regulate illegal short-term rentals, and use a portion of the business and property taxes they generate to fund low income, affordable, and workforce housing; provide incentives for home owner's to develop ADUs/JrADUs, and allow non-compliant structures to be easily and affordably permitted so they may be added to the housing stock.

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.

This statement is an unsupported and dubious claim. Until proven true, and in exceptionally egregious high numbers, this item should not be used as a basis to restrict rentals.

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.

COVID 19 has made it unsafe and potentially life-threatening to share air with other people. It does not support the health and safety of the people of Mendocino county to require landowners to share kitchens, bathrooms, and indoor spaces with renters in order to rent their properties as needed to fund improvements, supplement their income, pay for property taxes, etc. This ordination is unreasonable and does not serve the homeowner nor the tenant. It seems to be an invasion of privacy, overreach of bureaucracy, and a violation of private property rights.

(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.

This *is not* a reasonable approach. Many homeowners are not wealthy and need a variety of options available to them when purchasing and/or keeping a home in Mendocino County. Be it a primary, secondary, or investment home, limiting the property owner's ability to rent their home in the manner that best serves their needs, health, and financial security, is an affront and could be perceived as economic interference and trampling private property rights.

