



COUNTY OF HUMBOLDT

For the meeting of: 10/26/2023

File #: 23-1445

To: Planning Commission
From: Planning and Building Department
Agenda Section: Public Hearing

SUBJECT:

Draft Short-term Rental Ordinance
Record No.: LRP-2022-17963 & LRP-2023-18254
All unincorporated areas of Humboldt County

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

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

The new ordinance would affect the following code sections:

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

RECOMMENDATION(S):

That the Planning Commission:

1. Request staff provide introduction to the changes made to the draft Short-term Rental Ordinance in response to comments at the October 5, 2023, Workshop.
2. Allow for public comment on the proposed draft ordinance.
3. Deliberate and comment on the draft Short-term Rental Ordinance.
4. Provide guidance to Planning & Building Staff on any desired amendment selections to the draft ordinance and provide a recommendation to the Board of Supervisors.

DISCUSSION:

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

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

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

Environmental Review: The ordinance is exempt from environmental review under §15301 (Existing Facilities) and §15061(b)(3) of the State CEQA Guidelines.

State Appeal Status: The Short-term Rental Ordinance for the coastal unincorporated areas of Humboldt County must be approved by the California Coastal Commission prior to taking effect.:

EXECUTIVE SUMMARY:

During the Planning Commission Workshop held on October 5, 2023, the Short-term Rental (STR) ordinance was presented. Staff presented the ordinance to the commission by section allowing the commission to provide comment on each section of the ordinance. The Planning Commission made recommendations to address public comments received and to address ideas raised by the Commission. These recommendations have been included in the draft ordinance. There were some areas where the Commission did not have consensus, and these have been included in text boxed for the Commissions consideration.

POLICY DISCUSSION:

The policy objective of this ordinance is to allow an activity that has benefits to the County in such a way as to minimize the impact on housing stock and impacts to neighborhood character. Public comment has run the spectrum between not regulating short-term rentals to concern to how short-term rentals remove housing stock for people who live and work in Humboldt County and cause neighborhood impacts.

Protecting Housing Stock

The primary provision for protecting housing stock is by setting a cap on the number of short-term rentals allowed in the County. A cap of 2% of the housing stock within the area around Humboldt Bay

has been used. The Planning Commission seemed to have consensus that 2% of housing stock allotted to STRs is an appropriate amount and that no more than 2% should be allowed given the current housing stock available in Humboldt County for permanent residency. STRs currently occupy roughly 1.66% of housing stock according to the research Planning and Building has conducted on the unregulated market. The Commission did mention looking into the option of having this provision specifically applied by Community Planning Area, as opposed to the entire area around Humboldt Bay, because some planning areas may have a larger percent of STRs than others, making their planning area disproportionately STR dominant. The Commission brought this up to consider neighborhood integrity. This alternative will be available for the Commission to select (Alternative 4), should they find it suitable to the public's best interest.

Permit issuance timeline:

The commission identified that it would be better to accept applications for two months and then provide time for review and issuance. The ordinance has been modified to accept permits for existing operations for the first two months after the ordinance becomes effective and the issue permits within 3 months of adoption.

Evidence of existing operations and establishing a date:

Determining requirements for proof of pre-existing operations was a robust discussion topic. Thought was given to the idea of establishing pre-existing operations based on transient occupancy tax receipts and business licenses. This would reward those operators who have been paying their Transient Occupancy Tax. There was concern this is not a regulated activity and having such requirements could be considered. It was pointed out that a date needs to be identified within the record as a date current or a date forward to establish the concept of pre-existing, though the ordinance currently reads that the date for establishing pre-existing is anything prior to the effective date of the ordinance (when the Board of Supervisors approves the draft). The date for this alternative is October 26th, 2023, and can be seen in (Alternative 2).

Violations and consideration of approval:

The Commission had consensus that no STR should be approved if there are unresolved violations on the property. Violations which have been remedied will be allowed the same pathway forward as other operators. Properties where violations exist will not be considered for STRs. This change is highlighted below in key changes.

Allowance of STRs in AOB (Alternative Owner Builder):

There was continued discussion of allowance of AOB for use for STR. This provision can be removed from the STR ordinance, but it will not change the AOB provisions. So that the Commission is familiar with some of the AOB provisions the following are excerpts from Section 331.5 of the Humboldt County Code:

331.5-3. Application. The provisions of this chapter shall apply to the construction, enlargement, conversion, alteration, repair, use, maintenance, and occupancy of limited density owner-built, owner-occupied dwellings, owner-built accessory dwelling units, and appurtenant structures in rural areas in Humboldt County.

331.5-5. Definitions.

(d) Owner-occupied rural dwelling. Any structure consisting of one or more habitable rooms intended or designed for single-family occupancy with all basic facilities for living and sleeping which is situated or is to be situated in a rural area to which the provisions of this chapter are applicable and which is owned by one or more members of the family occupying the structure.

331.5-17. Changes in Occupancy. The occupancy of a structure constructed in accordance with a permit issued pursuant to this chapter by anyone other than the owner-builder of that structure constitutes a change in occupancy.

Upon a change in occupancy, no new occupancy of the structure shall occur until either:

(a) Each new adult occupant files with the Chief Building Official a statement under penalty of perjury stating that he/she is occupying the structure with the knowledge and understanding that the structure was not built pursuant to Uniform Building Codes and that this may create risks of injury or damage which the occupant freely assumes and from which the occupant holds the County, its officers, employees and agents harmless. The occupant shall also agree, as a condition of the new occupancy permit, to abide by all applicable conditions of the building permit under which the structure was constructed; or

(b) The building is brought into compliance with the provisions of Title 25, Article 10, of the California Administrative Code or the appropriate Uniform Building Code standard.

The intended purpose of the AOB is for an owner builder to build a home for themselves using materials that are not structural building materials. The provision above in 331.5-17 about change in occupancy was thought to refer to when a property changes hands, but a reasonable mind such as one of the commenters could consider this to be for a tenant. Interpretation could allow a tenant to file a release of liability with the Chief Building Official. This would create an enormous paperwork requirement for a Short-term Rental. The bigger issue is should the County be permitting a STR in a structure that has not been structurally reviewed or inspected?

It is important to note that the Coastal Commission removed allowances for AOB in the Coastal ADU Ordinance, so this would likely be the case for the Coastal STR Ordinance as well, relative to occupancy other than an owner. An alternative (Alternative 3) has been added removing AOB restrictions entirely.

Per Parcel Cap and Per Person Cap:

A recommendation was made to allow for more than one STR per parcel when there is an onsite owner/manager on the parcel. No alternative number was provided per parcel and so there is the option for the Commission to deliberate on an appropriate cap per parcel ownership for STRs as listed in Alternative 8. Additionally, it was recommended that no per person cap be included. This was included as Alternative 7. These will be an alternatives discussed by the Commission.

Transferability and Ownership:

There was in-depth conversation about how to prevent the STR permit from becoming a commodity. The public, operators in particular, are worried about transferability, particularly to next of kin. Commissioners wrestled with the idea of regulating who can inherit or pass on these permits to, or whether the subject was even relative to land use. An alternative has been added to allow for the passing of a permit to children or next of kin if something happens to the permit holder (Alternative 5) and to allow transferability in general (Alternative 6). There was also the issue of how to regulate owner partnerships like LLCs and corporations. Particularly, how regulating ownership impacts housing stock and preserves neighborhood character. The requirement of an “ownership roster” has been added for LLCs and corporations who wish to apply for STR permits. This roster would allow staff to maintain an appropriate count of the per person/entity ownership cap. This has been added as an alternative for the commission to deliberate on (Alternative 1).

Private Parties and Gatherings:

Private parties and gatherings are the main source of complaints for STRs. In an effort to find a more equitable cap for parties and gatherings Alternative 9 has been added for deliberation of the commission, allowing no more than twice the maximum occupancy of the short-term rental so long as this information is included in the application package and there are appropriate provisions for parking.

ATTACHMENTS:

1. Inland Draft Short-term Rental Ordinance
2. Coastal Draft Short-term Rental Ordinance
3. Draft STR PC Resolutions (Inland & Coastal)
4. Public Comment
5. 10/5/23 PC Workshop

Please contact Cade McNamara, Planner, at cmcnamara@co.humboldt.ca.us or 707-268-3777 if you have questions about this item.