ORDINANCE NO. 1332

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING SECTION 18.08.260 DEFINING DWELLING UNIT AND ADDING A NEW SECTION 18.104.410 PROHIBITING TRANSIENT COMMERCIAL OCCUPANCIES OF DWELLING UNITS TO THE NAPA COUNTY CODE

WHEREAS, under the Napa County General Plan, amended June, 2008, two overriding goals of Napa County are to preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County, and to concentrate urban uses in the County’s existing cities and town and urbanized areas (Goal AG/LU-1 and 2); and

WHEREAS, in support of these goals, the General Plan contains numerous policies which direct that agriculture is the primary land use in the County, minimize conflicts arising from encroachment of urban uses into agricultural areas, limiting new non-agricultural uses or developments, concentrate urban uses and residential growth in the incorporated cities and town which can provide necessary and expected public services and not conflict with the agricultural heritage of the County (Policy AG/LU-1, 3, 12, 22, 23); and

WHEREAS, additionally the General Plan contains policies which direct the County to promote development concepts that create flexibility, economy, and variety in housing without resulting in significant environmental impacts and without allowing residences to become commercial short-term guest accommodations (Policy AG/LU-1, 3, 12, 22, 23, 33, Action Item 33.1); and

WHEREAS, the commercial use of dwelling units on an overnight transient basis of less than 30 days occupancy is a commercial activity often incompatible with maintaining the agricultural nature and rural ambiance of the County, and those areas devoted to rural residential use, and may create adverse impacts on surrounding residential uses including, but not limited to, increased demand for public services because of higher densities than would otherwise likely occur, the likelihood of late night noise and glare emanating from parties, increased visitor traffic on narrow roadways exceeding
their capacity and the need to drive long distances to obtain visitor serving needs, and removes such
dwellings from the potential of providing needed available housing stock for County residents; and

WHEREAS, the commercial use of dwelling units on an overnight transient basis of less than
30 days occupancy is currently a violation of the uses allowed in all zoning districts in Napa County,
unless specifically stated otherwise in Title 18 of the Napa County Code; and

WHEREAS, this ordinance is declaratory of existing law with respect to commercial transient
occupancies of dwelling units and will specifically enumerate and clarify in the County Code that
commercial transient occupancies of dwelling units continue to be prohibited in all residential and
agricultural zoning districts within the county, which is consistent with the objectives of the General
Plan; and

WHEREAS, the Board of Supervisors determines that the enactment of this ordinance will
ameliorate the above noted deleterious effects associated with transient commercial occupancies of
dwelling units, and will advance and promote the health, safety, and general welfare of the County and
its inhabitants.

NOW, THEREFORE, the Board of Supervisors of the County of Napa, State of California,
ordains as follows:

SECTION 1. Section 18.08.260 ( Dwelling unit) of Chapter 18.08 (Definitions) of the
Napa County Code is amended to read in full as follows:

18.08.260 Dwelling unit.
A. “Dwelling unit” means a room or connected rooms constituting a separate, independent
housekeeping establishment for owner occupancy or rental or lease for a period of thirty days or
longer, physically separated from other rooms or dwelling units in the same structure, and containing
independent cooking and sleeping facilities.
B. “Dwelling unit” does not include those commercial timeshare or vacation ownership
arrangements as more specifically defined in Section 11212 of Chapter 2 of Part 2 of Division 4 of the
Business and Professions Code, including a dwelling unit owned by a corporation or club, including
arrangements commonly referred to as corporate club memberships, private residence clubs, vacation
home partnerships, vacation clubs, destination clubs, or condohotels, and used by individual
shareholders or members by advance reservation or arrangement for a period of less than thirty
consecutive days, and also does not include arrangements involving a parcel of real property with more
than twelve fee owners per legal dwelling unit where any fee owner is entitled to exclusive occupancy of the dwelling unit or units for a period of less than thirty days in a given calendar year.

SECTION 2. A new Section 18.104.410 (Transient commercial occupancies of dwelling units prohibited) is added to Chapter 18.104 (Additional Zoning District Regulations) of the Napa County Code to read in full as follows:

18.104.410 Transient commercial occupancies of dwelling units prohibited.
A. Transient commercial occupancies of dwelling units are prohibited in all residential and agricultural zoning districts within the county.
B. Definitions. Unless otherwise defined in Chapter 18.08, the following definitions shall apply to this section:
   1. “Commercial use” shall have the same meaning as commercial use in Section 18.08.170, except it shall not include house exchanges, where owners or occupants swap homes for vacation purposes.
   2. “Occupancies” means the use or possession or the right to the use or possession of real property or a portion thereof, including any dwelling unit, single family dwelling unit, guest cottage, or second unit, for dwelling, lodging or sleeping purposes. The right to use or possession includes any nonrefundable deposit or guaranteed no-show fee paid by a person, whether or not the person making the deposit actually exercises the right to occupancy by using or possessing any property or portion thereof.
   3. “Transient commercial occupancies of dwelling units” means any commercial use of a dwelling unit for a period of time less than thirty consecutive days. It does not include occupancies associated with farm labor camps, residential care facilities, family day care homes, or legally permitted bed and breakfast establishments, hotels or motels.
C. Liability and Enforcement.
   1. Any property owner, or authorized agent thereof, who uses or allows, or who knowingly arranges or negotiates for the use of, transient commercial occupancies of dwelling units in violation of this section shall be guilty of either an infraction or a misdemeanor.
   2. Any property owner, or authorized agent thereof, who prints, publishes, advertises or disseminates in any way, or causes to be printed, published, advertised or disseminated in any way, any notice or advertisement of the availability of transient commercial occupancies of dwelling units as prohibited by this section, shall be guilty of either an infraction or a misdemeanor.
   3. In addition to the penalties set forth in subsections (C)(1) and (2) above, violators of this section may be subject to a public nuisance abatement action brought under the provisions of Chapter 1.20 and the civil penalty provisions of up to one thousand dollars per violation per day as provided in subsection (B) of Section 1.20.155 and subject to an unfair competition action brought pursuant to Business and Professions Code Section 17200 et. seq and up to two thousand five hundred dollars per violation civil penalty allowed thereunder.
   4. Any person who uses, or allows the use of transient commercial occupancies of dwelling units prohibited by this section shall also be liable for the transient occupancy tax that would have been owed under Chapter 3.32 had the occupancy use been legal, including the penalty and interest provisions of Section 3.32.080.
   5. The civil remedies and penalties provided by this subsection are cumulative to each other.
SECTION 3. The Director of Conservation, Development and Planning has determined that this ordinance would not have a significant effect on the environment and is exempt from the California Environmental Quality Act [See guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15061(b)(3)]. The project also will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, will not cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County’s Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

SECTION 4. Pursuant Chapter 4, Title 7, commencing with Section 65800, of the California Government Code, this ordinance is consistent with the following goals and policies of the 2008 General Plan: Agricultural Preservation and Land Use Goals AG/LU-1, 2, 5 and Policies AG/LU- 1, 3, 12, 20, 21, 22, 26, 32, 33, 34, and 35; Circulation Policy CIR-1; Community Character Goal CC-6 and 8 and Policies CC-31 and 36.

SECTION 5. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors of the County of Napa hereby declares it would have passed and adopted this ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.
SECTION 6.  This ordinance shall be effective one hundred eighty (180) days from and after the date of its passage.

SECTION 7.  A summary of this ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in the County of Napa, together with the names of members voting for and against the same.

The foregoing ordinance was introduced and public hearing held thereon before the Napa County Conservation, Development and Planning Commission at a regular meeting of the Commission on November 18 and December 2, 2009, and was passed at a regular meeting of the Board of Supervisors of the County of Napa, State of California, held on the 15th day of December, 2009, by the following vote:

AYES:      SUPERVISORS  CALDWELL, WAGENKNECHT, DODD and LUCE
NOES:      SUPERVISORS  NONE
ABSTAIN:   SUPERVISORS  NONE
ABSENT:    SUPERVISORS  DILLON

MARK LUCE, CHAIR
Napa County Board of Supervisors

ATTEST:  GLADYS I. COIL
Clerk of the Board of Supervisors

By: ____________________________

APPROVED AS TO FORM
Office of County Counsel
By: Rob Paul (by e-signature)
    Deputy County Counsel
By: Sue Ingalls (by e-signature)
    County Code Services
Date: December 15, 2009

APPROVED BY THE NAPA COUNTY
BOARD OF SUPERVISORS
Date: December 15, 2009
Processed by:
Deputy Clerk of the Board

cc:D:\PL\Ord\Transient\CommercialOccupancies\CommUseResPropFinal.doc
5

[Signature]
DEPUTY
GLADYS I. COIL, CLERK OF THE BOARD
ORDINANCE NO. ____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING SECTION 18.08.260 DEFINING DWELLING UNIT AND ADDING A NEW SECTION 18.104.410 PROHIBITING TRANSIENT COMMERCIAL OCCUPANCIES OF DWELLING UNITS TO THE NAPA COUNTY CODE

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WHEREAS, in support of these goals, the General Plan contains numerous policies which direct that agriculture is the primary land use in the County, minimize conflicts arising from encroachment of urban uses into agricultural areas, limiting new non-agricultural uses or developments, concentrate urban uses and residential growth in the incorporated cities and town which can provide necessary and expected public services and not conflict with the agricultural heritage of the County (Policy AG/LU-1, 3, 12, 22, 23); and

WHEREAS, additionally the General Plan contains policies which direct the County to promote development concepts that create flexibility, economy, and variety in housing without resulting in significant environmental impacts and without allowing residences to become commercial short-term guest accommodations (Policy AG/LU-1, 3, 12, 22, 23, 33, Action Item 33.1); and
WHEREAS, the commercial use of dwelling units on an overnight transient basis of less than 30 days occupancy is a commercial activity often incompatible with maintaining the agricultural nature and rural ambiance of the County, and those areas devoted to rural residential use, and may create adverse impacts on surrounding residential uses including, but not limited to, increased demand for public services because of higher densities than would otherwise likely occur, the likelihood of late night noise and glare emanating from parties, increased visitor traffic on narrow roadways exceeding their capacity and the need to drive long distances to obtain visitor serving needs, and removes such dwellings from the potential of providing needed available housing stock for County residents; and

WHEREAS, the commercial use of dwelling units on an overnight transient basis of less than 30 days occupancy is currently a violation of the uses allowed in all zoning districts in Napa County, unless specifically stated otherwise in Title 18 of the Napa County Code; and

WHEREAS, this ordinance is declaratory of existing law with respect to commercial transient occupancies of dwelling units and will specifically enumerate and clarify in the County Code that commercial transient occupancies of dwelling units continue to be prohibited in all residential and agricultural zoning districts within the county, which is consistent with the objectives of the General Plan; and

WHEREAS, the Board of Supervisors determines that the enactment of this ordinance will ameliorate the above noted deleterious effects associated with transient commercial occupancies of dwelling units, and will advance and promote the health, safety, and general welfare of the County and its inhabitants.

NOW, THEREFORE, the Board of Supervisors of the County of Napa, State of California, ordains as follows:
SECTION 1.

Section 18.08.260 ( Dwelling unit ) of Chapter 18.08 ( Definitions ) of the Napa County Code is amended to read in full as follows:

18.08.260  Dwelling unit.

A. "Dwelling unit" means a room or connected rooms constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a monthly or longer basis for a period of thirty days or longer, physically separated from other rooms or dwelling units in the same structure, and containing independent cooking and sleeping facilities.

B. "Dwelling unit" does not include those commercial timeshare or vacation ownership arrangements as more specifically defined in Section 11212 of Chapter 2 of Part 2 of Division 4 of the Business and Professions Code, including a dwelling unit owned by a corporation or club, including arrangements commonly referred to as corporate club memberships, private residence clubs, vacation home partnerships, vacation clubs, destination clubs, or condohotels, and used by individual shareholders or members by advance reservation or arrangement for a period of less than thirty consecutive days, and also does not include arrangements involving a parcel of real property with more than twelve fee owners per legal dwelling unit where any fee owner is entitled to exclusive occupancy of the dwelling unit or units for a period of less than thirty days in a given calendar year.

SECTION 2.

A new Section 18.104.410 ( Transient commercial occupancies of dwelling units prohibited ) is added to Chapter 18.104 ( Additional Zoning District Regulations ) of the Napa County Code to read in full as follows:

18.104.410  Transient commercial occupancies of dwelling units prohibited.

A. Transient commercial occupancies of dwelling units are prohibited in all residential and agricultural zoning districts within the county.

B. Definitions. Unless otherwise defined in Chapter 18.08, the following definitions shall apply to this section:

1. "Commercial use" shall have the same meaning as commercial use in Section 18.08.170, except it shall not include house exchanges, where owners or occupants swap homes for vacation purposes.

2. "Occupancies" means the use or possession or the right to the use or possession of real property or a portion thereof, including any dwelling unit, single family dwelling unit, guest cottage, or second unit, for dwelling, lodging or sleeping purposes. The right to use or possession includes any nonrefundable deposit or guaranteed no-show fee paid by a person, whether or not the person making the deposit actually exercises the right to occupancy by using or possessing any property or portion thereof.

3. "Transient commercial occupancies of dwelling units" means any commercial use of a dwelling unit for a period of time less than thirty consecutive days. It does not include occupancies associated with farm labor camps, residential care facilities, family day care homes, or legally permitted bed and breakfast establishments, hotels or motels.
C. Liability and Enforcement.

1. Any property owner, or authorized agent thereof, who uses or allows, or who knowingly arranges or negotiates for the use of, transient commercial occupancies of dwelling units in violation of this section shall be guilty of either an infraction or a misdemeanor.

2. Any property owner, or authorized agent thereof, who prints, publishes, advertises or disseminates in any way, or causes to be printed, published, advertised or disseminated in any way, any notice or advertisement of the availability of transient commercial occupancies of dwelling units as prohibited by this section, shall be guilty of either an infraction or a misdemeanor.

3. In addition to the penalties set forth in subsections (C)(1) and (2) above, violators of this section may be subject to a public nuisance abatement action brought under the provisions of Chapter 1.20 and the civil penalty provisions of up to one thousand dollars per violation per day as provided in subsection (B) of Section 1.20.155 and subject to an unfair competition action brought pursuant to Business and Professions Code Section 17200 et. seq and up to two thousand five hundred dollars per violation civil penalty allowed thereunder.

4. Any person who uses, or allows the use of transient commercial occupancies of dwelling units prohibited by this section shall also be liable for the transient occupancy tax that would have been owed under Chapter 3.32 had the occupancy use been legal, including the penalty and interest provisions of Section 3.32.080.

5. The civil remedies and penalties provided by this subsection are cumulative to each other.

SECTION 3. The Director of Conservation, Development and Planning has determined that this ordinance would not have a significant effect on the environment and is exempt from the California Environmental Quality Act [See guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15061(b)(3)]. The project also will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, will not cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 (“Minor Alterations in Land Use Limitations”) which may be found in the guidelines for the implementation of the
California Environmental Quality Act at 14 CCR §15305; see also Napa County’s Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

SECTION 4. Pursuant to Chapter 4, Title 7, commencing with Section 65800, of the California Government Code, this ordinance is consistent with the following goals and polices of the 2008 General Plan: Agricultural Preservation and Land Use Goals AG/LU-1, 2, 5 and Policies AG/LU-1, 3, 12, 20, 21, 22, 26, 32, 33, 34, and 35; Circulation Policy CIR-1; Community Character Goal CC-6 and 8 and Policies CC-31 and 36.

SECTION 5. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors of the County of Napa hereby declares it would have passed and adopted this ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 6. This ordinance shall be effective thirty (30) days from and after the date of its passage.

SECTION 7. A summary of this ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in the County of Napa, together with the names of members voting for and against the same.

The foregoing ordinance was introduced and public hearing held thereon before the Napa County Conservation, Development and Planning Commission at a regular meeting of the Commission on November 18 and December 2, 2009, and was passed at a regular meeting of the
Board of Supervisors of the County of Napa, State of California, held on the ________ day of ________, 2009, by the following vote:

AYES: SUPERVISORS _____________

NOES: SUPERVISORS _____________

ABSTAIN: SUPERVISORS _____________

ABSENT: SUPERVISORS _____________

MARK LUCE, CHAIR
Napa County Board of Supervisors

ATTEST: GLADYS I. COIL
Clerk of the Board of Supervisors

By: _______________________

I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON ________________.

_____________________, DEPUTY
GLADYS I. COIL, CLERK OF THE BOARD
MEMORANDUM

To: Conservation, Development & Planning Commission  
From: Hillary Gitelman

Date: November 4, 2009  
Re: Vacation Rental Ordinance

This memo is intended to provide the Commission with additional information and analysis concerning the Vacation Rental Ordinance that is scheduled for a public hearing on November 18, 2009.

Background

The use of dwelling units as vacation rentals or tourist accommodations has long been considered a commercial use, and is thus prohibited in the agricultural and residential zoning districts of Napa County. This prohibition derives from the definition of a “dwelling unit” as a residence for owner occupancy or rental/lease “on a monthly or longer basis” (Napa County Code Section 18.08.260) and the definition of “commercial use” as a use that involves “the exchange of cash, goods or services... in exchange for goods, services, lodging...”(Section 18.02.107).

The proposed ordinance would clarify the longstanding prohibition on the use of dwelling units as vacation rentals, and would neither expand nor alter existing restrictions. The ordinance’s intention is to make it more clear to the reader that vacation rentals are subject to code enforcement action, violation abatement, and civil penalties, and to indicate that civil penalties may include back payment of the transient occupancy tax (TOT) that would have been paid to the County if the vacation rental had been a legal use.

CEQA Compliance

Because the proposed ordinance is declarative of existing regulations, and clarifies rather than substantively changing existing provisions of Napa County Code, the proposed ordinance is exempt from review under CEQA. Specifically, the Class 5 Categorical Exemption (CEQA Guidelines Section 15305) provides an exemption for “minor alterations in land use limitations,” and is supported by language in the County’s formally adopted local guidelines for implementing CEQA (Appendix B, item 14), which specifically exempts “Implementation of zone change that do not increase the maximum intensity of land use allowed.” In the current instance, the proposed
ordinance involves a zoning text amendment and does not increase the maximum intensity of land use allowed, and would therefore fall within this exemption.

The proposed ordinance is also covered by the “general rule” CEQA Guidelines Section 15061(b)(3), which states that “Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” The proposed ordinance essentially constitutes a clarification or technical amendment of an existing ordinance and would perpetuate longstanding County policies and practices. There is no evidence that the ordinance would result in development or have any direct or indirect environmental impacts. Land use designations would not change as a result of the ordinance, and the ordinance would not authorize development of undeveloped land beyond what is currently allowed.

General Plan Conformity

In terms of General Plan conformity, the proposed ordinance would perpetuate longstanding County policies restricting commercial uses in agricultural areas (see General Plan Policies AG/LU-4 and AG/LU-12 specifically), and would further Policy AG/LU-33 about residential areas: “The County will promote development concepts that create flexibility, economy, and variety in housing without resulting in significant environmental impacts and without allowing residences to become timeshares, resorts, hotels, or similar tourist-type accommodations.”

The proposed ordinance would also implement Program H-1c from the Housing Element, which states: “...the County’s code enforcement program will assign high priority to abatement of illegal vacation rentals, ensuring that existing dwelling units are used as residences, rather than tourist accommodations.” In addition, clarifications contained in the ordinance would advance Action Item AG/LU-107.1, which calls on the County to “Undertake revisions to the zoning ordinance (County Code Title 18), simplifying and reorganizing to the extent feasible so that members of the public, applicants, planners and decision-makers can more easily access information and understand code requirements.”

For all of these reasons, the proposed ordinance is consistent with the Napa County General Plan.
economic viability of agriculture. (See Mr. Bachich's letter for the full text and list of his arguments.)

Planning staff disagrees with Mr. Bachich's interpretations, and believes that both the current zoning ordinance and the Napa County General Plan support the County's existing prohibition on the use of dwelling units as vacation rentals, and both would have to be amended to eliminate this prohibition. The Napa County Code is structured so that those uses which are not enumerated as allowed are prohibited [see Section 18.12.080 which provides all uses must be in conformity with all regulations of the zoning district, and no commercial uses are permitted other than is specifically authorized under the Zoning Code]. In the zoning ordinance, the existing prohibition is expressed within the definition of a dwelling unit as something that is for owner occupancy or rental on a monthly or longer basis (Section 18.08.26). The existing prohibition also derives from the definition of commercial use (18.08.170) and the exclusion of all but a few discrete commercial uses from agricultural and residential zoning districts (see the Agricultural Preserve zoning district for example -- Sections 18.16.010 et seq.).

In the General Plan, Policy AG/LU-33 clearly expresses the County's policy that short term tourist use of existing dwelling units is prohibited: "The County will promote development concepts that create flexibility, economy, and variety in housing without resulting in significant environmental impacts and without allowing residences to become timeshares, resorts, hotels, or similar tourist-type accommodations" [emphasis added]. In addition, tourist accommodations are commercial uses, and conflict with General Plan Policies AG/LU-20 and -21, regarding uses and intensities allowed in agricultural areas. These policies were enacted by the voters as Measure J (1990) and Measure P (2008) and generally limit uses to (a) agriculture and (b) one single family dwelling per parcel (except as specified in the Housing Element). There are limited number of circumstances in which other uses are permitted in agricultural areas (e.g. legal non-conforming commercial uses), but unlike vacation rentals, these are generally articulated in other General Plan policies (e.g. Policy AG/LU-45 about legal non-conforming uses), allowing the plan to be interpreted as a whole to allow those other uses.

This is an important point: general plans are by definition, general, and decision makers rely on the plan as a whole, balancing potentially competing policies and priorities. In the current instance, planning staff believes that the County's longstanding commitment to directing commercial uses into urbanized areas, expressed in various ways throughout the General Plan, would preclude legalization of vacation rentals in agricultural areas (i.e. outside of an existing urbanized area as defined on General Plan p. SV-3) without a General Plan amendment.

SUPPORTING DOCUMENTS
A. Revised Draft Ordinance
B. CEQA & GP Memo
C. Input Received for November 18 Hearing
D. El Dorado County Example
E. Additional Correspondence

Napa County Planning Commission: Approve
Reviewed By: John McDowell
BACKGROUND AND DISCUSSION

The Napa County General Plan and zoning ordinance permit at least one dwelling unit on every legal parcel that is zoned for agriculture or residential use. In these zoning districts, commercial uses are generally prohibited, and property owners who rent their dwelling units as short term vacation rentals (a commercial use) do so in violation of Napa County Code. The County has consistently prohibited short term vacation rentals because such commercial activities can conflict with legally permitted uses (e.g. agriculture), can create a nuisance for residential neighbors, and removes housing stock from residential use at a time when Napa County has unmet housing needs.

The Napa County Board of Supervisors has long expressed an interest in improving the effectiveness of code enforcement efforts aimed at eliminating illegal short term vacation rentals, and in June 2009 adopted a Housing Element Update which included Program H-1c: "...the County's code enforcement program will assign high priority to abatement of illegal vacation rentals, ensuring that existing dwelling units are used as residences, rather than tourist accommodations."

In the past year, the Conservation, Development & Planning Department has used a three-prong approach to this issue, including (1) outreach to property owners; (2) stepped-up enforcement efforts; and (3) development of code changes clarifying the County's longstanding prohibition on short term vacation rentals. Items (2) and (3) have been undertaken in collaboration with staff in the District Attorney's office and County Counsel's office, and item (3) has resulted in the current draft ordinance (attached).

Development of the proposed ordinance has taken many months, and involved meetings with key stakeholders, including realtors and land use attorneys working in unincorporated Napa County. Input received on earlier versions of the ordinance was helpful in focusing on the most important clarifications, ensuring that the proposed changes are direct and to the point, and will provide for easier enforcement and additional penalties.

The proposed changes to County Code would clarify existing provisions of the Code, since dwelling units that are leased for less than one month have long been considered illegal vacation rentals, subject to code enforcement actions, violation abatement, and civil penalties. Because the proposed changes would clarify, rather than change, the County Code, they would have no physical environmental impacts, and are considered exempt from CEQA. They are also consistent with and implement the Napa County General Plan. (See memo attached.)

The Planning Commission opened their public hearing on this draft ordinance on November 18, 2009 and heard testimony both for and against the proposal, as well as a request for clarification/amendment to ensure that existing legal fee ownership arrangements are respected, and that "house swaps" can be exempted from the new code section about transient commercial occupancies. As a result, several wording changes have been incorporated into the attached, draft ordinance.

The Commission also requested some analysis about what other counties are doing, and a vacation rental ordinance from El Dorado County is attached. In El Dorado County, using dwelling units as vacation rentals is permitted as long as a permit is obtained and ordinance requirements are met (including payment of transient occupancy tax). Sonoma County has historically allowed vacation rentals, collecting about $2 Million in transient occupancy tax annually, and is currently crafting an ordinance similar to El Dorado County's.

George Bachich has argued (in his letter of November 12, 2009) that interpreting or amending the County's existing ordinance to allow vacation rentals similar to Sonoma or El Dorado Counties would be consistent with the Napa County General Plan because the plan talks about "concentrating" rather than "exclusively locating" commercial uses in urbanized areas, because General Plan Goal AG/LU-5 encourages commercial uses compatible with adjacent uses and agriculture, and because vacation rentals do not hinder agricultural operations or threaten the
EXECUTIVE SUMMARY

Proposed Action:

1. That the Planning Commission recommend to the Board of Supervisors that they find the proposed ordinance exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 (Class 5 Categorical Exemption) as provided by Napa County’s Local Guidelines for Implementing CEQA, and pursuant to the General Rule (CEQA Guidelines Section 15061(b)(3)) that CEQA does not apply where it can be seen with certainty that there is no possibility of a significant impact.

2. That the Planning Commission recommend to the Board of Supervisors that they find the proposed ordinance consistent with the Napa County General Plan for the reasons articulated in this staff report and adopt the proposed ordinance.

Discussion:

Unincorporated Napa County has a limited number of legally permitted hotels, B&Bs, and other guest accommodations. A quick web search will reveal that the County also has quite a few informal vacation rentals, where property owners are renting their homes, second units, and guest houses as tourist or guest accommodations in violation of the County’s zoning regulations. The Napa County Board of Supervisors has expressed an interest in improving the effectiveness of code enforcement efforts aimed at eliminating illegal vacation rentals. The proposed ordinance would clarify and update the existing prohibition on vacation rentals (except in Commercial zoning districts) by clarifying that creative ownership strategies (e.g. timeshares, vacation “clubs,” etc.) are not “dwelling units” and by explicitly prohibiting transient commercial occupancy of dwelling units. At the Commission’s request, the proposed ordinance has been adjusted to exempt “house swaps” from the definition of transient commercial occupancies.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 (“Minor Alterations in Land Use Limitations”) which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305, see also Napa County’s Local Procedures for Implementing the California Environmental Quality Act, Appendix B.] The project is also covered by the General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].
Napa County Planning Commission  
Board Agenda Letter

TO: Napa County Planning Commission  
FROM: John McDowell for Hillary Gitelman - Director  
Conservation, Development & Planning  
REPORT BY: Hillary Gitelman, Director - 253-4805  
SUBJECT: Vacation Rentals Ordinance - P09-00485-ORD

RECOMMENDATION

VACATION RENTAL ORDINANCE - ZONING ORDINANCE TEXT AMENDMENT P09-00485-ORD

CEQA Status: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act. Appendix B.] The project is also covered by the General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

Request: County-sponsored ordinance to clarify the County's prohibition on short term vacation rentals except in commercial zoning districts by clarifying the definition of a "dwelling unit" and adding a new section 18.104.410 explicitly prohibiting transient commercial occupancies of dwelling units.

Ordinance Title: AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING SECTION 18.08.260 DEFINING DWELLING UNIT AND ADDING A NEW SECTION 18.104.410 PROHIBITING TRANSIENT COMMERCIAL OCCUPANCIES OF DWELLING UNITS TO THE NAPA COUNTY CODE

Staff Recommendation: That the Planning Commission conduct a public hearing and forward a recommendation of approval to the Board of Supervisors

Staff Contact: Hillary Gitelman, 253-4805, hgitelman@co.napa.ca.us
BACKGROUND AND DISCUSSION

The Napa County General Plan and zoning ordinance permit at least one dwelling unit on every legal parcel that is zoned for agriculture or residential use. In these zoning districts, commercial uses are prohibited, and property owners who rent their dwelling units as short term vacation rentals (a commercial use) do so in violation of Napa County Code. The County has consistently prohibited short term vacation rentals because commercial activities can conflict with legally permitted uses (e.g. agriculture), can create a nuisance for residential neighbors, and removes housing stock from residential use at a time when Napa County has unmet housing needs.

The Napa County Board of Supervisors has long expressed an interest in improving the effectiveness of code enforcement efforts aimed at eliminating illegal short term vacation rentals, and in June 2009 adopted a Housing Element Update which included Program H-1c: "...the County's code enforcement program will assign high priority to abatement of illegal vacation rentals, ensuring that existing dwelling units are used as residences, rather than tourist accommodations."

In the past year, the Conservation, Development & Planning Department has used a three-prong approach to this issue, including (1) outreach to property owners; (2) stepped-up enforcement efforts; and (3) development of code changes clarifying the County's longstanding prohibition on short term vacation rentals. Items (2) and (3) have been undertaken in collaboration with staff in the District Attorney's office and County Counsel's office, and item (3) has resulted in the current draft ordinance (attached).

Development of the proposed ordinance has taken many months, and involved meetings with key stakeholders, including realtors and land use attorneys working in unincorporated Napa County. Input received on earlier versions of the ordinance was helpful in focusing on the most important clarifications, ensuring that the proposed changes are direct and to the point, and will provide for easier enforcement and additional penalties.

The proposed changes to County Code would clarify existing provisions of the Code, since dwelling units that are leased for less than one month have long been considered illegal vacation rentals, subject to code enforcement actions, violation abatement, and civil penalties. Because the proposed changes would clarify, rather than change, the County Code, they would have no physical environmental impacts, and are considered exempt from CEQA. They are also consistent with and implement the Napa County General Plan. (See memo attached.)

SUPPORTING DOCUMENTS
A. Vacation Rental Ordinance
B. CEQA & GP Memo
C. Correspondence

Napa County Planning Commission: Approve
Reviewed By: John McDowell
EXECUTIVE SUMMARY

Proposed Action:

1. That the Planning Commission recommend to the Board of Supervisors that they find the proposed ordinance exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305 (Class 5 Categorical Exemption) as provided by Napa County's Local Guidelines for Implementing CEQA, and pursuant to the General Rule (CEQA Guidelines Section 15061(b)(3)) that CEQA does not apply where it can be seen with certainty that there is no possibility of a significant impact.

2. That the Planning Commission recommend to the Board of Supervisors that they find the proposed ordinance consistent with the Napa County General Plan for the reasons articulated in this staff report and adopt the proposed ordinance.

Discussion:

Unincorporated Napa County has a limited number of legally permitted hotels, B&Bs, and other guest accommodations. A quick web search will reveal that the County also has quite a few informal vacation rentals, where property owners are renting their homes, second units, and guest houses as tourist or guest accommodations in violation of the County's zoning regulations. The Napa County Board of Supervisors has expressed an interest in improving the effectiveness of code enforcement efforts aimed at eliminating illegal vacation rentals. The proposed ordinance would clarify and update the existing prohibition on vacation rentals (except in Commercial zoning districts) by clarifying that creative ownership strategies (e.g. timeshares, vacation "clubs," etc.) are not "dwelling units" and by explicitly prohibiting transient commercial occupancy of dwelling units.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.] The project is also covered by the General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].
Napa County Planning Commission
Board Agenda Letter

TO: Napa County Planning Commission
FROM: John McDowell for Hillary Gitelman - Director
Conservation, Development & Planning
REPORT BY: Hillary Gitelman, Director - 253-4805
SUBJECT: Vacation Rentals Ordinance - P09-00485-ORD

RECOMMENDATION

VACATION RENTAL ORDINANCE - ZONING ORDINANCE TEXT AMENDMENT P09-00485-ORD
CEQA Status: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County’s Local Procedures for Implementing the California Environmental Quality Act. Appendix B.] The project is also covered by the General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].
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Staff Recommendation: That the Planning Commission conduct a public hearing and forward a recommendation of approval to the Board of Supervisors

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hearings. The tax collector shall render a decision within 30 days of the hearing and the decision shall be appealable to the board of supervisors. (Ord. 4653)

5.56.160 Permits and Fees Not Exclusive.

Permits and fees required by this chapter shall be in addition to any license, permit or fee required under any other chapter of this code. The issuance of any permit pursuant to this chapter shall not relieve the owner of the obligation to comply with all other provisions of this code pertaining to the use and occupancy of the vacation home rental or the property on which it is located. (Ord. 4653)

5.56.170 Penalty.

Any person violating the provisions of this chapter by operating a vacation home rental without a valid permit shall be guilty of a misdemeanor resulting in imposition of a fine of $500.00 for a first violation and a fine of $1,000.00 for a second violation. (Ord. 4653)

5.56.180 Enforcement of Chapter.

The sheriff or designee is hereby authorized and directed to establish such rules and regulations as may from time-to-time be required to carry out the purpose and intent of this chapter. Substantive changes to this ordinance can only be made by the Board of supervisors. (Ord. 4653)

5.56.190 Private Actions to Enforce.

Any person who has suffered, or alleges to have suffered, damage to person or property because of a violation of this chapter may bring an action for money damages and any other appropriate relief in a court of competent jurisdiction against the party alleged to have violated this chapter. The prevailing party in any such litigation shall be entitled to recover reasonable litigation costs, including attorney's fees in an amount deemed reasonable by the court.

Nothing herein shall be deemed or construed to create any right of action against the county or any of its officers, employees, or agents. The sole purpose and intent of this section is to create a right of action between private parties, entities and interests, which are or may be impacted or affected by various aspects of vacation home rentals within the county. (Ord. 4653)

5.56.200 Violations by Occupants of Vacation Rental Homes.

Any violation of the provisions of this chapter shall be punishable pursuant to Chapter 1.24 of this code. Enforcement actions may be brought against occupants of a vacation rental home for violations of this chapter and any other provision of this code notwithstanding that this chapter may also make the owner of the vacation rental home responsible for the conduct constituting the violation. (Ord. 4653)
3. The owner has violated the provisions of this chapter; or.

4. The owner has failed to collect and/or remit to the county the transient occupancy tax as required by Chapter 3.28 of this code.

B. The penalties for violations specified in subsection (A) shall be as follows:

1. For the first violation within any 12 month period, the penalty shall be a warning notice of violation;

2. For a second violation within any 12 month period, the penalty shall be a fine not to exceed $250.00.

3. For a third violation within any 12 month period, the penalty shall be a fine not exceed $500.00;

4. For a fourth violation within any 12 month period, the penalty shall be a fine not to exceed $1,000.00 and/or suspension of the permit; and

5. For a fifth violation within any 12 month period, the permit may be revoked in accordance with the provisions of Section 5.56.150 of this code. An owner may petition the hearing officer for reinstatement no sooner than 12 months after revocation. (Ord. 4653)

5.56.150 Procedure for Imposition of Penalties/Suspension/Revocation.

Penalties, including a notice of violation, shall be imposed, and permits shall be revoked, only in the manner provided in this section.

A. The tax collector or designee shall conduct an investigation whenever there is reason to believe that an owner has failed to comply with the provisions of this chapter. The investigation may include an inspection of the premises. Should the investigation reveal substantial evidence to support a finding that a violation occurred, the tax collector or designee shall issue written notice of the violation and intention to impose a penalty and/or revoke the permit. The written notice shall be served on the owner and operator or agent and shall specify the facts which in the opinion of the tax collector, constitute substantial evidence to establish grounds for imposition of the penalties and/or revocation, and specify that the penalties will be imposed and/or that the permit will be revoked within 15 days from the date the notice is given unless the owner and/or operator files with the tax collector the fine amount and a request for a hearing before the tax collector.

B. If the owner requests a hearing within the time specified in subsection (A), the tax collector shall serve written notice on the owner and operator, by mail, of the date, time and place for the hearing which shall be scheduled not less than 15 days, nor more than 45 days of receipt of request for a hearing. The tax collector may preside over the hearing or may designate a hearing officer to take evidence and submit proposed findings and recommendations to the tax collector. The tax collector shall impose the penalties or revoke the permit only upon a finding that a violation has been proven by a preponderance of the evidence, and that the penalty or revocation is consistent with the provision of Section 5.56.140.B of this code. The hearing shall be conducted according to the rules normally applicable to administrative
E. The trash pick-up day and notification that trash and refuse shall not be left or stored on the exterior of the property except from 6:00 p.m. of the day prior to trash pick-up to 6:00 p.m. on the day designated for trash pick-up;

F. Notification that an occupant as a person responsible for an event, may be cited and fined for creating a disturbance or for violating other provisions of this ordinance; and

G. Notification that failure to conform to the parking and occupancy requirements of the structure is a violation of this ordinance. (Ord. 4653)

5.56.110 Parking.

All permissible uses shall comply with the county parking, driveway and loading standards, and seasonal snow removal regulations. Owner shall provide sufficient parking to meet county on-site parking requirements, including the garage when necessary. All overnight occupant parking shall be on site or immediately in front of the vacation home rental. (Ord. 4653)

5.56.120 Noise.

All residential vacation home rentals shall comply with the following standard:

It shall be unlawful for any person on residential property or a public way to make or continue, or cause to be made or continued, any offensive, excessive, unnecessary, or unusually loud noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others on residential property or public ways within the county.

Compliance with this standard shall be in addition to compliance with all other provisions of this code relating to nuisance, peace and safety. (Ord. 4653)

5.56.130 Local Contact Person.

Each owner of a vacation home rental shall designate a local person or property manager/agent as a local contact person who has access and authority to assume management of the unit and take remedial measures. An owner of a vacation home rental who resides at the South Shore of Lake Tahoe may designate himself/herself as the local contact person. The local contact person shall be required to respond to the location of the vacation rental home within one (1) hour after being notified by the sheriff of the existence of a violation of this chapter or any other provision of this code, or any disturbance requiring immediate remedy or abatement. (Ord. 4653)

5.56.140 Violation and Penalties.

A. The following conduct shall constitute a violation for which the penalties specified in subsection (B) may be imposed, or the permit suspended or revoked:

1. The owner has failed to comply with the standard conditions specified in Section 5.56.090.A of this code; or

2. The owner has failed to comply with additional conditions imposed by the chief administrative officer pursuant to the provisions of Section 5.56.090.C of this code; or,
notifying the occupants of the rules regarding vacation home rentals and responding when notified that occupants are violating laws regarding their occupancy. It is not intended that the owner, local agent or contact person act as a peace officer or place himself or herself in harm=s way.

4. The owner shall, upon notification that occupants and/or guests of his or her vacation home rental have created unreasonable noise or disturbances, engaged in disorderly conduct or violated provisions of this code or State law pertaining to noise, or disorderly conduct, promptly use best efforts to prevent a recurrence of such conduct by those occupants or guests.

5. The owner of the vacation home rental shall comply with and use his or her best efforts to achieve compliance by the occupants with all the provisions of Chapter 8.42 of this code (Solid Waste Management Ordinance).

6. The owner of the vacation home rental shall use best efforts to achieve compliance by the occupants with all the provisions of Sections 10.12.170 (Snow RemovalBParking Restricted) and 10.12.184 (Snow Removal, Lake Tahoe Basin Watershed AreaBInterference Prohibited) of this code.

7. The owner of the vacation home rental shall post a copy of the permit and a copy of the conditions set forth in this section in a conspicuous place within the vacation home rental.

B. The board of supervisors at a duly noticed meeting shall have the authority to impose additional standard conditions, applicable to vacation home rentals, as necessary to achieve the objectives of this chapter.

C. The chief administrative officer or designee shall have the authority to impose additional conditions on any permit in the event of any violation of the conditions to the permit or the provisions of this chapter subject to compliance with the procedures set forth in Section 5.56.150 of this code. (Ord. 4653)

5.56.100 Sign and notification requirements.

Each vacation home rental shall have a clearly visible and legible notice posted within the unit on or adjacent to the front door, containing the following information:

A. The name of the managing agency, agent, property manager, local contact or owner of the unit, and a telephone number at which that party may be reached on a 24-hour basis;

B. The maximum number of occupants permitted to stay in the unit;

C. The maximum number of vehicles allowed to be parked on the property;

D. The number and location of on-site parking spaces and the parking rules for seasonal snow removal;
board of supervisors shall be charged for any inspection requested by a property owner. (Ord. 4653)

5.56.080 Application Fee.

An application for a vacation home rental permit shall be accompanied by an initial fee established by resolution of the board of supervisors; provided, however, the fee shall be no greater than necessary to defer the cost incurred by the county in administering the provisions of this chapter. An annual renewal fee will be established by resolution of the board of supervisors and shall be no greater than necessary to defer the cost incurred by the county in administering the provisions of this chapter. (Ord. 4653)

5.56.090 Permit Conditions.

A. All permits issued pursuant to this chapter are subject to the following standard conditions:

1. The owner shall by written agreement, limit overnight occupancy of the vacation home rental to the specific number of occupants designated in the permit; with the number of overnight occupants not to exceed 2 persons per bedroom meeting building code requirements, plus 4 additional persons per residence. A bedroom is a room that is designed to be used as a sleeping room and for no other primary purpose. Every bedroom shall have an emergency escape or rescue exit and a minimum ceiling height as follows:

   (a) Bedrooms shall have at least one operable window or door approved for emergency escape or rescue that opens directly into a public street or yard. The emergency door or window shall be operable from the inside to provide a full, clear opening without the use of separate tools. Escape or rescue windows shall have a minimum net clear openable area of 5.7 square feet. The minimum net clear openable height dimension shall be 24 inches. The minimum net clear openable width dimension shall be 20 inches. When windows are provided as a means of escape or rescue, they shall have a finished sill height not more than 44 inches above the floor.

   (b) Bedrooms shall have a ceiling height of not less than 7 feet 6 inches, except as provided in this section. When exposed beam ceiling members are spaced at 48 inches or more on center, ceiling height shall be measured to the bottom of the deck supported by these members, provided that the bottom of the members is not less than 7 feet above the floor. If any room has a sloping ceiling, the prescribed ceiling height for the room is required in only one half of the area thereof. No portion of the room measuring less than 5 feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof. If any room has a furred ceiling, the prescribed ceiling height is required in two thirds area thereof, but in no case shall the height of the furred ceiling be less than 7 feet.

2. The owner shall by written agreement, limit the number of vehicles of overnight occupants to the number designated in the permit; with the number of vehicles of overnight occupants not to exceed the number of designated on-site parking spaces.

3. The owner shall use best efforts to assure that the occupants and/or guests of the vacation home rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this code or any State law pertaining to noise or disorderly conduct by
**5.56.070 Application for vacation home rental permit.**

An application for a permit shall be filed with the tax collector or designee prior to use of the property as a vacation home rental. Permit applications for properties presently used as vacation home rentals shall be filed within 90 days of the effective date of this ordinance upon forms provided by the county and shall contain the following information:

A. The name, address and telephone number of the owner of the vacation home rental for which the permit is to be issued.

B. The name, address and telephone number of the agent, representative or local contact person for the owner of the vacation home rental.

C. The number of bedrooms and approximate square footage in the vacation home rental, and the maximum number of overnight occupants.

D. Acknowledgment that all designated bedrooms meet all local building and safety code requirements.

E. A diagram and/or photograph of the premises showing and indicating the number and location of designated on-site parking spaces, and the maximum number of vehicles allowed for overnight occupants.

F. Evidence of a valid business license issued by the county for the separate business of operating the vacation home rental, unless the operation of the vacation home rental is otherwise exempt from the requirement of a business license under the express provisions of this code. An application for a permit under this chapter may be made concurrent with an application for a business license. If concurrent applications are made, a permit under this chapter shall not be approved unless the application for the business license is also approved.

G. Evidence of a valid transient occupancy tax registration certificate issued by the county for the vacation home rental. Such registration may be filed concurrently with the application for a permit under this chapter.

H. Acknowledgment that the owner, agent and local contact person have read all regulations pertaining to the operation of a vacation home rental.

I. Certification of the accuracy of the information submitted and agreement to comply with all conditions of the permit.

J. Acknowledgment that the owner, agent, or local contact person has or will post the vacation home rental with the notice required in Section 5.56.100.

K. Such other information as the tax collector or designee deems reasonably necessary to administer this chapter.

If the information supplied by the property owner on the application for a vacation home rental permit is not consistent with county records, an inspection can be required prior to or after the issuance of the vacation home rental permit. An inspection fee established by resolution of the
minor will be jointly and severally liable for the fines imposed for the special security assignment.

G. "Vacation home rental" means one or more dwelling units, including either a single-family, detached or multiple-family attached unit, rented for the purpose of overnight lodging for a period of not less than 1 night and not more than 30 days other than ongoing month-to-month tenancy granted to the same renter for the same unit. (Ord. 4653)

5.56.040 Purpose of Chapter .

The board of supervisors of the county finds and declares as follows:

A. Vacation home rentals provide a community benefit by expanding the number and type of lodging facilities available and assist owners of vacation home rentals by providing revenue which may be used for maintenance upgrades and deferred costs.

B. County staff has responded to numerous complaints involving excessive noise, disorderly conduct, vandalism, overcrowding, traffic, congestion, illegal vehicle parking and accumulation of refuse at vacation home rentals which require response from police, fire, paramedic and other public personnel.

C. The transitory nature of occupants of vacation homes makes continued enforcement against the occupants difficult.

D. The provisions of this chapter are necessary to prevent the continued burden on county services and impacts on residential neighborhoods posed by vacation home rentals. (Ord. 4653)

5.56.050. Vacation home rental permit requirements .

No owner of a vacation home rental shall rent that unit for 30 consecutive calendar days or less without a valid vacation home rental permit for that unit issued pursuant to this chapter. A separate permit shall be required for each vacation home rental. The permit requirements of this chapter are in addition to any business license, hotel/motel tax registration or any other permit or licensing requirements. However, at the discretion of the county treasurer/tax collector, the processing of permits required under this chapter may be combined with the processing of business licenses, hotel/motel tax registration or any other permit or license process administered by the county treasurer/tax collector. The county treasurer/tax collector is authorized to prescribe forms and procedures for the processing of permits under this chapter. (Ord. 4653)

5.56.060 Agency .

An owner may retain an agent, representative or local contact person to comply with the requirements of this chapter, including, without limitation, the filing of an application for a permit, the management of the vacation home rental and the compliance with the conditions of the permit. The permit shall be issued only to the owner of the vacation home rental. The owner of the vacation home rental is responsible for compliance with the provisions of this chapter and the failure of an agent, representative, or local contact person to comply with this chapter shall be deemed non-compliance by the owner. (Ord. 4653)
El Dorado County Code

Chapter 5.56
VACATION HOME RENTALS IN THE LAKE TAHOE BASIN

5.56.010 Title.

This chapter shall be referred to as the Lake Tahoe vacation home rental ordinance. (Ord. 4653)

5.56.020 Applicability.

The provisions of this chapter apply only within the unincorporated portions of the county located within the jurisdictional boundaries of the Tahoe Regional Planning Agency. All requirements, regulations and standards imposed by this chapter are intended to apply in addition to any other applicable requirements, regulations and standards imposed elsewhere in this code. (Ord. 4653)

5.56.030 Definitions.

For purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

A."Local contact person" means a local property manager, owner or agent of the owner, who is available to respond to tenant and neighborhood questions or concerns, or any agent of the owner authorized by owner to take remedial action and respond to any violation of this ordinance.

B."Managing agency or agent" means a person, firm or agency representing the owner of the vacation home rental, or a person, firm or agency owning the vacation home rental.

C."Operator" means the person who is proprietor of a transient lodging facility, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee or any capacity. Where the operator performs his functions through a managing agent of any type of character, other than an employee, or where the operator performs his functions through a rental agent, the managing agent or the rental agent shall have the same duties as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent or the rental agent shall be considered to be in compliance by both.

D."Owner" means the person or entity that holds legal and/or equitable title to the private property.

E."Person" means an individual, a group of individuals, or an association, firm, partnership, corporation or other entity, public or private.

F."Person responsible for event" means the owner of the property where the large party, gathering or event takes place, the person in charge of the premises and/or the person who organized the event. If the person responsible for the event is a minor, then the parents or guardian of