

ORDINANCE NO. ____

AN URGENCY ORDINANCE OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS
EXTENDING INTERIM RESTRICTIONS ON THE ESTABLISHMENT OF SHORT-
TERM/VACATION RENTALS OF RESIDENTIAL PROPERTY PENDING THE STUDY AND
CONSIDERATION OF LAND USE AND OTHER REGULATIONS PERTAINING TO SUCH
RENTALS

WHEREAS, the owners of residential real property in Mendocino County are increasingly renting residential dwelling units to individuals, groups, or entities for periods of thirty (30) calendar days or less (a "Vacation Rental" or "Short-Term Rental"); and

WHEREAS, many Vacation Rentals are currently operating throughout Mendocino County; and

WHEREAS, there is concern that a substantial and increasing share of the County's existing housing stock is being used as Vacation Rentals, thereby reducing the share of the County's housing stock that is available for either purchase or lease by persons desiring to work and reside within Mendocino County, which generally makes the remaining housing stock more expensive; and

WHEREAS, the lack of available and affordable housing for Mendocino County's workforce creates an impediment to recruiting employees for both private and public sector jobs and negatively affects business and economic development within the County; and

WHEREAS, the increasing use of the County's housing stock for Vacation Rentals reduces the number of residents in the County's many neighborhoods, potentially damaging the character of the County; and

WHEREAS, Vacation Rentals do provide benefits in that they provide an alternative type of overnight accommodation that may allow additional families or groups to vacation within the County, thus increasing tourism, stimulating the economy and filling otherwise empty vacation homes; and

WHEREAS, the County does not currently specifically regulate Vacation Rental properties or Vacation Rental businesses within either its Inland or Coastal Zoning Codes, but does regulate such businesses within the area of the Mendocino Town Plan; and

WHEREAS, without implementing regulations on Vacation Rentals, such rentals will continue to increase in number and continue to impact the number and affordability of housing units available for purchase or rental by persons desiring to reside within Mendocino County; and

WHEREAS, the absence of comprehensive regulations and procedures governing Vacation Rentals poses a current and immediate threat to the health, safety and welfare of the citizens of Mendocino County; and

WHEREAS, the Mendocino County Board of Supervisors desires to develop appropriate regulations for Vacation Rentals in both the Inland and Coastal areas of the County; and

WHEREAS, it is the desire of the Mendocino County Board of Supervisors to maintain the status quo and temporarily halt new Vacation Rental uses within the areas governed by the Inland and Coastal Zoning Codes, while, as set forth in Government Code Section 65858, County staff and the Board of Supervisors study the Vacation Rental issue and develop regulations appropriate for County and its residents; and

WHEREAS, the Board of Supervisors approved an initial urgency moratorium on August 1, 2017; and

WHEREAS, an extension of the term of the urgency ordinance is necessary to allow a reasonable time to properly and carefully consider the scope, nature and form of appropriate regulations on Vacation Rentals.

NOW, THEREFORE, THE MENDOCINO COUNTY BOARD OF SUPERVISORS ORDAINS AS FOLLOWS:

Section 1. Findings.

(A) The Board of Supervisors finds that the above recitals are true and correct and incorporated herein by this reference.

(B) The Board of Supervisors finds that the increasing number of Vacation Rentals poses a current and immediate threat to the public health, safety and welfare of Mendocino County, and that adequate regulation is necessary.

Section 2. Moratorium.

(A) Notwithstanding any provision of the Mendocino County Code, this ordinance shall apply to all Vacation Rentals within the areas of the County governed by the Inland and Coastal Zoning Codes as of the date of adoption of this ordinance.

(B) For purposes of this ordinance, "Vacation Rental" or "Short-Term Rental" is defined as the use of all of a dwelling, detached bedroom, or guest cottage (as those terms are defined in Mendocino County Code chapters 20.008 or 20.308) for renting by the owner or operator to another person or group of persons for occupancy, dwelling, lodging or sleeping purposes for a period of thirty (30) consecutive calendar days or less. "Vacation Rental" includes, but is not limited to, a Vacation Home Rental as defined in Mendocino County Code section 20.308.125. "Vacation Rental" does not include month-to-month tenancies, but only includes rentals of properties under an agreement (written or oral) for a specified period of time of thirty (30) calendar days or less.

(C) No person (as defined in Mendocino County Code sections 20.008.048 or 20.308.095) shall commence or establish the operation of any Vacation Rental within the areas of Mendocino County governed by the Inland and Coastal Zoning Codes during the period this ordinance is in effect.

(D) The County and its agents, employees and departments shall not make any determination that would authorize or approve any application for any permit, license or entitlement which has as its result the approval or allowance of the operation of a Vacation Rental within the County's residential zoning districts during the term of this ordinance without compliance with the terms of this ordinance.

(E) This ordinance shall not apply to any Vacation Rental existing before August 1, 2017, if the person operating the Vacation Rental applies for a business license, including all related approvals (such as a zoning clearance or use permit), and is not denied thereafter. For purposes of this ordinance, a Vacation Rental may be determined by the Director of Planning and Building Services to have existed before adoption of this ordinance if the owner thereof can produce copies of one or more of the following:

(1) A copy of a Mendocino County business license indicating that the holder thereof is operating a Vacation Rental business at the address located on the business license, which license must have been issued on a date prior to August 1, 2017.

(2) Fully executed rental agreements, dated prior to August 1, 2017, for not less than three (3) separate rentals of the Vacation Rental property within the twelve (12) month period prior to August 1, 2017.

(3) A copy of a federal or state income tax return covering all or a portion of the twelve (12) month period prior to August 1, 2017, indicating that the taxpayer was operating a Vacation Rental business during such period.

(4) Copies of printed or online advertising, or contracts therefore, indicating that the owner actively advertised a Vacation Rental business during the twelve (12) month period prior to August 1, 2017, which copies shall indicate dates of publication or execution, as applicable.

The Director of Planning and Building Services, in his or her sole discretion but without any obligation, may consider other similarly reliable evidence offered by the owner of the Vacation Rental business to prove that the Vacation Rental existed prior to August 1, 2017.

Any and all such evidence presented as proof of operation of a Vacation Rental must relate directly to the real property for which the owner seeks to operate or continue operation of a Vacation Rental Business.

(F) Owners of Vacation Rentals that are determined by the Director of Planning and Building Services as having operated prior to August 1, 2017, pursuant to subdivision (E) of this section, and which had not previously obtained a Mendocino County business license, may be allowed to obtain such business license and register to pay the County's Transient Occupancy Tax, subject to the payment to the County of all applicable unreported taxes, assessments, penalties and interest; provided, however, that Vacation Rentals within the portion of the County governed by the Inland Zoning Code are allowed subject to the provisions of Chapter 20.164, Accessory Use Regulations, related to Room and Board.

(G) Vacation Rentals established on or after August 1, 2017, are deemed to be a public nuisance. A violation of this ordinance shall be and is hereby declared to be contrary to the public interest and may be enforced by the Department of Planning and Building Services pursuant to the provisions of Chapter 1.08 of the Mendocino County Code, or, at the discretion of the County, by pursuing a cause of action for injunctive relief or any other applicable civil remedies. Evidence of current advertisement for a Vacation Rental shall constitute prima facie evidence of operation of a Vacation Rental.

(H) If an owner of a Vacation Rental has been issued a business license and has been registered for the County's Transient Occupancy Tax either prior to August 1, 2017, or pursuant to subdivision (F) of this section, and the property of the Vacation Rental undergoes a change in ownership during the moratorium enacted pursuant to this Ordinance, the new owner may apply for a business license and register to pay the County's Transient Occupancy Tax to reflect the change in ownership and may continue such use in compliance with all conditions and requirements.

Section 3. The Board of Supervisors finds and determines that the immediate preservation of the public health, safety and welfare requires that this ordinance be enacted as an urgency ordinance pursuant to Government Code Section 65858. The Board of Supervisors hereby directs the Department of Planning and Building Services to study and prepare for the consideration of the Board of Supervisors changes to the County's General Plan or zoning code with respect to the regulation of Vacation Rentals. Without this urgency ordinance, approval of new Vacation Rentals may be sought that would detrimentally affect the health, safety and welfare of the County and which may conflict with the use regulations and development standards ultimately adopted with respect to Vacation Rentals. Therefore, this ordinance is necessary for the immediate preservation of the public peace, health and safety and its urgency is hereby declared.

Section 4. This ordinance is categorically exempt from the California Environmental Quality Act under (a) Section 15060(c)(2) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; and (b) Section 15060(c)(3) of the State CEQA Guidelines because it is not a project within the meaning of CEQA since it has no potential for resulting in physical changes in the environment.

Section 5. This ordinance is an urgency ordinance adopted pursuant to Government Code Section 65858 and shall become effective immediately upon its adoption by a vote of at least four-fifths of the Board of Supervisors, and shall extend the duration of the moratorium adopted on August 1, 2017, for an additional period of ten months and fifteen days until July 30, 2018, unless extended by the Board of Supervisors as provided for in Government Code Section 65858.

Section 6. The Department of Planning and Building Services is authorized and directed to prepare the report required by paragraph (d) of Government Code Section 65858 describing the measures taken to alleviate the condition which led to the adoption of this ordinance.

Section 7. If any section, subsection, sentence, clause phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2017, by the following roll call vote:

AYES:

NOES:

ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted
and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO
Clerk of the Board

Deputy

APPROVED AS TO FORM:
KATHARINE L. ELLIOTT,
County Counsel

JOHN MCCOWEN, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the
provisions of Government Code section
25103, delivery of this document has
been made.

BY: CARMEL J. ANGELO
Clerk of the Board

Deputy