



# COUNTY OF MENDOCINO

## DEPARTMENT OF PLANNING & BUILDING SVCS.

860 NORTH BUSH STREET • UKIAH, CALIFORNIA 95482  
120 WEST FIR STREET • FORT BRAGG, CALIFORNIA 95437

JULIA KROG, DIRECTOR  
PHONE: 707-234-6650  
FAX: 707-463-5709  
FB PHONE: 707-964-5379  
FB FAX: 707-961-2427  
[pbs@mendocinocounty.org](mailto:pbs@mendocinocounty.org)  
[www.mendocinocounty.org/pbs](http://www.mendocinocounty.org/pbs)

### MEMORANDUM

**DATE:** AUGUST 29, 2023  
**TO:** BOARD OF SUPERVISORS  
**FROM:** STEVEN SWITZER, PLANNER II  
**SUBJECT:** REQUEST FOR GUIDANCE: INLAND SHORT-TERM RENTAL (STR) ORDINANCE

**INTRODUCTION:** Online hosting services such as Airbnb, Vrbo, Expedia, and others allow individuals to rent out real property on a short-term basis, commonly known as short-term rentals. These online hosting services are known as part of the sharing economy, where physical assets are shared as services. Though communities have shared the use of assets for thousands of years, the advent of the Internet has made it much easier for asset owners and those seeking to use said assets to find one another. With short-term rentals and their online hosting providers being some of the more recent additions to the sharing economy, many jurisdictions across the nation have already considered or are just now considering the benefits and consequences of such property uses and how to strike a balance with effective regulations.

Short-term rentals throughout Mendocino County have implications for transient occupancy tax revenues, lodging options, housing stock, and neighborhood stability. Currently, the only short-term rental regulations within the County's Zoning Ordinance are in its coastal regions, Division II (Coastal Zoning Code) and Division III (Mendocino Town Zoning Code). Despite these existing regulations, there are no explicit short-term rentals regulations for the inland areas of the County captured by Division I of the Zoning Ordinance. To better address this, the following sections summarize previous County actions and discuss the existing regulatory framework, relevant case studies, and potential guidelines to consider when crafting short-term rental regulations for the inland areas of Mendocino County.

**SUMMARY OF PREVIOUS ACTIONS:** In 2010, the Director of Planning and Building Services (PBS) provided a determination that short-term/vacation home rentals were to be classified as an accessory residential use type "Room and Board" as defined in Mendocino County Code (MCC) Section 20.164.015(L), see *2010 Inland VHR Opinion* Attachment.

On May 16, 2017, the Board of Supervisors (Board) directed PBS to prepare an ordinance establishing a moratorium on short-term rentals in Mendocino County. In response to concerns about short-term rentals depleting the County's housing stock, the Board passed and adopted Ordinance No. 4391 on August 1, 2017, which restricted the establishment of new short-term rentals. However, this ordinance expired 45 days later since it did not sustain the votes necessary for a required extension.

On September 12, 2017, the Board further directed PBS to develop an updated draft policy for review and consideration by the Planning Commission and Board.

On April 10, 2018, the Board directed PBS to incorporate policies regarding inclusionary housing accessory dwelling Units and short-term rentals as detailed in Supervisor Gjerde's memo stated in the May 16, 2017, Board meeting minutes. At that time, it was noted a Zoning Clearance would apply for new short-term rentals unless occupancy was greater than 120 days, which would necessitate a minor use permit.

It has been the directive for PBS to draft a short-term rental ordinance amendment for the inland area of the County. This has subsequently been deferred over several fiscal years with the agreement of the Board.

More recently, the Planning Commission took action to form an Ad Hoc Committee on short-term rentals on November 18, 2021. Following this, on November 17, 2022, the Planning Commission adopted a resolution that clarified the interpretation of MCC Sections 20.164.015(L) and 20.024.135 concerning the occupancy of entire dwelling units for transient habitation. However, this resolution was subsequently appealed to the Board.

On April 25, 2023, the Board considered said appeal and with a 4 to 1 vote overturned the Planning Commission's interpretation of MCC Sections 20.164.015(L) and 20.024.135. This effectively restored the 2010 Director determination that short-term rentals were to be classified as an accessory residential use type within the County's inland areas.

**DISCUSSION:** Short-term rentals (STR) play an important role in Mendocino County's economy. STRs and other transient occupancy providers such as hotels, motels, inns, and others are subject to transient occupancy tax (TOT) pursuant to California Revenue and Taxation Code Section 7280 and Mendocino County Code Chapter 5.20. In the 2021-2022 fiscal year, TOT collections for the County totaled \$8,446,946.47<sup>1</sup>. Beyond these monetary benefits, STRs may potentially impact and pose risks to the public health, safety, and welfare of County residents. Though many STRs are well-operated, the County still receives complaints about noise, garbage, parking issues, septic capabilities, and water usage. In certain areas, the overconcentration of STRs may negatively impact neighborhood stability and reduce housing stock contributing to higher housing costs for renters and buyers alike. Implementing effective STR regulations would be able to strike a balance between the benefits and consequences of STRs. As Mendocino County considers possible STR regulations, the following items should serve as planning guidelines:

- Public health, safety, and welfare
- STR market data
- Enforcement of regulations

These guidelines are not provided to draw conclusions or resolutions but rather facilitate discussions that will ultimately inform decisions on planning and economic issues related to STRs within the inland areas of the County.

**PUBLIC HEALTH, SAFETY, AND WELFARE:** Impacts of STRs can vary across communities and the neighborhoods within each community. Potential impacts to these affected communities may include but are not limited to the following:

- Noise and parking nuisances
- Water usage
- Septic capabilities
- Neighborhood stability

Mendocino County General Plan Goal DE-4 provides that the County should maintain "Functional, safe, and attractive communities compatible with the General Plan and community objectives, infrastructure availability, and environmental, safety, economic, and other opportunities, and constraints." Accordingly, the County should consider STR impacts on existing communities and how this land use conforms to the built environment.

In certain neighborhoods where parking options are limited, the high nightly turnover rates and varying number of guests that come with STRs can produce parking problems. These problems can be appropriately addressed by STR property owners or by local regulations. Mendocino County Code Chapter 20.180 –Off-Street Parking currently provides parking requirements for all land uses in the incorporated areas of the County. An effective STR ordinance would ensure compliance with the existing parking

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<sup>1</sup> **PLEASE NOTE:** The 2021-2022 fiscal year TOT collection total reflects any past due amounts collected to date. If applicable, penalties and interest collected by the County are included in this amount.

standards. The selected case studies provide further information on how other jurisdictions address parking regulations.

Noise associated with STRs may also present a problem, especially in un-hosted rentals where owners cannot monitor activity. Local regulations and their subsequent enforcement can often address this common issue. Even though Mendocino County does not have a noise ordinance, Appendix C of Division I of the County's Zoning Ordinance does provide exterior noise limit standards. An effective STR ordinance would ensure compliance with these existing exterior noise limit standards.

One of the most important factors in determining a given community's settlement, growth, and productivity is the availability of adequate water supply. Groundwater is the primary source of water for most county residents. The Division of Environmental Health (DEH) currently reviews and approves groundwater extraction permits for most County residents, except for a handful of water districts and other agencies that regulate water resources. An effective STR ordinance would ensure compliance with local regulatory agency requirements for water usage.

As for septic capabilities, Division 7 of the California Water Code grants jurisdiction to the North Coast Region of the Regional Water Quality Control Board over all discharges of waste, including those from individual waste treatment and disposal systems or from community collection and disposal systems that utilize subsurface disposal. However, local regulatory agencies most often are tasked with regulating individual waste treatment and disposal systems, provided they strictly enforce ordinances and regulations designed to provide protection of water quality and public health. Many county residents utilize on-site waste treatment and disposal systems which in rural and rural-urban settings prove to be excellent sanitation devices. DEH is tasked with reviewing proposals for on-site septic systems for most county residents. Other jurisdictions have required that inspected and approved septic systems are located on properties with STRs to reduce potential polluting environmental impacts and, most importantly, protect public health. An effective STR ordinance would incorporate some level of adherence to existing on-site septic system guidelines and criteria.

All these items mentioned above play a role in shaping a collective sense of community. The County should consider how STRs affect existing neighborhoods and conform to desired community attributes and built environments. The maintenance of unique-to-Mendocino communities aligns with General Plan Goal DE-4 and should be paramount when tackling STR regulations. Because of the diverse attractions the County has to offer, some communities benefit from and struggle with negative impacts of frequent STR use. High concentrations of STRs in certain areas can lead to steep competition for available housing options that in turn create imbalances in the affordable housing market. Renters must compete with visitors willing to pay higher premiums for short trips with rates in excess of what a typical monthly renter could afford. To preserve desired community attributes other jurisdictions have implemented limits on the number of days per year that STR units may be rented (e.g., 90 days per year), imposed separation requirements (e.g., 100 feet between each STR listing or one per street frontage), or outright prohibited STRs in certain zoning districts.

**STR MARKET DATA:** The temporary nature of STRs and the use of multiple online hosting services for a single rental listing can prove difficult when trying to monitor the number of STRs within a given area. To combat this some jurisdictions have utilized third-party monitoring/compliance software programs to provide more tailored estimates and better tracking/reporting of STR listings. Host Compliance, one of these software programs, provided an estimate of approximately 1,500 STR listings within Mendocino County.<sup>2</sup> See the *Granicus Host Compliance's Estimated Short-Term Rentals in Mendocino County* attachment.

An internal review of business license approvals between 2010 and July of 2023 provided that PBS approved 724 business licenses for STRs; see the *Short-term rentals map*. Comparatively, the estimated

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<sup>2</sup> **PLEASE NOTE:** Not all of the listings analyzed by Host Compliance were necessarily in unincorporated County land. Overlap among rental types and/or previously booked rentals may account for inconsistency in the total number of listings that were provided in this estimate.

1,500 STRs within the County and the 724 approved STR business licenses reveal opportunities for permit compliance and the potential to capture unrealized TOT. Further coordination with the County's Auditor-Controller/Treasurer-Tax Collector Department and exploring the use of monitoring/compliance software programs can better address barriers to consistent and timely data while facilitating more informed STR market conditions.

**REGULATORY FRAMEWORK:** Division I of Mendocino County Zoning Ordinance serves as a key tool for implementing the County's General Plan for the inland areas of the County. Comprehensive standards for development throughout the County address and appropriately implement the General Plan's goals and policies. Though there are no direct regulations for STRs within Division I, STRs however share some characteristics with other uses directly addressed and defined as follows:

**Transient Habitation:** Sec. 20.024.135 provides that "Transient habitation" means 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. The following are transient habitation use types:

(B) Transient Habitation—Lodging (Limited). Lodging services involving the provision of room and/or board. Typical uses include hotels, motels, inns, or transient boarding houses with three (3) to six (6) rooms.

(C) Transient Habitation—Lodging. Lodging services involving the provision of room and/or board. Typical uses include hotels, motels, inns, or transient boarding houses with seven (7) or more rooms.

(D) Transient Habitation—Resort and Recreational Facilities. Resort services including the provision of extensive outdoor recreation and entertainment services especially for vacationers. Typical uses include resort and recreational facilities, health spas, resort hotels and motels, guest ranch, inns, or organized camps.

**Room and Board:** Section 20.164.015(L) provides that the renting of not more than two (2) rooms for occupancy by transient guests for compensation or profit is a residential accessory use type, 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.

**Detached Bedroom:** Section 20.008.026 (D) defines "Detached bedrooms" as a separate incidental structure containing one (1) room only without a kitchen or sanitation facilities, designed for and intended to be used as a sleeping or living facility for family members to be used in conjunction with a main structure which includes kitchen and sanitation facilities. A detached bedroom shall be located no farther than one hundred Fifty (150) feet from the main structure and shall not exceed five hundred (500) square feet of floor area.

**Accessory Dwelling Unit:** Section 20.008.020 (B) defines "Accessory Dwelling Unit" as an attached or detached residential dwelling unit in compliance with Section 20.164.015, which provides complete independent living facilities for one (1) or more persons, and includes separate permanent provisions for entry, living, sleeping, eating, cooking and sanitation on the same parcel as a single-family dwelling. In short, Section 20.164.015 provides the following standards and criteria:

- An adequate water system as approved by the Division of Environmental Health is available to serve the accessory dwelling unit.
- An adequate sewage disposal system as approved by the Division of Environmental Health is available to serve the accessory dwelling unit.

- Parking Requirements:
  - One (1) parking space is required per Accessory Dwelling Unit and may be provided through tandem parking.
  - Parking is allowed in rear and side setback areas. No parking is allowed in front setback areas.
  - When a garage or covered parking structure is demolished in conjunction with the construction of an Accessory Dwelling Unit, the replacement parking spaces may be in any configuration on the same lot as the Accessory Dwelling Unit, including but not limited to covered spaces, uncovered spaces, or tandem spaces.
  - Parking Exemptions are afforded in certain cases where the unit is located within one-half (½) mile of a public transportation stop along a prescribed route according to a fixed schedule, located within one (1) block of a car share parking spot, located entirely within the principal residence and results in no net increase in habitable floor area on the property, and located in an area where on-street permit parking is required, but such permits are not available to the tenant.

Though the definition of STRs may seem self-explanatory and simply illustrated by online listings, Mendocino County should further the public discourse and policymaking process by defining STRs in relation to the above similarly regulated uses. Its also important to note that accessory dwelling units are intended to meet the County's projected housing needs. Even though accessory dwelling units are a key source of permanent housing, Division I does not require that these units be rented for thirty (30) days or more. While some accessory dwelling units may be utilized as STRs rather than long-term rentals, it is extremely variable and depends on the nature of the property and its given owner. Some jurisdictions have made an effort to preserve their housing stock by including regulations that prevent accessory dwelling units from being rented as STRs. See the *Mendocino County Code Section 20.308.125(A)* attachment for the Coastal Division II definition for Vacation Home Rentals and the *Mendocino County Code Section 20.316.015* attachment for the Coastal Division II for the Vacation Home Rental Residential Use Type.

**ENFORCEMENT OF REGULATIONS:** A frequent challenge for many jurisdictions is the enforcement of codes considering adequate code enforcement staffing and resources. Zoning compliance is generally not monitored to the same extent as other provisions of Municipal Code. Zoning violations within Mendocino County are handled by the Code Enforcement Division and are predominately complaint driven. STRs can prove difficult for code enforcement staff to address due to their temporary nature and the limited amount of owner and/or operator information made available through online listings. Typical online listing services keep listing addresses private until a transaction occurs between the provider and tenant. Further, the number of different hosting platforms can increase time and expenses with investigations for noncompliance.

Other avenues beyond municipal code standards such as tax and business license requirements also govern STRs. Limited transaction data provided by online hosting services can create additional challenges for verification of accurate TOT auditing and collection. This can be further exacerbated by some online hosting services unwillingness to enforce mandates for listing TOT certificates and business license numbers in rental listing descriptions. Some jurisdictions have outsourced their compliance efforts with third-party monitoring/compliance software programs. In other cases, jurisdictions have implemented penalties for noncompliance (e.g., penalties calculated at a percentage of the nightly listing rental fee).

**CASE STUDIES:** There are multiple examples of best practices for STR regulations across California that may be applicable to the inland areas of Mendocino County. The following jurisdictions highlight various practices to consider when crafting STR regulations.

#### SONOMA COUNTY

Sonoma County STR regulations provide a distinction between vacation rentals and hosted rentals. Vacation rentals are the rental of a private residence for periods of 30 days or less. Vacation rentals do not include Bed and Breakfast, Inns or hosted rentals permitted in accordance with the Sonoma County Code

for B&Bs and hosted rentals, or occasional home exchanges that are not otherwise subject to Transient Occupancy Tax (TOT). Vacation rentals must have a Certified Vacation Property Manager and meet Performance Standards to ensure compatibility with surrounding residential uses. Whereas hosted rentals are the rental of a single room or sleeping area within a single-family dwelling, where the property owner remains in residence. Hosted rentals do not include vacation rentals permitted in accordance with the Sonoma County Code for vacation rentals, or occasional home exchanges that are not otherwise subject to Transient Occupancy Tax (TOT). Hosted rentals must meet Performance Standards to ensure compatibility with surrounding residential uses.

On August 2, 2022, Sonoma County approved updates to their Vacation Rental Ordinance, including:

- Prohibiting new vacation rentals in R1-zoned (low-density residential) areas.
- Allowing for caps to be placed on vacation rentals in areas of concentration.
- Establishing restrictions on corporate ownership of vacation rentals.
- Establishing a requirement to hold a business license for new and existing vacation rentals.
- Limiting Vacation Rental Licenses to one license per property owner.

On April 24, 2023, Sonoma County approved new caps on vacation rentals in some areas. A Vacation Rental Map Viewer was created so the public would be able to look up a given property's Zoning Code designation and see if properties are within an Exclusion Combining District.

On May 16, 2023, Sonoma County adopted Ordinance 6427 establishing the Vacation Rental Business License program including new License Standards.

#### **SANTA CRUZ COUNTY**

Santa Cruz County STR regulations also provide a distinction between vacation rentals and hosted rentals. Short-term rental of an entire home requires a Vacation Rental Permit. Vacation Rentals are different from "Hosted Rentals" and "Bed and Breakfasts" which are defined as a short-term rental of a portion of a home where the property owner is on-site during the rental. STRs are not allowed in accessory dwelling units. In addition, the County maintains a wait list for Vacation Rentals in three designated areas with caps on the number of rentals. STRs are allowed as an accessory residential use upon issuance of an Administrative Permit. The following required regulations are as follows:

- Vacation rental permit;
- Registration and payment of Transient Occupancy Tax (TOT);
- Differentiated requirements for existing vacation rentals, new vacation rentals, and rentals in special designated areas;
- New vacation rentals in "common wall" developments to obtain adjoining property owners authorization;
- Signage identifying a structure as a vacation rental, including the name and phone number of a local contact person responsible for responding to complaints;
- Maximum occupancy limitations;
- Rental rules posted inside the unit;
- Number of vehicles must not exceed the on-site parking spaces by more than two vehicles;
- Amendment to a vacation rental permit if the number of bedrooms in the vacation rental is increased or if the square footage of the vacation rental is increased by more than 50%;
- Dispute resolution process; and
- That the property owner be subject to enforcement provisions.

#### **SACRAMENTO COUNTY**

Sacramento County STR regulations provide that STRs are an accessory use allowed on properties developed with a residence to rent all or a portion of the residence and use of the property for transient occupancy. Transient Occupancy is defined as the use of any room or rooms for lodging or sleeping purposes for a period of time not to exceed 29 consecutive days per stay. Short Term Rentals may occur year-round, but are limited to no more than 29 total days per rental party per year. STRs cannot be permitted

as the primary use of a residential property. Property owners and/or renters must demonstrate that they live on-site at the location of the proposed rental for a minimum of six months per year and provide proof of primary residency. Accessory dwelling units cannot be used for STR activity unless it was a legally permitted ADU prior to January 1, 2020. JADUs and Guest Houses also cannot be used for STR activity in any circumstance. The following permits are required for a STR:

- A STR permit from Planning and Environmental Review
- Business License from the Department of Finance
- Registration with Department of Finance to pay TOT

Sacramento County has no cap on STRs within a specific area.

**RECOMMENDATIONS:** It is necessary to public health and welfare to regulate health and safety standards related to the nature and ongoing operations of STRs through a STR ordinance. The following recommendations are offered to better direct staff on the next steps in developing STR regulations for the inland areas of the County:

- 1) Evaluate whether a distinction between hosted and un-hosted rentals should be made.
- 2) Evaluate what minimum standards should be required for STRs including but not limited to the following:
  - Noise limits
  - Parking requirements
  - Proof of Water
  - Proof of Septic
  - Establish yearly caps rental days
  - Prohibit use of accessory dwelling units
- 3) Provide direction on potential avenues for the enforcement of regulations including code enforcement, third-party compliance software, and/or incorporation of penalty fees.
- 4) Provide direction of the level of permitting that should capture STRs and whether or not public hearings should be required.

**ATTACHMENTS:**

- A. Mendocino County Code Section 20.308.125(A)
- B. Mendocino County Code Section 20.316.015
- C. Coastal Element Section 3.7
- D. Coastal Element Figure 1.1
- E. 2010 Inland VHR Opinion
- F. May 16, 2017 Board of Supervisors Minutes
- G. Ordinance No. 4391
- H. September 12, 2017, Staff Report to the Board
- I. April 10, 2018, Staff Report to the Board
- J. May 16, 2017, Memo, and Attachments from Supervisor Gjerde
- K. November 17, 2022, Planning Commission Resolution
- L. April 25, 2023, Board of Supervisors Minutes
- M. Granicus Host Compliance's Estimated Short-Term Rentals in Mendocino County
- N. Short-Term Rentals Map