



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
LONG RANGE PLANNING

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Date: Meeting of September 21, 2023
To: Humboldt County Planning Commission
From: John H. Ford, Director of Planning and Building Department
Subject: **Workshop on the Draft Short-term Rental Ordinance**
Record No. LRP-2022-17963 & LRP-2023-18254

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Please contact Keenan Hilton, at 707-268-3722 or khilton@co.humboldt.ca.us, if you have any questions about the Short-term Rental Ordinance.

AGENDA ITEM TRANSMITTAL

Meeting Date	Subject	Contact
September 21, 2023	Draft Short-term Rental Ordinance	Keenan Hilton

Project Description: Inland and coastal zone ordinances to allow the use of residences for short-term rentals within the unincorporated areas of Humboldt County. The ordinance does the following:

- a) Creates two tiers of rentals consisting of units partially rented by the occupants of the residence and rental of the whole unit;
- b) Establishes performance criteria for the operation of short term rentals;
- c) Creates an Administrative Permit to authorize rentals which comply with the ordinance and allows approval of a discretionary permit when deviations from standards are requested;
- d) Creates a cap for the number of units allowed around the Humboldt Bay Area

The new ordinance would affect the following code sections:

1. Inland: Adds section 314-60.05, amends the tables in section 314-6 and 314-9, amends sections 314-37, 314-44, 314-55, 314-138, 314-141, 314-143, 314-153, 314-154, 314-157, 314-158, 314-163, 314-174 and 314-177 in Chapter 4 of Division 1 of Title III of the County Code for the inland areas of the County.
2. Coastal: Adds section 313-61.05, amends the tables in section 313-6, and amends sections 313-44, 313-50, 313-55, 313-141, 313-143, 313-154, 313-157, 313-163, 313-172, and 313-177 in Chapter 3 of Division 1 of Title III of the County Code for the coastal areas of the County.

Project Location: All of the unincorporated areas of Humboldt County.

Present Plan Designations: All land use designations where residences are allowed as a principal use.

Present Zoning: All zoning districts where residences are allowed as a principal use.

Environmental Review: Exempt from CEQA

State Appeal Status: n/a for workshop

SHORT-TERM RENTAL ORDINANCE

Recommended Commission Action

1. Request that staff present the staff report.
2. Receive public comments.
3. Deliberate and comment on the draft Short-term Rental Ordinance.
4. Provide guidance to Planning & Building Staff on any desired amendments to the draft ordinance prior to a public hearing

EXECUTIVE SUMMARY:

Short-term Rentals (STR) have the capacity to adversely affect available Housing stock and the quality of neighborhoods. On the other hand, short-term rentals do provide economic opportunity to property owners and by having units that attract tourists from outside the area. The aim of developing an

ordinance to regulate short-term rentals is to set a limit on the number of housing units which can be converted to short-term rentals and set performance criteria to limit the impact to neighborhoods. Conversely it is important that people operating short-term rentals have a stable environment in which to operate. The short-term rental ordinance has been written and refined with the intention of achieving this balance.

Five public meetings were held to review three drafts of the proposed ordinance. Attachment 2 and Attachment 3 are the fourth iteration of the draft ordinance, having been shaped significantly by what was heard from the community. These provisions are responsive to several themes of public comment:

- 1) Differentiation between home-share and STR;
- 2) Differentiation between areas where housing availability is impacted and those areas where housing is more widely available; and
- 3) Streamlining of process to the maximum extent feasible.

In order to control the effects on housing stock, the draft ordinance includes a cap within the Greater Humboldt Bay Area which includes the Trinidad-Westhaven Community Plan Area [CPA], McKinleyville CPA, Fieldbrook-Glendale CPA, Blue Lake CPA, Arcata CPA, Jacoby Creek CPA, Freshwater CPA, Eureka CPA, Fortuna CPA, Hydesville-Carlotta CPA and the Rio Dell-Scotia CPA in the inland zone and the Trinidad Area Plan [AP], McKinleyville AP, Humboldt Bay AP and the Eel River AP in the coastal zone. This represents an area within a reasonable commute distance to the principal economic hubs of Eureka, Arcata and McKinleyville. This is where housing availability has been impacted and housing costs have risen ahead of the pace of wage growth.

To protect neighborhood quality, the draft ordinance creates a streamlined permitting approach for those STRs which are home-share, and those STRs which meet appropriate standards. Any deviation from the standards, which include controls on community concentration, private events and quiet hours, are only allowable upon issuance of a Special Permit. Special Permits may only be granted if the decision-maker can find that the project is protective of health safety and welfare and would not result in significant adverse impact on neighborhood quality.

To create the streamlined process discussed above, Chapter 2 of the Zoning Ordinance which governs Administration, Procedures, Amendments and Enforcement would be modified. These draft amendments propose the creation of a new Administrative Permit, a ministerial permit that could be issued over the counter for a significantly reduced fee.

The proposed approach allows a clear pathway for many projects to be approved administratively. These projects would be required to meet the performance standards identified in the ordinance. Any project seeking exceptions to a performance standard would require a Special Permit, giving the community the opportunity to provide input on potential neighborhood impacts.

DISCUSSION

Proposed approach

This ordinance seeks to provide a clear, streamlined, and nuanced regulatory framework for the permitting and operation of STRs within Humboldt County. The ordinance responds to community needs of protecting housing stock in areas with impacted housing markets, preserving neighborhood quality, and providing an assurance to STR owners and caretakers that their business is permitted, reducing uncertainty and financial risk. Several sections of existing county code address the STR use, but none is adequate for meeting the community values and needs.

One manifestation of the inadequacy of the existing approach is the vast number of operations that are currently operating outside the bounds of the permitting system. According to the service Host Compliance, there are 792 units used as STRs within the unincorporated areas of the County. Consistent with the approach to code enforcement more generally in Humboldt County, the Code Enforcement Unit has only abated those operations that receive a complaint. Recently the Code Enforcement Unit has received about one complaint per week. Although harder to quantify, another manifestation of the inadequacy of the current regulatory approach is the increasing cost of long-term rentals within the county. As more units are converted to a STR business model, this decreases the supply of housing stock. Although not experienced uniformly throughout the unincorporated areas, this decrease in supply coincides with an increase in demand for housing, particularly in the areas surrounding Humboldt Bay. It is important to acknowledge that conversion of units to STR is part of a suite of challenges for housing in the region.

Existing Regulations

Short-term Rental of residential units is addressed by several sections of existing County Code including section 314-37 "V" Combining Zone for Vacation Home Rentals in the inland zone, section 314-44.1 Bed and Breakfast Establishments in the inland zone, and section 313-44.1 Bed and Breakfast Establishments in the coastal zone.

"V" Combining Zone

The Vacation Home Rental "V" Combining Zone was adopted by the Board of Supervisors for the inland and coastal zones in 1997. The code became applicable in the inland area thirty days following the adoption. The Coastal Commission, however, did not take action on the "V" Combining Zone for the coastal area until 2005. At that time, the changes that the Coastal Commission made to the ordinance were significant enough that they would have required amendments to the Local Coastal Plans. Consequently, they were never adopted by the County in the coastal zone.

The "V" Combining Zone only applies where it is mapped. It was only mapped in the inland portion of Shelter-Cove. The "V" Combining Zone creates a pathway for the use upon issuance of a Special Permit. The ordinance includes performance standards addressing parking, advertising, and number of occupants.

The Planning & Building Department estimates that only fourteen permits have been issued under these provisions. It is recognized that the number of STRs in the inland area of Shelter Cove significantly exceeds this figure. The "V" Combining Zone does not meet the needs of the County in several ways. The first limitation is the very limited scope of the mapped area where it is applied; although the inland portion of Shelter Cove is a popular location for STRs, most occur outside of this area. Second, the standards of the ordinance do not adequately address safety and community quality concerns. For instance, there are no standards related to access or noise, among others. Third, the provisions are overly cumbersome requiring a Special Permit in all cases.

Bed and Breakfast Establishment

The ordinance governing residences used as a Bed and Breakfast Establishments was originally adopted in 1989. Similar provisions are found in the coastal and inland codes.

Bed and Breakfast Establishments may be permitted upon the issuance of a Special Permit in Residential Suburban (RS), Residential One-Family (R-1), Residential Two-Family (R-2), Residential Multiple Family (R-3) and Apartment Professional (R-4) Unclassified (U), Forest Recreation (FR), Timberland Production Zone (TPZ), Agriculture Exclusive (AE), and Agriculture General (AG) in the inland zone, and Neighborhood Commercial (CN), Commercial General (CG), Residential Single Family (RS), Mixed Residential (R2),

Residential Agriculture (RA), Agriculture Exclusive (AE), Commercial Timber (TC), Timberland Production Zone (TPZ) in the coastal zone.

Many Bed and Breakfast Establishments have been permitted throughout the county. The section of code has met a community need. However, it does not meet the need to address STRs in Humboldt County in several ways. First, it only applies when there is an “owner/operator” residing on the premises. Second, there are not robust performance standards including noise and parking, among others. Third, the provisions are overly cumbersome, requiring a Special Permit in all cases.

While it would be possible to leave these regulations intact and attempt to govern STRs separately, this would be inefficient and confusing. The natural boundaries between a home-share STR and a Bed and Breakfast are provision of breakfast, which is not a land use concern. The fundamental land use questions are identical between STRs and Bed and Breakfast Establishments, and so staff recommends replacing this code section with the more nuanced and complete draft STR regulations.

Alternative Owner-Builder

The Modified Limited Density Owner-Built Rural Dwelling Regulations for Alternative Owner-Builder Ordinance (AOB) was adopted in 1984. The ordinance applies to owner-built, owner-occupied dwellings, owner-built accessory dwelling units and appurtenant structures in rural areas of Humboldt County. The Application section of the ordinance reads, “Such dwellings and appurtenant structures shall include seasonally or permanently occupied dwellings, hunting shelters, vacation homes, recreational shelters and detached bedrooms used solely by the owner of the dwelling except for owner-built accessory dwelling units which may be used by persons other than the owner of the dwelling.”

AOB residences are not held to the structural requirements of the current California Building and Residential Code and are not required to install a fire sprinkler system. The regulations allow for the use of substitute materials and alternative construction methods if they meet a reasonable degree of health and safety. The Chief Building Official has the authority to exercise judgment in determining compliance with these regulations.

Given that the intent of the AOB code was to allow for relaxed standards for use solely by the owner of the dwelling and given that the County has performed no structural inspection of these residences, the STR use is incompatible.

A proposed pathway for AOB homes would be as-built permitting, applying the building code standards in effect at the time the AOB permit was issued.

Accessory Dwelling Unit

The Accessory Dwelling Unit (ADU) ordinance was adopted in 2020 in alignment with significant updates in state law governing the construction of ADUs. Section 314-69.05.3.4 of the inland ordinance reads, “Short-Term Lodging Prohibited. The ADU shall not be rented for periods of thirty (30) days or less.” Section 313-69.05.3.4 of the coastal ordinance reads, “Neither the ADU nor the primary residence shall be rented for periods of 30 days or less. Prior to obtaining a building permit for an ADU or JADU, a deed restriction approved by the County shall be recorded with the County Recorder’s office, which shall include the prohibition on the use of any dwelling for transient habitation.”

If an accessory dwelling unit (or “second unit”) was permitted prior to Jan. 1, 2020, this prohibition does not apply.

Proposed Approach

Humboldt County is large and diverse – each of the communities has different needs and concerns. Sometimes the differences are subtle, sometimes they are significant. The community values that drive the regulations – protection of housing stock, protection of neighborhood quality and economic opportunity for residents – are not experienced the same in the different communities. To address these diverse experiences and priorities, the draft ordinance includes nuances on the basis of type of rental (Home-share versus Whole-unit), on the basis of Community Plan Area (separating the Greater Humboldt Bay Area from the rest of the County), on the basis of parcel size and on the basis of proximity to neighbors. These nuances within the draft regulations would allow for a streamlined, ministerial process for those projects less likely to have impacts and allow for public review when the potential for impacts is higher.

Administrative Permit

In addition to the universally required materials like an application form, site plan and fees, a complete application for an Administrative Permit would look like a one- or two-page checklist. The staff time required to review the permit would be minimal. We anticipate that staff will be able to perform a quick verification of the information provided and issue the permit within days. We anticipate that this permit might cost about one to two hundred dollars.

The administrative permit type could have other applications for the Planning & Building Department, including the processing of applications for development under SB-9, SB-6 multifamily housing and potentially Cottage Industry and Home Occupation Permits.

Special Permit

An application for a Special Permit would require a clear description of the operation and how it would deviate from the standards, and evidence that supports the finding that the STR would be protective of health, safety and welfare as well as neighborhood quality.

Suspension

The amendments to Chapter 2 include a provision for the suspension of a permit by the director if the permit was issued in error or to stop any activity that violates any requirement of the permit and/or Zoning Ordinance. The suspension could be appealed. The permit would be re-activated when the violation has been resolved. This section would apply to all development permits.

Public participation

The Planning & Building Department has hosted five public meetings on the draft regulations. In aggregate, the meetings have had 400+ attendees (though not necessarily unique attendees). The involvement and discussion have been robust. The STR webpage, which features all drafts of the ordinance, and all available recordings of meetings has been visited thousands of times; recordings of past meetings have been viewed and listened to hundreds of times.

The input provided by the community has been invaluable in the development of these draft regulations.