



**COUNTY OF MENDOCINO**  
**DEPARTMENT OF PLANNING AND BUILDING SERVICES**  
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## **MEMORANDUM**

**DATE:** November 17, 2022  
**TO:** Planning Commission  
**FROM:** Julia Krog, Director  
**SUBJECT:** Planning Commission Ad Hoc Committee on Short-Term Rentals Draft Resolution Providing Clarification Regarding Occupancy of Single-Family Homes for Transient Habitation

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### Current Classification of Short-Term Rentals:

In 2010, the Director of Planning and Building Services classified vacation home rentals/short term rentals as “Room and Board” as described in Mendocino County Code (MCC) section 20.164.015(L), which is an accessory use type. Accessory uses under section 20.164.015 are permitted in all zones where residential and agricultural use types are permitted. Under “Room and Board” owners wishing to either rent out either up to 2 rooms in their home or their entire home to transient guests could do so as an accessory use with required permitting determined based upon the location of the property in regards to publicly maintained roads. Properties that front publicly maintained roads require a Business License and properties that do not have frontage on a publicly maintained road require a Major Use Permit and Business License to operate.

“Room and Board” is permissible in all zoning districts except for Industrial (I1, I2, PI) and Open Space (OS). Unlike the other zoning districts, which allow residential uses by right, the Public Facilities (PF) zoning district allows single-family residences upon the issuance of a Minor Use Permit. Once the residential use is established through a Minor Use Permit or if there is a legal non-conforming residential use, “Room and Board” becomes accessory to that established primary use of the site as does the construction of an accessory dwelling unit.

“Room and Board” under the current interpretation may be established in a primary single-family residence, an accessory dwelling unit or a detached bedroom. County Code regarding junior accessory dwelling units prohibits rentals of less than 30 days and require the recordation of a deed restriction specifying this restriction.

### Proposed Classification/Interpretation of Short-Term Rentals:

On December 2, 2021, Chair Pernell created an Ad Hoc Committee of the Planning Commission to review the interpretation of the Planning and Building Services Director regarding MCC section 20.164.015(L) as it relates to the transient habitation of an entire single-family residence. The Ad Hoc Committee’s draft resolution provides clarification and a new interpretation on the applicability of MCC sections 20.164.015(L) and 20.024.135 as they relate to the occupancy of an entire single-family residence or accessory dwelling unit as transient habitation. The Ad Hoc Committee’s draft resolution does not change allowances under “Room and Board” for the renting of no more than 2 rooms in a home for transient habitation.

The Ad Hoc Committee’s proposed resolution classifies the occupancy of an entire single-family residence or accessory dwelling unit being used for transient habitation as “Transient Habitation – Lodging (Limited)”, a commercial use type. Under this proposed interpretation, a Major Use Permit would be required for all entire-home transient habitation use. This proposed interpretation also affects some of the zoning districts in which this use type would be allowed. “Transient Habitation – Lodging (Limited)” is permissible in nearly all the same zoning districts as “Room and Board” except for General Commercial (C2).

The renting of no more than two rooms within a dwelling unit for transient habitation would remain

unchanged with the proposed interpretation and remain an allowable accessory use as “Room and Board” and subject to the permitting standards that are based upon the location of the property in regards to a publicly maintained road.

California Environmental Quality Act:

This proposed resolution is categorically exempt from the California Environmental Quality Act (CEQA) 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.

The proposed resolution is an interpretation of the existing code and not a project within the meaning of CEQA as it will not result in any physical changes in the environment. The subject of the interpretation is related to use of existing permitted structures for transient habitation and as a result no physical development will result from the interpretation. The interpretation solely modifies the use classification from an accessory use to a conditionally permitted use, increasing the level of potential future environmental review for future applications as a result.

The proposed resolution will not result in a direct or reasonably foreseeable indirect physical change in the environment as it is primarily focused on classifying a use type and as a result changing the permitting level of the use of an entire residential structure for transient habitation to require a Major Use Permit. Major Use Permits are discretionary permits, which will allow for appropriate site level CEQA review and analysis for each individual site. As a result of this interpretation, entire-home transient habitation use would no longer be permissible within the C2 zoning district. C2 however does allow for “Transient Habitation – Lodging”, which allows for transient habitation of more than 7 rooms. C2 is considered the higher-intensity commercial zone for the County and as such has been appropriately reserved for higher-intensity commercial development. As a result of this interpretation, transient habitation will be permissible in C2 albeit at a higher intensity level and not as accessory to a residential use.

Revised Resolution:

A revised draft Resolution is attached to this memorandum based upon the discussion amongst the Planning Commission at their November 3, 2022 meeting. The revised resolution clarifies the allowance for “Room and Board” to continue when it consists of no more than two rooms in a dwelling unit and does not apply to the renting of an entire dwelling unit for transient habitation. Staff removed reference to full time occupancy of a dwelling unit for “Room and Board” to occur as that term is not defined in Mendocino County Code.

Staff also revised the language of “single-family residence” in both the title and several clauses to “dwelling unit” to clarify that the resolution relates to the renting out an entire dwelling unit for transient habitation to capture accessory dwelling units in addition to single-family residences.

MCC section 20.008.026(K) defines “Dwelling Unit” as *a single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, and having only one (1) kitchen.*

Appeal:

Pursuant to MCC section 20.208.010, the action of the Planning Commission is final unless appealed to the Board of Supervisors pursuant to MCC section 20.208.015.

**Attachment:**

Draft Redline Resolution

Resolution No. \_\_\_\_\_

**RESOLUTION OF THE PLANNING COMMISSION, COUNTY OF MENDOCINO, STATE OF CALIFORNIA, PROVIDING CLARIFICATION REGARDING INTERPRETATION OF THE APPLICABILITY OF MENDOCINO COUNTY CODE SECTION 20.164.015(L) AND 20.024.135 AS THEY RELATE TO OCCUPANCY OF AN ENTIRE SINGLE-FAMILY RESIDENCEDWELLING UNIT AS TRANSIENT HABITATION**

WHEREAS, Division I of Title 20 of Mendocino County Code (“Inland Zoning Code”) does not offer specific regulations for occupancy of an entire single-family residedwelling unit as transient habitation (“Vacation Rental”); and

WHEREAS, “transient habitation” is defined in section 20.024.135 as “establishments primarily engaged in the provision of lodging services on a less than monthly basis with incidental food, drink and other sales and services intended for the convenience of guests”; and

WHEREAS, section 20.164.010 of the Inland Zoning Code provides that the Director of the Department of Planning and Building Services (“Director”) may make determinations as to whether a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to a principal use; and

WHEREAS, section 20.164.015 contains a list of accessory buildings and uses that shall be permitted in zones where residential and agricultural use types are permitted, and includes the following use of “Room and Board”:

(L) Room and 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.”*; and

WHEREAS, the Director has previously interpreted section 20.164.015(L) to apply to a Vacation Rental as defined herein, finding that such use is an accessory use that is necessarily and customarily associated with and is appropriate, incidental and subordinate to the principally permitted residential use of the property.

WHEREAS, Chair Pernell of the Planning Commission created an ad hoc commission on December 2, 2021, to review the interpretation of the Planning and Building Services Director regarding Section 20.164.015(L) and Vacation Rentals.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission finds and determines as follows;

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 a Vacation Rental, as defined in this

resolution, is not appropriate, incidental and subordinate to a principal residential or agricultural use type and therefore is not an allowable accessory use pursuant to section 20.164.010.

C. The Planning Commission finds that section 20.164.015 - Residential and Agricultural Use Types (L) Room & Board shall be interpreted as follows:

- The “Room and Board” accessory use type is limited to the rental of not more than two rooms within an entire house-dwelling unit that is also occupied ~~full time~~ as a primary residence. A detached bedroom is considered a room of a house-dwelling unit.
- A Vacation Rental of an entire dwelling unit is not incidental or subordinate to a principal residential or agricultural use.

D. The Planning Commission further finds that Section 20.024.135(B) Transient Habitation—Lodging (Limited) shall be interpreted to include a Vacation Rental as defined by this resolution, whether such Vacation Rental is the primary single-family residence on the property, or an accessory dwelling unit. A Vacation Rental is permitted in the following zoning districts with approval of a Major Use Permit: S-R Suburban Residential District; R-R Rural Residential District; A-G Agricultural District; U-R Upland Residential District; R-L Rangeland District; F-L Forestland District; TPZ Timberland Production Zoning District; R-1 Single-Family Residential District; R-2 Two-Family Residential District; R-3 Multiple-Family Residential District; R-C Rural Community District; C-1 Limited Commercial District, and P-F Public Facilities District.

E. This interpretation shall apply to all Vacation Rentals within the areas of the County governed by the Inland Zoning Code as of the date of adoption of this resolution; provided, however, that all Vacation Rentals that have received a business license and all related approvals, including but not limited to a major use permit, from Mendocino County prior to the date of this resolution shall be considered legal non-conforming uses pursuant to Mendocino County Code Chapter 20.204.

F. 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.

BE IT FURTHER RESOLVED that the Planning Commission action shall be final on the 11<sup>th</sup> day after the date of the Resolution unless an appeal is taken pursuant to Mendocino County Code section 20.208.015.

*I hereby certify that according to the Provisions of Government Code Section 25103 delivery of this document has been made.*

ATTEST: BROOKE LARSEN  
Commission Services Supervisor

By: \_\_\_\_\_

BY: JULIA KROG  
Director

ALISON PERNELL, Chair  
Mendocino County Planning Commission

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