



# COMMUNITY DEVELOPMENT SERVICES

## PLANNING AND BUILDING DEPARTMENT

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February 27, 2018

To: Sue Hennike, Principal Management Analyst

From: Roger Trout, Planning and Building Director

RE: Vacation Home Rentals and El Dorado County Zoning

Vacation home rentals are allowed by Administrative Permit in certain zones (LA, PA, AG, RL, FR, CL, CM, CC, RM, R1, R20K, R1A, R2A, R3A, and RE) by the El Dorado County Zoning Ordinance pursuant to Section 130.20, effective January 15, 2016..

The Zoning Ordinance Glossary defines Vacation Home Rental as “Lodging provided to the general public in a private dwelling unit, where the unit is rented as a whole on a transient basis (30 days or less). (See Section 130.40.370: Vacation Home Rental).”

Section 130.40.370 is currently held “in reserve” as there are no adopted standards in the Zoning Ordinance for Vacation Home Rentals.

Prior to January 15, 2016, the County Zoning did not prohibit Vacation Home Rentals but, in the Tahoe area they were required to comply with section 5.56.010 et. seq.

Attached for your background information are three documents:

TRPA’s 2004 code amendments regarding vacation home rentals

El Dorado County Counsel 2006 opinion.

American Planning Association 2002 Short-term Vacation Rental article.

Please let me know if you have questions or need additional information.

## TAHOE REGIONAL PLANNING AGENCY

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March 17, 2004

### MEMORANDUM

To: TRPA Governing Board

From: TRPA Staff

Subject: Amendment of Code of Ordinances Chapters 2, Definitions and 18, Permissible Uses to Recognize the Use of Single Family Homes as Vacation Rentals, and Other Matters Properly Relating Thereto

**Proposed Action:** Amend Chapters 2 and 18 of the Code of Ordinances to recognize the use of single family homes as vacation rentals provided that each local jurisdiction adopts and enforces regulations for vacation rentals to ensure compatibility with the character of the surrounding neighborhood.

**Staff Recommendation:** Staff recommends the Governing Board conduct the public hearing as noticed and adopt the proposed Regional Plan amendments.

**APC Recommendation:** Nine members voted to recommend approval of the proposed amendments as presented by staff. Three members abstained and the Placer County and Washoe County representatives voted no.

**Background:** The vacation rental issue originated in the South Shore about a year and half ago when citizens complained to the City of South Lake Tahoe, El Dorado County, Douglas County and TRPA about the neighborhood impacts of this use. This caused numerous local hearings and an El Dorado County Grand Jury investigation. TRPA has gradually been drawn into the issue primarily on land use regulation issues. The TRPA Local Government Committee also held several hearings on these issues. It should be noted that the use of single-family homes and condominiums as vacation rentals is not unique to the Tahoe Region and is a national issue, especially in other vacation destination communities.

During the December meeting, the TRPA Governing Board approved the following directive:

*Staff is hereby directed to bring back a proposal (including ordinances, plan amendments, MOUs, etc) needed to implement a proposal within three months that:*

- *Amends the current Regional Plan to clearly define vacation rental use as it relates to residential and/or tourist accommodation uses;*
- *Designates vacation rental use as a permissible use in both tourist accommodation and residential zoned areas provided the vacation rental use is conducted in a manner that is compatible with the surrounding neighborhood and is enforced by the local government;*

- *Delegates all nuisance and zoning enforcement of vacation rentals to local government;*
- *Continues TRPA enforcement of general environmental issues, i.e. unauthorized coverage, BMPs.*
- *Has been reviewed by stakeholders in a process to assist in the development of the necessary Regional Plan amendments and local government nuisance regulations.*

Each of the Local Government Committee members from the Governing Board (excluding Carson City) selected three people for the stakeholder group; one to represent the vacation rental/real estate interests, one to represent the neighborhood/environmental interests, and one to represent the local government/regulatory interests. The total number of the stakeholder working group was 15 plus Jerry Wells, TRPA Deputy Executive Director, representing TRPA's interests. Other interested citizens were welcome to come and observe; however, they were only allowed to speak through one of the 16 people at the "Table" who they felt best represented their interests. Staff proposed this format to ensure a manageable working group size. The stakeholder group convened for two all-day facilitated meetings, once on January 23 and again on February 12, 2004.

Some members of the vacation rental stakeholder group were not in total agreement with the proposed definitions. The disagreements on the definitions were from some of the neighborhood representatives and were philosophically based rather than any disagreement with the specific language. Three of the five neighborhood representatives felt that vacation rentals are inherently incompatible with residential neighborhoods regardless of the rules/standards that exist or could be developed.

Discussion: Without proper regulation and enforcement, vacation rentals can have a number of negative impacts in residential neighborhoods. These fall broadly into the categories of nuisance impacts, localized environmental impacts, and impacts on the character of residential neighborhoods. The most commonly cited problems by residents and public officials are nuisance impacts, such as noise and inappropriate behavior, overcrowding, excessive parking, and improper trash disposal.

In an effort to address these potential adverse impacts while allowing the use of single-family homes as vacation rentals, the Stakeholder group developed a series of amendments to the Code of Ordinances, specifically to Chapters 2, Definitions and 18, Permissible Uses. Those amendments are contained within Exhibits 1 and 2, respectively (attached).

The amendments developed with assistance from the vacation rental stakeholder group propose to incorporate 'vacation rentals' into the definitions of single-family dwellings and multiple family dwellings (up to a fourplex) within Chapter 18 of the Code, thereby allowing the use of residences as vacation rentals and/or residences. Vacation rental will be defined within Chapter 2 of the Code, the chapter that defines most terms used in the Code. By amending the Code as proposed, any plan area statement or community plan that contains these uses (single-family or multiple family, up to a fourplex, dwelling) within the list of permissible uses for that plan area are able to operate the home as a permanent residence or a vacation rental insofar as the use is compatible with the surrounding neighborhood.

TRPA will assign to the local jurisdictions to ensure vacation rentals operate as a normal residence. TRPA is requiring that the local jurisdictions enter into a cooperative agreement with TRPA that will clearly spell out the standards to which vacation rentals are to operate, and how the standards will be enforced. The standards with which vacation rentals are being required to comply are essentially the same as any single or multiple family residence would be required to meet. This agreement is anticipated to stipulate which entities within the jurisdiction will be responsible for which standards, that is, the County Sheriff may enforce noise standards, while the building department may regulate occupancy. Additionally, other municipal entities may be involved, such as a general improvement district.

The stakeholder group agreed that the neighborhood compatibility standards to be adopted and enforced by the local jurisdictions would include the following elements: occupancy, refuse/garbage, parking, noise, lighting, and signage. Each jurisdiction will need to adopt and enforce all the necessary regulations addressing these categories to ensure neighborhood compatibility and enter into a cooperative agreement with TRPA in order for vacation rentals to be considered an allowed use in residential neighborhoods. If not, this use will be considered a tourist accommodation use, which typically would not be allowed in residential neighborhoods

Staff is recommending up to a six month timeline for each local jurisdiction to adopt the necessary regulations and enter into a cooperative agreement with TRPA. The Governing Board may choose to extend this time limitation, however, staff believes that six months (60 days for the Ordinance to become effective, plus an additional four months after the rules become effective) is ample time to implement these agreements. During the period before these agreements are established, TRPA will continue its policy of non-enforcement. After six months, if any of the five local jurisdictions have not adopted neighborhood compatibility requirements, and entered into a cooperative agreement with TRPA, the use of residences as vacation rentals will not be allowed in those jurisdictions.

It is the local jurisdictions enforcement of these standards upon which TRPA staff is recommending approval of these amendments and making the necessary findings. Enforcement of land use standards is not easy for any jurisdiction, and is often susceptible to higher public safety priorities. TRPA is fully cognizant of this fact, but staff believes that programmatic enforcement in addition to self-policing by the vacation rental industry itself can go a long way in achieving compliance with the neighborhood compatibility requirements.

It is also important to note that each of the local jurisdictions have the ability to adopt standards that are more restrictive than those of TRPA. Therefore, should the local jurisdictions desire greater control or restrictions on the operation of vacation rentals, they can adopt more restrictive standards.

The analysis conducted by staff to determine whether or not the proposed action, amending the Code of Ordinances, would have a significant effect upon the environment, staff compared the activities associated with a vacation rental to that of a typical single-family home. Many, if not all, of these activities are the same, and nuisances can and are generated by local residents just as they are by people using a vacation rental. In so far as the impacts of a single-family home to the environment are the same as those potentially created by a vacation rental are the same, there is no

significant impact. For these reasons, TRPA is heavily relying upon the local jurisdictions to enter into the above described cooperative agreements to ensure that vacation rentals behave as a normal residence. If, for some reason, a jurisdiction chooses to not enter into an agreement with TRPA regarding vacation rentals, or choose not to enforce the agreements, then vacation rentals would be considered an illegal use within that jurisdiction and TRPA would be in the position of enforcing the zoning regulations of the Plan Area Statements and Community Plans and stop the use of residential properties as vacation rentals.

Effect on TRPA Work Program: Additional work remains to be done in developing and approving the cooperative agreements with five local jurisdictions, which is conservatively estimated to require 100 hours (20 hours per jurisdiction) from one lead staff member with additional time for support staff. This task will vary among the local jurisdictions, as some are farther along than others in developing operational standards for vacation rentals.

The level of enforcement required by TRPA for this amendment is anticipated to be minimal. TRPA looking to the local jurisdictions to enforce the vacation rental standards under the above referenced cooperative agreements. If this enforcement does not occur, this issue will need to be revisited by TRPA.

Required Findings: The following findings must be made prior to adopting the proposed amendments:

Chapter 6 Findings:

1. Finding: The project is consistent with, and will not adversely affect implementation of the Regional Plan, including all applicable Goals and Policies, Plan Area Statements and maps, the Code, and other TRPA plans and programs.

Rationale: The amendments will not hinder implementation of the Regional Plan. Integrity of the growth management programs of the Plan are maintained, PAS permissible use lists are not compromised, development standards remain in effect, mitigation programs (such as excess coverage) are unaffected, EIP implementation will continue.

Current information regarding the occupancy level of the average vacation rental would indicate fewer Vehicle Miles Traveled (VMT) and fewer Daily Vehicle Trip Ends (DVTE) would be expected from a vacation rental than from a permanently occupied residential unit. Even if the occupancy of the vacation rental were 100%, the VMT and DVTE would be expected to be within the acceptable levels for a single-family or multi-family dwelling. The variable trip rates within TRPA's traffic model are affected to a greater degree by household income than occupancy or residential use type; the higher the income the greater the trip rates. With recent improvements to the transit system in the South Shore area,

transit service is now available to many vacation rentals located in residential areas.

The amendments will not adversely affect TRPA's ability to implement the Goals and Policies pertaining to housing.

2. Finding: That the project will not cause the environmental thresholds to be exceeded.

Rationale: The proposed amendments will have no negative affect upon TRPA programs and regulations intended to ensure thresholds carrying capacities are not exceeded. Occupancy levels of vacation rentals indicate that less traffic impacts (DVTE and VMT) may be expected as compared to the same housing units occupied on a permanent basis by basin residents.

3. Finding: Wherever federal, state and local air and water quality standards applicable for the Region, whichever are strictest, must be attained and maintained pursuant to Article V(d) of the Compact, the project meets or exceeds such standards.

Rationale: Any project arising from the amendments must be consistent with air and water quality standards. The amendments have no affect on these standards.

4. Finding: The Regional Plan and all of its elements, as implemented through the Code, Rules and other TRPA plans and programs, as amended, achieves and maintains the thresholds.

Rationale: See findings 1 and 2 above.

5. Finding: The Regional Plan, as amended, achieves and maintains the thresholds.

Rationale: See findings 1 and 2 above.

Environmental Documentation: Staff has completed TRPA's Initial Environmental Checklist and Chapter 6 findings. Based upon the checklist, information in this staff summary and the record, staff is recommending that the Governing Board make a Finding of No Significant Effect.

Requested Action: TRPA staff requests the Governing Board make the following motions:

1. Make a Finding of No Significant Effect
2. Adopt the implementing Ordinance

Please contact Jerry Wells ([jwells@trpa.org](mailto:jwells@trpa.org)) or Peter Eichar ([recreation@trpa.org](mailto:recreation@trpa.org)), at (775) 588-4547, if you have any questions regarding this agenda item.

Attachments: A – Implementing Ordinance with corresponding Exhibit 1 – Chapter 2 changes and Exhibit 2 – Chapter 18 changes

PE/dmc

AGENDA ITEM XII.A



TAHOE REGIONAL PLANNING AGENCY  
ORDINANCE 2004 –

AN ORDINANCE AMENDING ORDINANCE NO. 87-9, AS AMENDED, BY AMENDING THE REGIONAL PLAN OF THE TAHOE REGIONAL PLANNING AGENCY; AMENDING CODE OF ORDINANCES, CHAPTER 2, DEFINITIONS AND CHAPTER 18, PERMISSIBLE USES TO RECOGNIZE THE USE OF SINGLE AND MULTIPLE FAMILY DWELLINGS AS VACATION RENTALS, GIVEN CERTAIN CONDITIONS OF OPERATION TO ENSURE NEIGHBORHOOD COMPATIBILITY AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

The Governing Board of the Tahoe Regional Planning Agency does ordain as follows:

Section 1.00

Findings

- 1.10 It is necessary and desirable to amend TRPA Ordinance 87-9, as amended, which ordinance relates to the Regional Plan of the Tahoe Regional Planning Agency (TRPA) by amending the Code of Ordinances Chapters 2 and 18 in order to further implement the Regional Plan pursuant to Article VI(a) and other applicable provisions of the Tahoe Regional Planning Compact.
- 1.20 These amendments have been determined not to have a significant effect on the environment, and are therefore exempt from the requirements of an environmental impact statement pursuant to Article VII of the Compact.
- 1.30 The Advisory Planning Commission (APC) has conducted a public hearing on the amendments and recommended adoption. The Governing Board has also conducted a noticed public hearing on the amendments. At those hearings, oral testimony and documentary evidence were received and considered.
- 1.40 Prior to the adoption of this ordinance, the Governing Board made the findings required by Chapter 6 of the Code and Article V(g) of the Compact,
- 1.50 The Governing Board finds that the amendments adopted here will continue to implement the Regional Plan, as amended, in a manner that achieves and maintains the adopted environmental threshold carrying capacities as required by Article V(c) of the Compact.
- 1.60 Each of the foregoing findings is supported by substantial evidence in the record.

Section 2.00

Amendment of the Code of Ordinances, Chapters 2 and 18

Subsection 6.10, subparagraph (28) of Ordinance No. 87-9, as amended, is hereby further amended as set forth on Exhibits 1 AND 2, dated March 2 2004, which attachments are appended hereto and incorporated herein.



Section 3.00 Interpretation and Severability

The provisions of this ordinance and the amendments to the Code of Ordinances adopted hereby shall be liberally construed to effect their purposes. If any section, clause, provision or portion thereof is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance and the amendments to the Code of Ordinances shall not be affected thereby. For this purpose, the provisions of this ordinance and the amendments to the Code of Ordinances are hereby declared respectively severable.

Section 4.00 Effective Date

The provisions of this ordinance amending the Code of Ordinances shall be effective 60 days after its adoption.

PASSED AND ADOPTED by the Governing Board of the Tahoe Regional Planning Agency at a regular meeting held March 24, 2004, by the following vote:

Ayes:

Nays:

Abstentions:

Absent

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David Solaro, Chairman  
Tahoe Regional Planning Agency

New Language underlined in blue; Deleted language ~~stricken through~~ in red.

## Chapter 2 DEFINITIONS

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### Chapter Contents

- 2.0 Purpose
- 2.1 Applicability
- 2.2 Definitions

2.0 Purpose: This chapter defines the terms used in the Code.

2.1 Applicability: This chapter shall be used in interpreting the Code and other TRPA plans and documents.

2.2 Definitions: The following terms are defined as set forth below.

\*\*\*\*\*

Local Assembly and Entertainment: See Chapter 18.

Local Government Neighborhood Compatibility Requirements: Requirements implemented and enforced by a local government through a cooperative agreement with TRPA that regulates vacation rentals to insure neighborhood compatibility that includes, but is not limited to mitigating the potential adverse impacts related to refuse/garbage, parking, occupancy, noise, lighting and signage.

Local Post Office: See Chapter 18.

\*\*\*\*\*

Repair Services: See Chapter 18.

Residential: Uses, facilities and activities primarily pertaining to the occupation of buildings ~~on a permanent basis~~ for living, cooking and sleeping by the owner as a permanent or second home, by renters on a monthly or longer term basis, or by renters of a vacation rental that meets the Local Government Neighborhood Compatibility Requirements.

Residential Area: See Subsection 13.5.B.

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Vacant Parcel: A parcel which is undeveloped or unimproved and has no established use.

Vacation Rental: A residential unit rented for periods of 30 days or less.

Vegetation: A collective term for plants.

New language underlined in blue.

# Chapter 18

## PERMISSIBLE USES

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### Chapter Contents

- 18.0 Purpose
- 18.1 Applicability
- 18.2 Accessory Uses
- 18.3 Table Of Primary Uses
- 18.4 Definitions Of Primary Uses
- 18.5 Existing Uses

18.0 Purpose: This chapter sets forth the allowable uses for the land areas within the Region. Allowable uses for the near shore, foreshore, backshore and lakezone are set forth in Chapter 51. The concept of "use" includes any activity, whether related to land, water, air or other resources of the region. The primary uses are "allowed", "special" and "nonconforming", the applicability of which terms to a particular parcel shall be determined by reference to the plan area statements and maps, community plans, redevelopment plans and specific or master plans, as the case may be. Generic primary uses are set forth in the Table of Uses in section 18.3.

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Hotels, Motels and Other Transient Dwellings Units: Commercial transient lodging establishments including hotels, motor-hotels, motels, tourist courts or cabins, primarily engaged in providing overnight lodging for the general public whose permanent residence is elsewhere. It does not include bed and breakfast facilities or vacation rentals.

\*\*\*\*\*

Multiple Family Dwelling: More than one residential unit located on a parcel. Multiple family dwellings may be contained in separate buildings such as two or more detached houses on a single parcel, or in a larger building on a parcel such as a duplex, triplex, or an apartment building. Vacation rentals are included, up to but not exceeding a fourplex, provided they meet the Local Government Neighborhood Compatibility Requirements as defined in Chapter 2. One detached secondary residence is included under secondary residence.


Single Family Dwelling: One residential unit located on a parcel. A single family dwelling unit may be contained in a detached building such as a single family house, or in a subdivided building containing two or more parcels such as a town house condominium. Vacation rentals are included provided they meet the Local Government Neighborhood Compatibility Requirements as defined in Chapter 2. A caretaker residence is included under secondary residence.



**OFFICE OF COUNTY COUNSEL  
INTER-DEPARTMENT MEMORANDUM**

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**TO:** C.L. Raffety  
Treasurer/Tax Collector

**FROM:** Michael J. Ciccozzi   
Deputy County Counsel

**RE:** County Counsel Assignment No. 2006-516  
Short Term Rental of Residences

**DATE:** 10/2//06

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Your office has requested a legal opinion from our department on the issue presented below. The background information for this opinion is also presented below.

**BACKGROUND**

The Treasurer/Tax Collector's Office anticipates that as homeowners find it increasingly more difficult to sell their residences in El Dorado County there will be an increase in the number of homeowners renting their residences to tenants.

Under the Ordinance Code, anyone engaging in the rental of a residence for a period of thirty days or less is required to collect and remit a Transient Occupancy Tax. (Section 3.28.060)<sup>1</sup>.

**ISSUE**

The issue as presented is as follows, is there a law that prohibits a homeowner from renting their residence as a short term rental without a special use permit?

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<sup>1</sup> Except as otherwise noted, all references are to the El Dorado County Ordinance Code.

## CONCLUSION

In El Dorado County there is no prohibition on a homeowner renting their residence as a short term rental without a special use permit. In the South Lake Tahoe area, defined as the Tahoe Regional Planning Area, a homeowner must comply with sections 5.56.010 et. seq., but there are no requirements that the homeowner obtain a special use permit in order to rent the property on a short term basis.

## ANALYSIS

A homeowner in El Dorado County is entitled to rent their property for a period of less than 30 consecutive days without having to obtain a special use permit. The homeowner must comply with the Transient Occupancy Tax section (section 3.28.060) and the Business License sections (sections 5.08.010 et seq.) of the Ordinance Code.

The Transient Occupancy Registration Certificate Requirement. El Dorado County Ordinance Code section 3.28.060 requires that “each operator of any facility renting occupancy to transients shall register the facility with the tax collector and obtain from him a “transient occupancy registration certificate” to be at all times posted in a conspicuous place on the premises. ... This certificate does not authorize any person ... to operate a facility without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this county. This certificate does not constitute a permit.”

Therefore, if a person wishes to rent their home on a short term basis of less than 30 days at a time, this section requires that they obtain a transient occupancy registration certificate from the tax collector.

The Business License Requirement. El Dorado County Ordinance Code section 5.08.060 makes it “unlawful for any person to transact any kind of business in the unincorporated territory of the county without possessing an unexpired and unrevoked county business license unless the business is exempt from the license requirements by this chapter.” Section 5.08.070 sets forth the exceptions, none of which are applicable to our issue. Section 5.04.050 defines “business” as having the same meaning as under Business and Professions Code section 16100. Business and Professions Code section 16100 refers to “any kind of business not prohibited by law”. The rental of one’s home even on a short term basis is not generally prohibited by law. In El Dorado County there is no provision of the Ordinance Code which prohibits the short term rental of a single family residence. Sections 5.56.010 et seq. which apply within the jurisdictional boundaries of the Tahoe Regional Planning Agency, place restrictions upon one’s ability to rent a “vacation home.”

This interpretation of the short term rental of one’s home as a business is supported by *Clark v. City of San Pablo* (1969) 270 Cal.App.2d 121. In that case, the court addressed a local ordinance which imposed a license tax on the business of operating an apartment house. An apartment house was defined as having four or more units. The owner of an apartment house sued the City claiming the ordinance unconstitutional because it treated the persons engaged in the business of renting three or fewer units differently. The Court treated the rental of a single

family home as a business for purposes of comparing it to the renting of four or more units. “The word ‘business’ embraces everything about which one can be employed, and it is often synonymous with ‘calling, occupation, or trade, engaged in for the purpose of making a livelihood or gain.” *Id* @ 126.

“When the owner of the realty engages in the business of supplying accommodations to lodgers, he is conducting a business different from that of letting property to tenants.”

*Edwards v. Los Angeles, (1941) 48 Cal. App. 2d 62, 70.*

Given that no law prohibits the rental of a home on a short term basis, such rental should be considered a business subject to the business license requirements of the Ordinance Code.

It is a fair conclusion that a homeowner who engages in the short term rental of their home is engaged in a business pursuit and is therefore required to obtain a business license.

Application of the Zoning Ordinances to Short Term Rentals. The final question remaining is whether the short term rental of a home is prohibited by the zoning ordinances of El Dorado County. In short, there is nothing in the zoning ordinances of El Dorado County which preclude the short term rental of a home by a homeowner to a lodger.

Title 17 of the El Dorado County Ordinance Code contains the various zoning ordinances in effect in the County. It designates various districts by their intended use. There are many types of residential districts among those designations.

For purposes of our analysis we will use only one of the numerous residential zoning districts, the One Family Residential District. The sections applicable to this District begin at 17.28.010 and end with section 17.28.040.

17.28.020 sets forth the uses permitted by right and provides in pertinent part that, “The following uses are allowed by right, without special use permit or variance:

A. One family detached dwelling;...

Section 17.06.050 defines “family” as “one or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a hotel, club or rooming house.” That section also defines “dwelling unit” as “a combination of rooms in a single building designed or used for human living, sleeping, eating and sanitary facilities by a single family and their nonpaying guests.”

17.28.030 sets forth the uses which require a special use permit. None of the uses under 17.28.030 describes the short term rental of a single family dwelling. The closest one could come to arguing that the rental of a home on a short term basis requires a special use permit is that under subsection H, home occupations not listed in Subsection C of 17.28.030 which require special consideration such as the use of power tools, an accessory building or noise and which will not change the character of the residential premises or the neighborhood require a special use permit. It would be hard to characterize the rental of the premises as a home occupation given the descriptions of home occupations in section 17.28.020, subsection C.

The rental of a home by a homeowner on a short term basis is not proscribed by the zoning ordinance. The use of the home is for human living, sleeping, eating and sanitary facilities, thus meeting the definition of dwelling. The group to whom the home is rented would act as a single housekeeping unit thus meeting the definition of family. The use of the home as a single family detached dwelling remains intact even if it is rented on a short term basis.

This is not to say that the short term rental of homes in a residential district could not be prohibited. In *Ewing v. City of Carmel by the Sea (1991) 234 Cal.App. 3d 1579* the court dealt

with that exact issue and upheld an ordinance that clearly prohibited the practice of short term rentals in a residential district within the city. It was noted that in enacting the ordinance, the City made very specific findings as to the purpose of the ordinance and that it was determined by the city council that the short term rental of the properties was a commercial use inconsistent with the purpose of the R-1 residential district. *Id @ 1589*. In our case, we do not have a clear ordinance prohibiting the short term rental of homes in residential districts. Furthermore, there are no specific findings supporting such an interpretation of the present ordinance regulating uses in residential districts.

Another point brought up by the *Ewing* decision is the concept of an ordinance being unconstitutionally vague. "Indeed, 'a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential of due process.'" *Id @ 1594*. Given the definitions provided in Title 17 of our ordinance code and the lack of an express proscription against the short term rental of homes, to interpret our ordinance code as prohibiting the short term rental of homes would likely run afoul of the first essential of due process.

The Lake Tahoe Vacation Home Rental Ordinance (sections 5.56.010 et seq.) does not confer upon individuals the right to rent their homes on a short term basis in the Tahoe area, but rather restricts the right of a homeowner to do so by imposing several conditions on the rental. Section 5.56.040 subsection D states that 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." Section 5.56.020 restricts the applicability of the vacation home rental ordinance to the Lake Tahoe area. This chapter is important because it first recognizes the existence of vacation home rentals and limits the ordinance's effect to the Lake Tahoe area, leaving vacation home rentals in other areas of the county unaffected by the ordinance.

In the final analysis, so long as a homeowner, outside the jurisdictional boundaries of the Tahoe Regional Planning Agency, obtains a transient occupancy tax certificate and a business license, they are free to rent their home on a short term basis of not more than 30 consecutive days. This however is further refined by provisions of the Ordinance Code which prohibit renting the home on a room by room basis.

Cc: Pierre Rivas ✓



## Short-Term Vacation Rentals: Residential or Commercial Use?

By Nate Hutcheson

*What happens when people live and vacation in the same town, where vacation homes and permanent homes are often side by side? ... A survey of almost 40 tourist-oriented communities was taken for this issue of Zoning News.*

Michael Davidson

Americans love to vacation as much as they love their vacation destinations, and demographers have noticed. New migration patterns into some of the fastest growing communities in the country—resort towns—suggest that many people are relocating to the places that were once just summer or weekend getaways. According to Peter Wolf, author of *Hot Towns*, “A new species of American is on the move: not, as in the past, the needy, but the comfortable, well-educated, and well-trained; not the job seekers and risk takers, but those with leisure, choices, and the wherewithal to seek out the best.” By Wolf’s estimates, this migration includes anywhere from 700,000 to 1.6 million people per year. The strong 1990s economy brought a wave of second-home purchases as investments and family retreats. Resort areas—coastal, mountain, and lakeside—have what these trendsetters want: natural beauty, fresh air, and recreation. Communities with such amenities are prime candidates for conflicts in land-use planning.

What happens when people live and vacation in the same town, where vacation homes and permanent homes are often side by side? Regulations that govern short-term rentals in residential districts are getting more attention as planners and residents notice that these vacation homes can have a much greater impact on the community than those that house year-round residents. Angry neighbors say short-term rentals look like single-family homes but function more like commercial uses. The crux of the matter for planners is finding a balance between the interests of year-round, seasonal, and vacationing people while considering the effects on property rights, economic vitality, and the sanctity of residential neighborhoods.

The dynamics vary from one town to the next, but the issue seems to grow more contentious as more vacationers and year-round residents live next to one another. A survey of almost 40 tourist-oriented communities was taken for this issue of *Zoning News* in order to shed light on this increasingly vexing land-use phenomenon.

### Relevance and Research Background

In 2001, APA’s Planning Advisory Service recorded an increase in the number of inquiries about planning for and regulating short-term rental properties in residential areas—particularly single-family districts. The survey revealed that a significant percentage experienced an increase in conflicts between these and adjacent land uses. While some have recently drafted ordinances to address the short-term rental problem, others are still in the process of doing so or have expressed the need for change, and because resort communities have different attitudes toward tourism, each approaches the issue in a different way.

### Impacts

The impact of a short-term vacationer compared with year-round residents can be significant. Seasonal populations live and work in the community, and thus become somewhat integrated. Naturally, they increase demands on infrastructure and services. Impacts associated with short-term vacationers, however, are more nuisance related, often generating noise and light pollution. Generally, the shorter the stay, the less inclined one might be to respect neighbor diplomacy. Late-night music and merrymaking, floodlights, garbage taken out to the street on off days, dogs at large, illegal parking, and negligent property maintenance are



garden-variety complaints often cited by annoyed neighbors. Neighbors, planners, and property owners point to the correlation between such problems and length of stay for the rental property. In other words: the shorter the stay, the higher the impact. The stereotypical “weekend warrior”—trying to pack the most fun into the least amount of time—will invariably generate more trips to the store or beach, keep later hours, and create a greater disruption with light and noise. Still, for some communities, the concern is not so much the negative impacts as the lack of community involvement typical of transients.

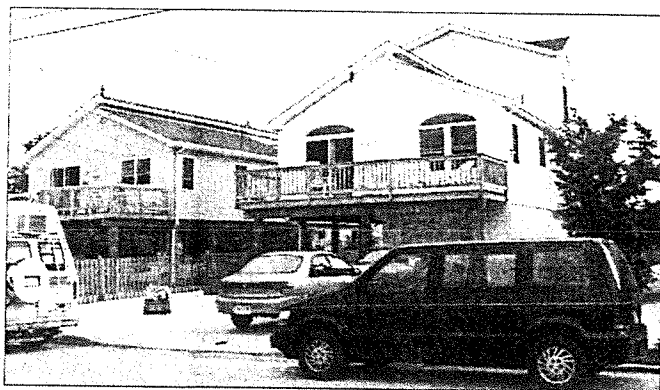
### Affordable Housing

A more insidious problem with short-term rentals is their impact on housing costs. When property owners decide to increase their “rent stream” with short-term rental agreements rather than renting by the season or year, they essentially “squeeze” the

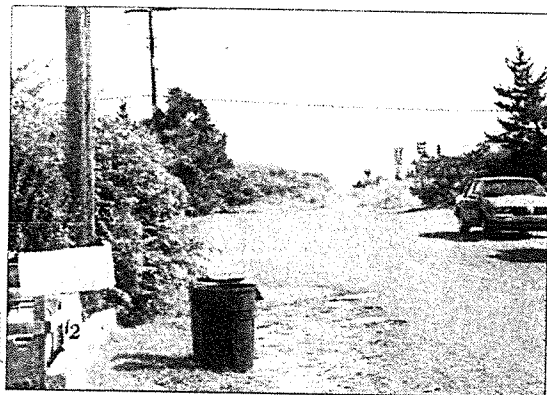
### Politics

Planners admit to a dilemma: Many property owners rely on the rent streams and spending dollars generated by vacationers, but locals want to preserve their neighborhood’s residential character. Furthermore, business owners would prefer to see an expansion of the local vacation lodging market. When property owners are unwilling to forfeit certain rights, leaving them at odds with neighbors who want the relative quietude expected in a single-family neighborhood, what should be done?

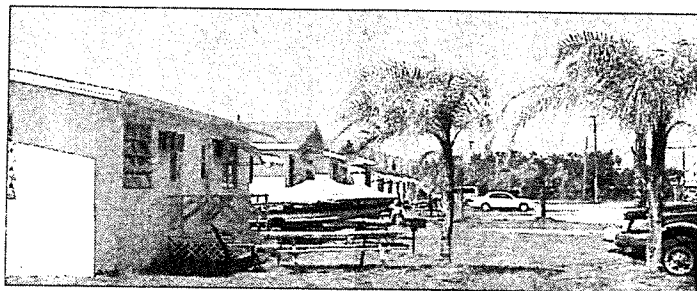
Indeed, people “vote with their feet” when choosing vacation destinations or a permanent home, so politicians try to appease the greatest number of constituents. Invariably, residents will threaten to abandon a once-beloved community or resort locale if renting a house on the beach or settling into a neighborhood means an endless stream of nuisances from disruptive vacationers.



Marisa Morris



Marisa Morris



Julie Thrunvan

*(Above, left) Short-term rentals in Ship Bottom, New Jersey. Paved yards and excessive numbers of vehicles at short-term rental houses are a common complaint of neighbors. Believe it or not, these are the fronts of the houses. (Above, right) Most short-term renters are unaware of garbage collection schedules. (Left) Boat and recreation vehicle parking is an unpleasant sight for neighbors in this Monroe County, Florida, neighborhood.*

supply of housing, pushing up the demand and, subsequently, the cost. Ty Simrosky, planning director for Key West, Florida, says, “It’s another means of financing the acquisition of local housing by non-local people and it fuels speculation in a rising housing market.” Simrosky explains that by allowing short-term rentals, investors can cover the carrying costs of a house for a year or two while the property appreciates in value and then sell it for a healthy profit. Simrosky also says that while long-term homebuyers are strongly opposed to short-term rentals in a prospective neighborhood, investment buyers are less inclined to care if a neighboring property is a short-term rental. This can create a snowball effect that eventually replaces year-round neighborhood residents with vacationers.

Communities most affected by a housing shortage are those with businesses that rely on lower-paying service and tourism jobs. High housing costs have pushed many workers out of the community, even beyond commuting distance. Simrosky also speculates that there are workers being bused in from the Florida mainland to sleep in bunk-house conditions just to work for three- or four-day periods in Key West.

Residents of Monroe County, Florida, put the issue on a ballot, narrowly deciding—51 to 49 percent—against allowing short-term rentals in improved subdivisions (single-family districts). Subdivisions retained the right to vote on the issue separately.

### Health, Safety, and General Welfare

Historically, property owners in resort communities could rent a home, regardless of the duration of the stay, by claiming that the house was not used “primarily for commercial purposes.” What this really meant was that the structure could not be used for such purposes for more than 50 percent of the year. However, planners claim that approach is difficult to monitor and easy to abuse. Most feel zoning codes and a licensing system offer a better solution despite the time and expense required for administering and enforcing new regulations.

Most of the surveyed communities deal with short-term rentals through the zoning code. Imperial Beach, California, justifies its interim short-term rental ordinance with a purpose and intent that states “there is a current and immediate threat to the public health, safety, or welfare of its citizens by owners or their agents renting or selling units for periods of thirty

Community	Regulate Short-Term Rentals	Specific Ordinance Provisions <sup>1</sup>	Term Used	Permitted		License Required	Year Adopted	Legal Challenges
				Number of Consecutive Days <sup>2</sup>	Number of Times Per Year			
Aspen, CO	No							
*****, NC <sup>3</sup>	Yes	No						
Boone, NC	No							
Burlington, VT	No							
Cape Cod, MA	No							
Carmel-by-the-Sea, CA	Yes	Yes	Transient Commercial Use	30		Prohibited	1975	
Cocoa Beach, FL	Yes	Yes	Transient Lodging	30	3	Yes	2000	
Colchester, VT	No							
Eagle County, CO	Yes					per/PUD <sup>4</sup>		
Imperial Beach, CA	Yes	Yes	Short-term Rental	30		Prohibited	2001	Yes
Islamorada, FL	Yes	Yes	Vacation Rental	28		Yes		
Key West, FL	Yes	Yes	Transient Lodging	30			1998	Yes
Kiawah Island, SC	Drafting		Short-term Rental	30		Yes	In draft	
Maggie Valley, NC	No							
Manchester, VT	No							
Marathon, FL	Yes	Yes	Vacation Rental	30		Yes	2000	
Melbourne Beach, CA	Yes	No	Resort Dwelling	30				
Mendocino County, CA	Yes	No	Transient Habitation	30			1987	
Monroe County, FL	Yes	Yes		30		Yes		Yes/Upheld
Monterey, CA	Yes	No	Short-term Residential Rental	30		Prohibited		
Muskegon, MI	Yes	No		7		Yes	No	
Myrtle Beach, SC	Yes	Yes	Transient Accommodation	30		Yes	Yes	
Nantucket, MA	No						Yes	
Ocean City, MD	No							
Pasco County, FL	Yes	Yes	Short-term Rental	30	3	Yes	1999	
Saco, ME	Yes	Yes	Seasonal Rental	4 months		Prohibited	Yes	
			Daily Rental	1				
San Juan County, WA	Yes	Yes	Transient Accommodation/Residence/Guesthouse	30			1998	
Sanibel, FL	Yes	Yes	Resort Housing	30		Yes	2001	
Santa Cruz, CA	No/Transit Occupancy Tax		Short-term Rental				1984	
Saugatuck, MI	No							
South Haven, MI	Yes	Yes	Short-term Dwelling Unit	2		Yes	No	
Stowe, VT	No							
Sturgeon Bay, WI	No/Transit Occupancy Tax							
Sullivan's Island, SC	Yes	Yes	Vacation Rental	28		Yes <sup>5</sup>	Yes	
Telluride, CO	Yes		Short-term Dwelling Unit	30	X <sup>6</sup>		1992	
Traverse City, MI	No							
Vail, CO	No							
Yachats, OR	Yes	Yes	Transient Rental	30		Allowed in all Zones	1992	

Photo by Marya Morris; research by Nate Hunkeler

This matrix is not exhaustive. Every reasonable attempt was made to achieve accuracy and thoroughness, but variations in ordinance language, format, and local practice made a "complete" matrix impossible. Thus, it is meant only as a quick reference guide for readers of this article. The short-term rental survey evolved as it was being conducted, so not all questions were asked uniformly or of every survey participant.

1. This indicates any section of the code that is dedicated to short-term rentals, such as interim ordinances or amendments.
2. Language varies from code to code in terms of how they specify a time period. Where a month or four weeks was used as the length of the term, 30 days is the default response.
3. Community preferred not be mentioned by name.
4. Decision made by subdivision bylaws.
5. STRs not permitted by right in any of the zones.
6. In most restrictive districts, they are permitted to rent three times or fewer per year for a total of 30 days or less.

consecutive calendar days or less . . . and that such rentals in the residential zones of the city . . . may create adverse impacts.”

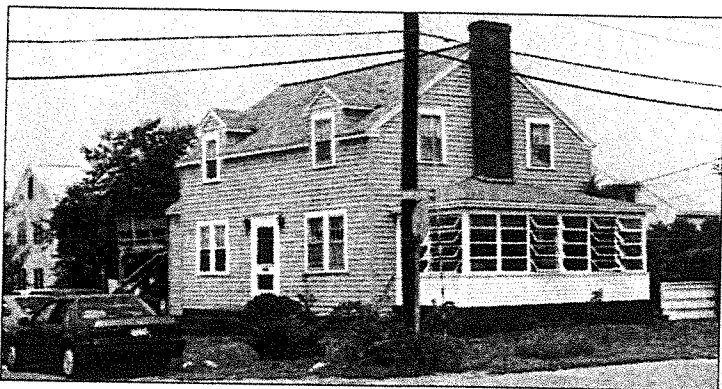
Commonly cited reasons for drafting an ordinance or provision for short-term rentals include protecting residential character, maintaining housing affordability, managing infrastructure and service requirements, and complying with hurricane evacuation capacity. Zoning ordinances, business permits, and transient occupancy taxes are ways of managing this quasi-commercial use.

Definitions are often at the root of governing short-term rentals. Unfortunately, many zoning codes have a discrepancy between defined terms and the provisions that use them. Terms are sometimes defined at the beginning of the ordinance but then never used in the provisions. Conversely, provisions may contain undefined terms, rendering the code too ambiguous. For example, some towns prohibit “transient rentals” in certain districts without

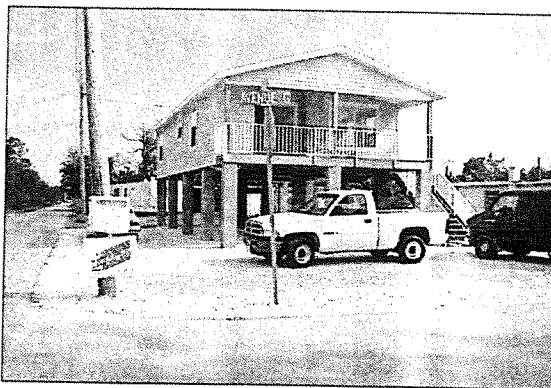
about what actually is a short-term rental. Length of stay (where not determined by a definition of transient) is an important factor in defining short-term rentals.

There is a wide range of occupancy tenure in a short-term rental ordinance. Communities specify the maximum length of stay in days, weeks, or months. Some simply distinguish the use by type of occupant, usually transient or tourist, in which case the terms should be clarified in the definitions section.

Measures of occupants’ permanency can include everything from specifying the length of stay to whether the residence is the legal address of its occupants. At this fundamental level, communities can best begin to guide local land-use practices. Here, parameters are set largely according to the nature of a community’s tourist population, the importance of tourism on the local economy, and community goals.



Marya Morris



Julie Thomson

*(Above, left) Short-term rental property prominently displayed on a corner lot in Lewes, Delaware. The impact: Vehicles of vacationers spilling over from the driveway onto the street. The problem: This type of impact occurring for weeks or months on end. (Above, right) Apparently, more pavement, less yard means more parking and less yard maintenance for this short-term rental property in Monroe County, Florida. (Right) Driveway signs for a Kiawah Island, South Carolina, short-term rental welcome the next round of families sharing a house.*



Bill Miller

defining the term “transient.” Distinctions can be easily made between the various types of lodging and rental property, and only those uses that are specifically listed as permitted or conditional should locate to designated districts. However, where single-family residences are a permitted use, and the length of tenure is unspecified, nothing in the ordinance can stop property owners from renting the house on a short-term basis.

### **Definitive Criteria**

For communities grappling with such disputes, clear definitions are essential. Other terms for short-term rentals include transient commercial use, vacation rental home, vacation property, transient lodging, resort dwelling, and resort housing. Because transient also is used in the definition of other terms, it too should be defined in context to alleviate confusion and ambiguity. These terms are defined using various criteria, such as structure type, length of stay, measures of occupants’ permanency, number of occupants, and the type of occupants (family members or unrelated people).

The type of structure (single or multifamily) often is not specified in the ordinance, allowing room for interpretation

Regulating the number of occupants also can mitigate the impacts of rental properties. Some communities specify total number of occupants by persons per bedroom, family members, or non-related persons, notwithstanding local fire codes. Islamorada, Florida, limits occupancy to two people per bedroom plus two additional persons. Other communities simply limit occupancy to a single family, as defined in their ordinance (see “Definitions and Distinctions” for examples and commentary on relevant terms).

Defining family also can complicate the matter. Restricting the use of single-family homes to families can be a difficult way to regulate short-term rentals, mainly because the term family is open to a wide range of literal and legal interpretations. Even so, “traditional” families are not devoid of impact risks, including noisy infants or rowdy teenagers. The ever-changing family paradigm does not make it the best measure by which to regulate short-term rentals.

### **Once Defined, Where Are Short-term Rentals Allowed?**

Tolerance levels about the impacts of short-term rentals will vary among communities. Communities with an intense interest in

## DEFINITIONS AND DISTINCTIONS

### ■ BED AND BREAKFAST

**Commentary:** Bed and breakfasts are similar in appearance and location to many short-term rentals in residential areas. However, the primary distinction is the mitigating presence of the owner/operator.

**Definitions:** Generally small, owner-operated businesses providing the primary financial support of the owner. Usually the owner lives on premises. The building's primary usage is for business. Inns advertise, appropriate taxes, and post signs. Breakfast is the only meal served and only to overnight guests. The inn may host events such as weddings, small business meetings, etc. Room numbers range from four to 20 with a small, but increasing number up to 30. Reservations may be made directly with the property. (*Professional Association of Innkeepers International*)

Bed and breakfast means the use of an owner-occupied or manager-occupied residential structure providing no more than four rooms for temporary lodging for transient guests on a paying basis. A "Bed and Breakfast Inn" may include meal service for guests. (*Blue Springs, Mo.*)

### ■ BOARDING HOUSE

**Commentary:** A boarding/rooming/lodging house differs from the short-term rental house because it has multiple rooms or units for rent and occupants share common kitchen or dining facilities. Occupants of a boarding house also tend to be less transient (the definition of which depends on community standards).

**Definitions:** A single-family dwelling where more than two, but fewer than six rooms are provided for lodging for definite periods of times. Meals may or may not be provided, but there is one common kitchen facility. No meals are provided to outside guests. (*Champaign, Ill., which uses the term "boarding/rooming house"*)

An establishment with lodging for five or more persons where meals are regularly prepared and served for compensation and where food is placed upon the table family style, without service or ordering of individual portions from a menu. (*Venice, Fla.*)

### ■ FAMILY

**Commentary:** Restricting the use of single-family homes to families can be a problematic way to regulate short-term rentals, mainly because the term family is open to a wide range of literal and legal interpretations. Even so, a "traditional" family is not without impacts, such as vocal infants or rowdy teenag-

ers. The definition of family or single-family house is not the most widely used or recommended tool for short-term rental regulation.

**Definitions:** One or more persons occupying a single dwelling unit, as a single housekeeping unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over six persons, including any roomers, boarders and/or domestic servants. A home for independent living with support personnel that provides room and board, personal care and habilitation services in a family environment as a single-housekeeping unit for not more than six resident elderly or disabled persons (mentally and/or physically impaired) with at least one, but not more than two resident staff persons shall be considered a family. (*Tulsa, Okla.*)

One or more persons, related by blood, marriage, or adoption, occupying a living unit as an individual housekeeping organization. A family may include two, but not more than two, persons not related by blood, marriage, or adoption. (*Iowa City, Iowa*)

One or two persons or parents, with their direct lineal descendants and adopted or legally cared for children (and including the domestic employees thereof) together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit. Every additional group of four or fewer persons living in such housekeeping unit shall be considered a separate family for the purpose of this code. (*St. Paul, Minn.*)

Two or more persons related to each other by blood, marriage, or legal adoption living together as a single housekeeping unit; or a group of not more than three persons who need not be related by blood, marriage, or legal adoption, living together as a single housekeeping unit and occupying a single dwelling unit. (*Lake County, Ill.*)

One or more persons occupying a premise[s] and living as a single housekeeping unit as distinguished from a group occupying a boardinghouse, lodging house, or hotel as herein defined. (*Scottsdale, Ariz.*)

### ■ GUEST HOUSE OR GUEST COTTAGE

**Commentary:** Guest cottages can present a loophole for short-term rentals in single-family residential districts unless certain specifications are made—namely that usage is only allowed for non-paying guests.

**Definition:** Guest house (accessory dwelling unit) means a detached or attached accessory structure secondary to the principal single-family residential unit designed and most commonly used for irregular residential occupancy by family members, guests, and persons providing health care or property maintenance for the owner. (*San Juan County, Wash.*)

### ■ HOTEL OR MOTEL

**Commentary:** Hotels/Motels typically have separate entrances and an on-site management office.

**Definitions:** A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a rooming or boarding house as herein defined. (*Boone County, Mo.*)

A building or group of buildings in which lodging is provided to transient guests, offered to the public for compensation, and in which access to and from each room or unit is through an exterior door. (*Cecil County, Md.*)

### ■ TRANSIENT

**Commentary:** "Transient" can be used to describe a person or a land use. Ambiguous or subjective words—"short," "long," "seasonal," "temporary"—should be either avoided altogether or clarified with precise units of time—number of hours, days, weeks, or months. When a community defines a transient as a person living in a dwelling unit for "a short time only," the term "short" could be interpreted in a variety of ways. To alleviate further confusion, the nature of a person's stay may be clarified, as is done in the definition below from Sturgeon Bay, Wisconsin.

**Definitions:** A person who travels from place to place away from his or her permanent address for vacation, pleasure, recreation, culture, or business. (*Sturgeon Bay, Wis.*)

Any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying space in a visitor accommodation facility shall be deemed to be a transient until the period of 30 days has expired unless there is an agreement, in writing, between the operator and the occupant providing for a longer period of occupancy. (*Monterey, Calif.*)

promoting tourism may be more permissive, allowing them in restricted districts, while others will diligently protect residential districts. In the most restrictive communities, short-term rentals may be prohibited outright in residential districts. Monroe County, Florida, prohibits them unless a majority of homeowners vote them into a subdivision. Communities may permit short-term rentals as a conditional use or allow them only when rented fewer than four times each year.

### **Conditional Uses and Licensing**

Whether short-term rentals are allowed by right or as a conditional use, additional requirements to benefit both the occupants and neighbors are recommended. For example, operating a short-term rental may require physical inspection to determine the safety of the structure from hazards such as fire and over occupancy. Other requirements might include posting a "notice to occupant" reminding visitors of mandatory evacuation in case of a hurricane (in prone areas) or a "code of conduct" for the neighborhood, which might list regulations for occupancy, parking, boat dockage, fines, or helpful information such as garbage and recycling pick-up. Both should be printed in a large font and prominently displayed.

### **Regulating by Ratio**

Mendocino County, California, settled on an acceptable ratio of short-term rental properties to year-round residents: Locals deemed 13 year-round resident houses to one short-term rental house tolerable. The community requires operating permits for short-term rental properties. An additional vacation rental permit is issued for every 13 new residential units. The number of permits is finite but siting is still flexible. To maintain an orderly and fair distribution of permits, the county does not allow them to be sold or transferred. The county considers short-term rentals a commercial use, allowing additional short-term rentals as part of a 50/50 mix of commercial and long-term residential dwelling units in mixed-use districts.

### **Legal Challenges**

Legal challenges will invariably arise in neighborhoods where homeowners enjoying the comforts of a quiet back yard are suddenly interrupted by noise or light from an adjacent short-term rental property. Places with restrictions on short-term rentals such as Key West and Imperial Beach have faced legal challenges, which may include vesting, consistency with the comprehensive plan, definition of family, and allowable time for amortization. However, anecdotal evidence suggests that the longer an ordinance has been in place, the more accepted it is. Most of the planners interviewed for this article were confident in the defensibility of their short-term rental ordinances.

### **Mitigation and Amortization**

Some of the mitigation tools used to offset the impacts of short-term rentals include having a 24-hour contact person or management service, vehicle registration, and short-term rental medallions—a sign or badge on the front of the home identifying the residence as a vacation property, the name of the management company, and a contact person. The use of medallions is widely criticized because critics say they invite thieves and vandals. Such mitigation measures are typically paid for and provided by the property owner as a condition of receiving an operating permit. Other measures, such as increasing code enforcement staff—as is done in Key West—or bolstering visitor awareness through signage to politely inform them of the neighborhood's quiet residential character may be paid for with tax revenue generated from short-term rental properties.

To avoid a takings challenge, communities that have recently enacted more restrictive codes also have included an amortization schedule that phases out short-term rental properties. Islamorada allows two years for amortization and Imperial Beach is proposing five-year amortization. Sullivan's Island, South Carolina, requires proof of use as a short-term rental during the previous 12-month period to reduce the number of rental properties. Those that lapse are not eligible for future licensing.

### **Enforcement**

Detection of problem rentals can occur either from complaining neighbors or a dedicated municipal enforcement staff. Penalty fines range from \$100 a day in Saco, Maine, to \$500 for each day of violation in Kiawah Island, South Carolina. Other penalties include denied permit renewals, permit revocation, or misdemeanor citations. Fines are a comparatively small expense for property owners whose short-term rentals generate healthy returns, so some owners virtually ignore the restrictions, says Monroe County planner Marlene Conway. Saco requires property owners to renew permits annually. A history of complaints is kept on file and those with more than two recorded complaints will not be issued a permit for the coming year.

Administering a short-term rental ordinance burdens both the budget and staff. Issuing permits and code enforcement takes time and money. Permit or licensing fees and taxes on short-term lodging can offset these expenses. Fees vary from a fixed amount to a sliding scale based on the percent of income generated per calendar year—both of which usually amount to \$100 to \$200. In states that grant local governments the authority to tax this type of land use, the taxes for the lodging fee can range from four percent on the low end to seven percent in Deschutes County, Oregon. Santa Cruz, California, taxes 10 percent.

### **Conclusion**

Technology, telecommuting, and lifestyle priorities will continue to fuel the infiltration of newcomers into resort communities with long-established residents. For these and other reasons, the populations of traditional get-away destinations will surge and change, bringing with them increased pressure to adapt to new people and new land-use challenges. Deciding whether short-term rentals are commercial or residential land uses is an important first step in addressing the issue. Perhaps the zoning code is the best defense in preserving the tranquility that made such places attractive in the first place.

Selected ordinances from the short-term rentals survey are available to *Zoning News* subscribers. Please contact Michael Davidson, Co-editor, *Zoning News*, American Planning Association, 122 South Michigan Avenue, Suite 1600, Chicago, IL 60603, or e-mail [mdavidson@planning.org](mailto:mdavidson@planning.org).

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