
FROM: BRUCE BUCKINGHAM, COMMUNITY DEVELOPMENT DIRECTOR
JANET REESE, PLANNER II

SUBJECT: Consideration of an Ordinance Amendment to regulate vacation rentals in residential and commercial zoning districts.

RECOMMENDATION

Staff recommends the Planning Commission adopt the resolution recommending the City Council adopt the draft ordinance regulating vacation rentals in residential and commercial zoning districts.

BACKGROUND

In November 2009, the City Council considered a staff report concerning vacation rental issues that had come to the attention of the City. Following a discussion on the matter, the City Council referred the issue of whether vacation rentals should be regulated to the Planning Commission. In January 2010, the Planning Commission discussed the item and reached a consensus that vacation rentals should be regulated, but the process should be kept as simple as possible and that the permit be issued at an administrative (staff) level. In addition, some Commissioners commented that vacation rentals should be allowed in all residential zones, including the R-1 District.

In November 2010, the City Council directed staff to prepare a draft ordinance regulating vacation rentals. The Council consensus was an administrative process could be used and that the number of occupants and parking should be regulated. At the January 18, 2011, City Council meeting, a petition regarding vacation rentals was submitted to the City Council with approximately 200 signatures. In general, the petition asked that vacation rentals be regulated and not allowed in any residential zones. A copy is available for review at the Community Development Department.

DISCUSSION

A vacation rental is typically defined as the rental of a residential unit for a limited period of time, generally not longer than 30 days. Vacation rentals are typically found in travel destination locations as an alternative to hotels or other types of lodging. The City currently has approximately 14 vacation rentals that report Transient Occupancy Tax (TOT), but there are likely additional vacation rentals that the City is unaware of. Currently, the locations of the vacation rentals are equally split between commercial and residential zones as follows:

Please Review for the Possibility of a Potential Conflict of Interest:

- | | | |
|--|-------------------------------|-------------------------------------|
| <input checked="" type="checkbox"/> None Identified by Staff | <input type="checkbox"/> Alex | <input type="checkbox"/> Coleman |
| <input type="checkbox"/> Long | <input type="checkbox"/> Blum | <input type="checkbox"/> Laferriere |
| <input type="checkbox"/> Evans | | <input type="checkbox"/> Roberson |

Zoning District	# of units
Visitor Services (C-V)	7
High Density (R-3)	1
Medium Density (R-2)	5
Low Density (R-1)	1

Staff has reviewed approximately 12 vacation rental ordinances from other jurisdictions and spoke to several cities regarding the effectiveness of their regulations. The ordinances reviewed included the local jurisdictions of Pismo Beach, Morro Bay and San Luis Obispo County, as well as major destinations such as Newport Beach, Palm Springs and Lake Tahoe. All of the ordinances reviewed had similar requirements, such as an administrative permitting process, restrictions on the number of occupants based on number of bedrooms, and a process to impose fines and revocation.

Staff has drafted an ordinance based on the input previously received from the Planning Commission and City Council, and the review of other vacation rental ordinances and their effectiveness. The Council indicated that they would like to have alternatives, if applicable, to also take into consideration. Accordingly, staff has drafted the ordinance (reference Attachment 1), but provided alternatives that the Planning Commission may want to consider.

Review Process

The draft ordinance would establish an administrative review process in which staff would issue a Vacation Rental Permit subject to meeting the regulations and agreeing to abide by the permit conditions. This is identical to the process for issuing Home Occupation Permits. The Permit provides a mechanism to allow for the privilege to operate subject to specific requirements. This creates a process where the City can revoke the permit for violating the permit conditions.

In reviewing other jurisdictions, almost all of them used an administrative process as opposed to a Use Permit process that requires a public hearing prior to issuing the permit. The Use Permit process is more costly and takes considerably more time. However, the Planning Commission could consider this as an alternative to the administrative review process.

Appropriate Zoning Districts

The draft ordinance would allow vacation rental units in all zones that allow residential uses. This would include all residential zones and commercial zones that allow mixed use projects such as the Visitor Services District (C-C-V and C-V) and Central Business District (C-B-D).

An alternative would be to prohibit vacation rentals in all residential zones. This would eliminate the majority of the potential vacation rentals within the City. Therefore, if the goal is to severely restrict the number of vacation rentals, this would be the best approach. The existing availability of vacation rentals in commercial zones is limited primarily to mixed use projects such as Beach Place and legal non-conforming residences in commercial zones. Another alternative would be to prohibit vacation rentals in some residential zones, such as the R-1 district.

Maximum Occupancy

Most jurisdictions have established a maximum occupancy based on the number of bedrooms. The draft ordinance proposes allowing two persons per bedroom, plus two additional persons,

which is consistent with the vast majority of other jurisdictions. The two additional people are typically accommodated by a fold-out type bed, located in a living, family, or game room.

A few jurisdictions did not allow the two additional persons per unit and several allowed four additional persons. The Planning Commission could consider these alternatives for calculating the maximum occupancy.

The draft ordinance regulates the maximum number of occupants spending the night. However, it would not regulate the number of guests that may visit the occupants of the vacation rental. The City Attorney believes that the City cannot regulate the number of guests visiting the occupants of a vacation rental. However, the issues that may arise from having guests, such as noise, are clearly regulated by the City's Noise Ordinance.

Parking

The ordinance generally proposes two on-site parking spaces be provided. These spaces could be covered (e.g., a garage or carport) or uncovered. Staff is recommending two exceptions for vacation rentals in commercial zones where a minimum of one parking space would be required. The first is for mixed use projects such as Beach Place where parking reductions can be granted as part of the project approval based on shared parking or off-peak hour uses. The residential units in mixed use projects are likely to be one and two bedroom units and would not accommodate as many occupants as a single family home.

The second exception would allow one bedroom units within commercial districts to have a minimum of one parking space. This is primarily to address the LeSage Riviera Mobilehome Park which is within the Coastal Visitor Services (C-C-V) district. The mobilehome park is a legal non-conforming use because it is within a commercial zone. However, a few of these one bedroom residences are used as vacation rentals and most have only one parking space.

As an alternative, the Planning Commission could increase the number of required on-site parking spaces for any or all zoning districts.

Local Contact Person

The ordinance would establish the requirement that a local contact person be designated to respond to issues or complaints regarding the vacation rental use. The contact person's name and phone number would be conspicuously posted near the front door so that neighbors would have the information available if needed. The purpose for having a local contact person is to have someone within close proximity to respond to issues and complaints and have the authority to take remedial action, in case of violations. Accordingly, the draft ordinance requires that the owner, or local contact person, use their best efforts to assure that occupants and guests comply with all regulations. However, in the event of excessive noise, disorderly conduct, or any illegal activity, the Police Department should be contacted first.

The draft ordinance proposes that the local contact person live within 30 miles of Grover Beach and be available 24 hours a day. Currently, the majority of the vacation rentals in the City that are professionally managed are located in the Five Cities and are within a few minutes drive of the City. However, the 30 mile requirement would require owners who live farther away to hire a local contact person or property management company to act on their behalf.

Notification Radius

Staff is recommending that property owners and occupants within a 300 foot radius be notified upon issuance of a Vacation Rental Permit. The purpose is to notify the surrounding

owners/occupants that a vacation rental will be operating in their neighborhood and that a local contact person and phone number will be posted at the site if any issues arise.

The 300 foot radius is consistent with other public noticing requirements and would likely exceed the area of any potential impacts caused by a vacation rental. As an alternative, many jurisdictions provided only a 100 foot radius.

Violations and Revocation

All jurisdictions have adopted regulations on how to address violations. The majority have a progressive increase in the amount of the fine imposed for each violation within a twelve month period. The draft ordinance proposed a warning for the first violation, fines for the second and third violations, and a revocation hearing before the Planning Commission upon the fourth violation. However, in order to address egregious violations that could threaten the public health, safety, and welfare, the Community Development Director would have the ability to schedule a public hearing before the Planning Commission to consider revocation at any time.

Application Requirements

Staff will prepare a Vacation Rental Permit application requiring the names, addresses and phone numbers of the owner, agent, and local contact person. In addition, the applicant will be required to submit a site plan to identify the number of bedrooms and designated parking spaces. The applicant will also be required to submit mailing address labels for notifying the surrounding property owners.

Application Fees

The City Council will need to amend the City's Master Fee Schedule to establish the application processing fee for a Vacation Rental Permit. Staff believes a fixed fee that is reasonable to cover the cost of review is appropriate.

Conclusion

Based on the previous input from the Planning Commission and City Council, staff believes that the recommended regulations would mitigate potential neighborhood conflicts related to vacation rental units. Further, by establishing fines and a revocation process, problematic vacation rental units can be brought into to compliance with the regulations or have their right to operate revoked.

Staff would emphasize that the Planning Commission's review and recommendations focus on the land use issues related to vacation rentals. These are limited to the permitting process, appropriate zones to allow vacation rentals, number of occupants, and parking. Other issues that are not land use related, such as the amount of fines and processing fees, are under the jurisdiction of the City Council.

ENVIRONMENTAL REVIEW

The proposed project has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3), "The activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." This amendment to the Zoning Ordinance will only have an effect on the application process, and therefore will not have a significant effect on the environment.

ALTERNATIVES

The Planning Commission has the following alternatives to consider:

1. Adopt the resolution recommending the City Council adopt the draft ordinance regulating vacation rentals in residential and commercial zoning districts; or
2. Provide direction to staff.

RECOMMENDATION

Staff recommends the Planning Commission adopt the resolution recommending the City Council adopt the draft ordinance regulating vacation rentals in residential and commercial zoning districts.

PUBLIC NOTIFICATION

On February 3, 2011, the public hearing notice was posted as required by City code and published in the Times Press Recorder on February 4, 2011. In addition, the agenda was posted in accordance with the Brown Act. All members of the public who have previously spoken on the issues were also sent notices.

ATTACHMENTS

1. Draft Ordinance
2. Resolution 11-02

Chapter 17 Vacation Rentals

3999.17(A) Purpose and Intent. The purpose of the chapter is to regulate the use of vacation rentals in residential units that enable the City to preserve the public health, safety and welfare of the residents of Grover Beach. It is the intent of this chapter to establish regulations that will ensure that vacation rentals are compatible with the surrounding uses.

3999.17(B) Effective Date of Vacation Rental Permits. All vacation rentals that exist at the time of the effective date of this ordinance shall apply for a vacation rental permit within sixty days, unless a Use Permit was previously approved by the City Council. All vacation rentals proposed after the effective date of this ordinance shall obtain a vacation rental permit consistent with this chapter.

3999.17(C) Definitions.

- (1) "Vacation rental" is defined as the rental of any residential unit or any portion of a residential unit for lodging or sleeping purposes for thirty consecutive calendar days or less. Vacation rentals shall be permitted in all zoning districts that allow residential uses upon issuance of a Vacation Rental Permit subject to the regulations of this chapter.
- (2) "Local contact person" is defined as the person designated by the vacation rental owner who shall respond to concerns, complaints and violations and has the authority to take remedial action to assure that the occupants comply with the requirements of this chapter. The designated person shall live within 30 miles of Grover Beach and be available 24 hours a day.

3999.17(D) Application Requirements. The applicant shall submit a Vacation Rental Permit application, fee and information as required by the application. A change in ownership shall require a new Vacation Rental Permit application to be submitted to the City.

3999.17(E) Application Approval. The Community Development Director, or designee, shall approve the Vacation Rental Permit if the applicant demonstrates compliance and agrees to abide by the permit conditions. The City shall notify in writing all property owners and occupants within a 300 foot radius upon issuance of a Vacation Rental Permit indicating the applicants name, phone number and the maximum number of occupants allowed.

3999.17(F) Permit Conditions. In order to maintain a valid Vacation Rental Permit, the owner shall comply with the following conditions at all times. Failure to comply may result in the owner being cited or revocation of the permit.

- (1) The number of overnight occupants shall be limited to two persons per bedroom and two additional persons. A bedroom shall meet the minimum size requirements as defined in the City's adopted Building Code.
- (2) A minimum of two on-site parking spaces shall be required for vacation rentals located in residential zones. The required parking spaces may be located in a garage, carport or driveway.
- (3) A minimum of two on-site parking spaces shall be required for vacation rentals located in commercial zones with the following exceptions: A minimum of one on-site parking space for approved projects with a parking reduction or one bedroom units. The required parking spaces may be located in a garage, carport, or designated parking area.

- (4) The name and telephone number of the local contact person shall be posted in a conspicuous place near the front door at all times the unit is being rented. The owner shall provide the City in writing of any change to the local contact person.
- (5) The occupants shall comply with the City's Noise Ordinance at all times.
- (6) The owner shall pay the Transient Occupancy Tax as required by the Grover Beach Municipal Code. "Vacation rental" is included in the definition of a "hotel" for purposes of collecting transient occupancy tax pursuant to Municipal Code Article X Chapter 6.
- (7) The owner shall use best efforts to assure that all occupants and guests comply with the City's vacation rental regulations and do not create disturbances, engage in disorderly conduct, or any illegal activities. If the local contact person is notified of a complaint, the local contact person shall be responsible for taking the necessary action to abate the complaint by taking remedial action, removing the occupant, calling law enforcement or any other means necessary. If the local contact person is not able to stop the documented violation within two hours, the failure could be considered a violation and may be subject to citations and/or permit revocation as defined in this chapter.
- (8) All refuse shall be stored in a container and placed at the curb for collection every week.
- (9) No on-site signage shall be allowed to advertise vacation rentals in residential zones.
- (10) All advertisements for vacation rentals shall include the City's Vacation Rental Permit number.
- (11) A copy of the City's vacation rental regulations shall be posted inside the vacation rental at all times and the occupants informed of the regulations.
- (12) Additional conditions or requirements as determined by the Community Development Director to achieve the objectives of this chapter.

3999.17(G) Violations and Revocation. Failure to comply with the permit conditions specified in this chapter shall constitute a violation of the Grover Beach Municipal Code. The City shall notify the applicant in writing of the fine that may be imposed at the City's discretion. A written warning shall be issued for the first violation within any twelve-month period. A \$250 fine may be imposed for a second violation within any twelve-month period. A \$500 fine may be imposed for a third violation within any twelve-month period. A fourth violation within any twelve-month period shall require a public hearing before the Planning Commission to consider revocation of the Vacation Rental Permit.

However, the Community Development Director, at his or her discretion, may at any time schedule a public hearing before the Planning Commission to consider revocation of the Vacation Rental Permit if the vacation rental use is detrimental to the public health, safety or welfare.

3999.17(H) Fees. The applicant shall pay the Vacation Rental Permit fee upon submission of the permit application as established by the City's Master Fee Schedule.

RESOLUTION NO. 11-02

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GROVER BEACH,
RECOMMENDING TO THE CITY COUNCIL THE ADOPTION OF A TEXT AMENDMENT
MODIFYING ARTICLE III, ADDING VACATION RENTAL REGULATIONS**

WHEREAS, Article III of the Municipal Code, addresses Public Welfare, Morals, and Conduct; and

WHEREAS, the City Council directed staff to draft regulations regarding vacation rentals within the City; and

WHEREAS, the Planning Commission conducted a public hearing on February 15, 2011 to consider the amendment to Article III, Public Welfare, Morals, and Conduct, adding regulations for vacation rentals; and

WHEREAS, the Planning Commission made the following findings and recommends that the same findings be adopted by the City Council.

1. Notice has been given in the time and manner required by State law and City code.
2. The amendment to Article III, Public Welfare, Morals, and Conduct, relating to vacation rental regulations are in the best interests of the community, and will continue to promote growth in the city in an orderly manner.
3. The amendment establishes regulations for the use of residences as vacation rentals to ensure compatibility with surrounding uses and the public health, safety and welfare of the residents. The amendment is deemed to be compatible and consistent with the objectives, policies, general land uses, and programs specified in the General Plan.
4. The proposed amendment is exempt from the California Environmental Quality Act (CEQA) per Section 15061(a)(b) (3), which states that a project is exempt from CEQA if: The activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The amendment (activity) only establishes regulations for the use of residences as a vacation rental.

NOW, THEREFORE, the Planning Commission of the City of Grover Beach does hereby recommend to the City Council a proposed amendment to Article III, Public Welfare, Morals, and Conduct of the Grover Beach Municipal Code, as set forth in Exhibit "A" attached.

On motion by _____, seconded by _____, and on the following roll-call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

the foregoing RESOLUTION NO. 11-02 was ADOPTED on this 15th day of February, 2011.

CHRIS LONG, CHAIR

Attest:

BRUCE BUCKINGHAM, COMMUNITY DEVELOPMENT DIRECTOR
SECRETARY TO THE PLANNING COMMISSION

Approved as to Form:

MARTIN KOCZANOWICZ, CITY ATTORNEY

PART 1: Article III – Public Welfare, Morals, and Conduct, is amended as follows:

Chapter 17 Vacation Rentals

3999.17(A) Purpose and Intent. The purpose of the chapter is to regulate the use of vacation rentals in residential units that enable the City to preserve the public health, safety and welfare of the residents of Grover Beach. It is the intent of this chapter to establish regulations that will ensure that vacation rentals are compatible with the surrounding uses.

3999.17(B) Effective Date of Vacation Rental Permits. All vacation rentals that exist at the time of the effective date of this ordinance shall apply for a vacation rental permit within sixty days, unless a Use Permit was previously approved by the City Council. All vacation rentals proposed after the effective date of this ordinance shall obtain a vacation rental permit consistent with this chapter.

3999.17(C) Definitions.

- (1) "Vacation rental" is defined as the rental of any residential unit or any portion of a residential unit for lodging or sleeping purposes for thirty consecutive calendar days or less. Vacation rentals shall be permitted in all zoning districts that allow residential uses upon issuance of a Vacation Rental Permit subject to the regulations of this chapter.
- (2) "Local contact person" is defined as the person designated by the vacation rental owner who shall respond to concerns, complaints and violations and has the authority to take remedial action to assure that the occupants comply with the requirements of this chapter. The designated person shall live within 30 miles of Grover Beach and be available 24 hours a day.

3999.17(D) Application Requirements. The applicant shall submit a Vacation Rental Permit application, fee and information as required by the application. A change in ownership shall require a new Vacation Rental Permit application to be submitted to the City.

3999.17(E) Application Approval. The Community Development Director, or designee, shall approve the Vacation Rental Permit if the applicant demonstrates compliance and agrees to abide by the permit conditions. The City shall notify in writing all property owners and occupants within a 300 foot radius upon issuance of a Vacation Rental Permit indicating the applicants name, phone number and the maximum number of occupants allowed.

3999.17(F) Permit Conditions. In order to maintain a valid Vacation Rental Permit, the owner shall comply with the following conditions at all times. Failure to comply may result in the owner being cited or revocation of the permit.

- (1) The number of overnight occupants shall be limited to two persons per bedroom and two additional persons. A bedroom shall meet the minimum size requirements as defined in the City's adopted Building Code.
- (2) A minimum of two on-site parking spaces shall be required for vacation rentals located in residential zones. The required parking spaces may be located in a garage, carport or driveway.

- (3) A minimum of two on-site parking spaces shall be required for vacation rentals located in commercial zones with the following exceptions: A minimum of one on-site parking space for approved projects with a parking reduction or one bedroom units. The required parking spaces may be located in a garage, carport, or designated parking area.
- (4) The name and telephone number of the local contact person shall be posted in a conspicuous place near the front door at all times the unit is being rented. The owner shall provide the City in writing of any change to the local contact person.
- (5) The occupants shall comply with the City's Noise Ordinance at all times.
- (6) The owner shall pay the Transient Occupancy Tax as required by the Grover Beach Municipal Code. "Vacation rental" is included in the definition of a "hotel" for purposes of collecting transient occupancy tax pursuant to Municipal Code Article X Chapter 6.
- (7) The owner shall use best efforts to assure that all occupants and guests comply with the City's vacation rental regulations and do not create disturbances, engage in disorderly conduct, or any illegal activities. If the local contact person is notified of a complaint, the local contact person shall be responsible for taking the necessary action to abate the complaint by taking remedial action, removing the occupant, calling law enforcement or any other means necessary. If the local contact person is not able to stop the documented violation within two hours, the failure could be considered a violation and may be subject to citations and/or permit revocation as defined in this chapter.
- (8) All refuse shall be stored in a container and placed at the curb for collection every week.
- (9) No on-site signage shall be allowed to advertise vacation rentals in residential zones.
- (10) All advertisements for vacation rentals shall include the City's Vacation Rental Permit number.
- (11) A copy of the City's vacation rental regulations shall be posted inside the vacation rental at all times and the occupants informed of the regulations.
- (12) Additional conditions or requirements as determined by the Community Development Director to achieve the objectives of this chapter.

3999.17(G) Violations and Revocation. Failure to comply with the permit conditions specified in this chapter shall constitute a violation of the Grover Beach Municipal Code. The City shall notify the applicant in writing of the fine that may be imposed at the City's discretion. A written warning shall be issued for the first violation within any twelve-month period. A \$250 fine may be imposed for a second violation within any twelve-month period. A \$500 fine may be imposed for a third violation within any twelve-month period. A fourth violation within any twelve-month period shall require a public hearing before the Planning Commission to consider revocation of the Vacation Rental Permit.

However, the Community Development Director, at his or her discretion, may at any time schedule a public hearing before the Planning Commission to consider revocation of the

Vacation Rental Permit if the vacation rental use is detrimental to the public health, safety or welfare.

3999.17(H) Fees. The applicant shall pay the Vacation Rental Permit fee upon submission of the permit application as established by the City's Master Fee Schedule.

PART 2: If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

PART 3: This Ordinance shall become effective after 30 days after the date of its adoption by the City Council. Within 15 days after its adoption by the City Council, it shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.