

Lynn D. Fuller  
2949 Divisadero St.  
San Francisco, CA 94123  
*lynndfuller@gmail.com*

415-310-7615

Members of the Planning Commission  
Marin County Civic Center  
3501 Civic Center Drive  
San Rafael, CA 94903

Re: Draft Regulations Governing Short Term Rentals

Dear Members of the Commission:

I am the owner of a vacation home in the Seadrift subdivision in Stinson Beach. I'm a member of the California bar and my primary address is in San Francisco. I have followed the County's various steps to regulate short term rentals (hereinafter, "STRs") with considerable concern as they could have a substantial impact on my interests and those of other stakeholders in Stinson Beach.

In January, I submitted an email for the administrative record describing how I came to purchase my Seadrift home, the role that home plays in the life of my family, and the role of vacation rentals in my ownership of the property. I enclose that email with this letter and hereby incorporate it by reference.

In brief, I rent out the Seadrift home to families during the summer months and some winter holidays. A local rental agency, Seadrift Realty, manages these rentals. I have never used AirBnb or any similar platform. Seadrift Realty has a strong presence in the vacation rental market in Stinson Beach, is located about one mile from my house, and does a wonderful job of handling all aspects of the booking, housekeeping and maintenance, payments and providing an outstanding visitor experience. A good number of visitors rent my house year after year. For eight months of the year, when demand for vacation rentals is low, I reserve the house for the use of my family.

This arrangement is a win-win-win-win: for me as a property owner who would like others to be able to enjoy vacationing at Stinson Beach; for the visitors who rent the house; for Seadrift Realty; and for Stinson Beach's stores, restaurants and local attractions. **There is no problem that needs to be "fixed" through government intervention.** This is why the draft regulations published by the Community Development Agency (CDA) are so troubling.

These regulations do not need tweaking; they need to be withdrawn. If the County is determined to involve itself in legislating and regulation of STRs, it needs to first go back and fix the broken process that resulted in this awful draft. There is little I can add to the excellent, 80-plus page report submitted to you by the West Marin Access Coalition, of which I am a co-signer, but my specific comments are set forth below.

#### A. PREAMBLE AND GENERAL FRAMING

A newcomer to this topic would not know that there had been dozens of hours of public testimony and hundreds of pages of letters and other documents submitted by the public that informed the authors of this draft. The draft itself makes no reference to the existence of such an administrative record and it completely ignores the substantial amount of input from crucial stakeholders – specifically, the owners and operators of vacation rentals and the businesses and individuals who depend on them for their livelihoods.

A newcomer to this topic reading this draft would also perceive STRs as something dangerous and harmful – more like an STD! – rather than what they actually are: a crucial pillar of the economies of coastal communities that historically relied on fishing, farming, logging and other such activities but now are almost entirely dependent on tourism. Another benefit of STRs not acknowledged in the draft is their role in providing access to coastal recreation, which should be a top priority of laws and regulations in this space.

The preamble falsely states that it protects property rights, but the ensuing provisions trample property rights in many different ways.

#### B. LEGAL FORMALITIES NORMALLY INCLUDED IN GOVERNMENT-ISSUED RULES ARE MISSING

The draft does not set forth what government body votes or other executive or administrative actions are required to give effect to these regulations, or to amend them. Such provisions are normally included in legal documents of this kind.

The draft does not explain how the proposed regulations would interact with the existing legal scheme for STRs, administered by the Marin County Department of Finance. Will owners/operators be required to comply with the existing requirements (a business license and a TOT tax certificate AND a license to operate a STR from the Marin County Development Agency, or does this new scheme supplant the existing scheme? This should be clearly spelled out, along with the justification for making changes to the existing scheme. .

The draft makes no mention of CCRs that are in effect in coastal areas where STRs are currently operating, like Seadrift. The draft should explain how the regs will interact with these.

#### C. PROPOSED CAPS ON STRS ARE ARBITRARY, OPAQUE AND UNREASONABLE

The draft does not explain how the caps, most of which require reductions from existing levels, are arrived at. There is an obscure reference to maps that does not make sense even to a well-informed reader. Given the testimony received, it is simply incomprehensible why traditional beach house communities like Dillon Beach and Stinson Beach should be subjected to reduced numbers of STRs. The agency should explain and fully justify its reasoning.

#### D. THE UNREASONABLY ONEROUS APPLICATION PROCEDURES ARE LIKELY TO DEPRESS VACATION RENTALS

While the aforementioned caps on STR numbers are an overt attempt to reduce numbers of vacation rentals, the extremely burdensome application requirements seem designed to further suffocate vacation rentals through intentionally burdensome and oppressive application and re-application requirements. The list of supporting documents and items currently numbers 14, many of which blithely duplicate administrative tasks already required of property owners under other codes without regard for the time and effort required. This feels insulting and disrespectful. The draft, moreover, imposes new requirements not required by any state or local code, like the requirement that \*every bedroom\* be equipped with a fire extinguisher.

The goal seems to be to make the process really, really hard so as to gobble up owners' time and resources and create paperwork requirements so extensive and difficult to meet that the agency can trip up applicants. Given that the affected individuals are also citizens, taxpayers, voters and, generally, community members, this feels like a crappy way for a government agency to treat people.

If the County decides to proceed with this process, nearly all of the application steps currently in the draft should be replaced by an affidavit in which the owner/operator affirms compliance with the applicable codes under penalty of perjury. It could include a checklist-style form if desired (which could also be amended easily as needed unlike the draft regulatory scheme under consideration). And the list should be properly tailored to address real, rather than imaginary, issues.

#### E. THE APPLICATION PROCEDURES WILL ALSO BE BURDENSOME TO COUNTY STAFF

It is the year 2023 and public officials designing a regulatory framework should be giving consideration at every step to being efficient with public (i.e., taxpayer) resources. Instead, these draft regulations craft an intentionally burdensome and complex process, placing many tasks (such as reviewing garbage bills and utility bills) on a county-employed clerk. It even shifts tasks currently performed by owners/operators, such as neighbor notification, onto a county staff member. Nearly all of the application steps currently in the draft could and should be replaced by an affidavit in which the owner/operator affirms compliance with the applicable codes under penalty of perjury, which would drastically reduce the administrative burden to the county of reviewing and approving applications.

Given how short-staffed the county is known to be, the draft's establishment of staff-intensive processes is irresponsible and wasteful.

#### F. DUE PROCESS FOR OWNERS/OPERATORS IS MISSING

Under most regulatory schemes involving licenses, the steps to revoke a license are clearly set forth in writing and include due process rights. Not so here. Under the proposed scheme, a malicious neighbor could make two complaints and the county could revoke the permit to operate. This is unconscionable and fundamentally unfair as well as simply bad policy.

#### G. RESPECT FOR ORDERLY BUSINESS INTERESTS AND BUSINESS PLANNING IS MISSING

The draft refers regularly to "immediate" and "automatic" termination of the right to operate STRs based on various events such as a late application for renewal or transfer of ownership. See, e.g. section 5.41.040.C (License term).

Professional rental agencies like Seadrift Realty book vacation rentals months in advance – sometimes as much as a year in advance.

One scenario not countenanced by the draft regulations is if the owner dies and the property becomes part of the owner's estate. There should be a way to ensure an orderly process of honoring existing rentals already booked for that property and giving favorable treatment to the successors (such as owner's children) who inherit the property and may wish to continue renting the property on the same basis as the owner. But the draft rule would require cancellation of all the pending vacation rentals which will be more and more difficult to replace under this scheme. This is bad

public policy and it demonstrates disrespect, or even contempt, for the legitimate interests of property owners, rental agents, and visitors/renters alike.

The owner's death is just one of many scenarios in which the "immediate" termination of STR activity would be unfair and create needless havoc in many people's lives. It appears that the authors of this draft did not think this through. All such scenarios should be carefully considered before a rule of this kind is adopted.

#### H. THE COUNTY'S GAME OF WHACK-A-MOLE WITH THE PROPOSED EXTERIOR SIGNAGE REQUIREMENT IS DISRESPECTFUL TO WEST MARIN COMMUNITIES

There is a well-documented history of the County proposing an exterior signage requirement for vacation rentals and communities' extensive response to it. The result was a compromise that protected the aesthetics of our communities and the privacy of property owners and visitors, while addressing the concerns that the policy was intended to address.

Yet here it is again, without fanfare. Section 5.41.040.D.7. This is disrespectful to the many stakeholders who dropped everything to fight this dumb idea before and breathed a sigh of relief when they prevailed and a solution that works for everyone (annual notification via letter to neighbors) was adopted.

This feels as though the CDA is trolling us, just trying to upset people by putting forth terrible ideas over and over, just because they can.

#### I. THE "ADMINISTRATIVE PROCEDURES" ARE AN UNNECESSARY LAYER OF REGULATION ON TOP OF A TOO-BURDENSOME PROPOSED REGULATORY SCHEME

The draft contains 11 pages of excessively detailed and verbose requirements. Does the County really need to create \*another\* set of procedures on top of whatever regulations emerge from this process? If the regulations are stripped down to the essentials, there might be a justification for publishing more detailed procedures to implement and provide guidance for the scheme with appropriate stakeholder input, of course. But we are nowhere near the point where additional procedures seem justified. And, given the County's long delay in publishing this draft and the extensive problems with it, the County should not countenance the creation of another set of rules at this time.

## J. ADUS SHOULD NOT BE “RESTRICTED STRUCTURES”

In section 5.41.050.B, there is a list of restricted structures that includes accessory dwelling units (ADUs). What authority or even policy justification does the county have for telling property owners they cannot rent out their ADUs?

Though favored by state law, ADUs are very expensive to build due to anti-housing policies in place in Marin and many other counties. Taking away an obvious way for owners to defray some of the cost through these regulations will make it less feasible for owners to build them. Is this, by any chance, intentional?

Again, this nugget of bad policy with potentially far-reaching consequences is buried deep in the long, confusing draft and no explanation or justification is offered.

## K. TOT REVENUES WILL BE ADVERSELY AFFECTED BY THE NUMERICAL CAPS & BURDENSOME RULES

In 2018, West Marin enacted ballot measure W, which increased the TOT rate in order to fund affordable housing and emergency services. The constriction of STR numbers that will follow the adoption of these draft regs or any scheme similar to it will have a negative impact on tax receipts under this program and the activities it funds.

Has the county done a fiscal analysis of how these draft regulations will affect TOT receipts in West Marin? If not, it should undertake and publish that as soon as possible so that decision makers and the public can be better informed about the consequences of these proposed actions.

## L. THE TIMING OF THIS PROCESS IS UNFAIR TO STAKEHOLDERS

After holding several public meetings and taking written evidence from the public over the better part of a year, the agency first announced it would publish its draft regulations in July. Then, it abruptly postponed publication of the draft regulations until September. In the interim, the CDA conducted no focus groups and does not seem to have developed data in support of its planned restrictions.

The published draft is the long, poorly drafted and deeply flawed draft under discussion.

Yet the agency, prioritizing its own interests over the goals of good public policy, seems determined to put in place its regulatory scheme in January 2024. This is unrealistic as a practical matter and downright frightening to the stakeholders who will be affected by this action.

A first step should be revisiting this timeline and putting in place a process that provides for genuine input from all stakeholders. The agency is on track to ram through a lose-lose-lose-lose “solution” to a set of problems it has not even bothered to define.

Thank you in advance for your thoughtful consideration of my concerns and those of other West Marin stakeholders who stand to be adversely affected by the County’s proposed actions to restrict and over-regulate vacation rentals in Stinson Beach and other coastal communities.

Kind regards,

A handwritten signature in black ink, appearing to read 'Lynn D Fuller', with a long horizontal stroke extending to the right.

Lynn D Fuller

Enclosure:

West Marin Short Term Rental Moratorium written comments for January 25, 2023 hearing

**From:** Lynn Fuller lynndfuller@gmail.com  
**Subject:** West Marin Short Term Rental Moratorium -- written comments for January 25, 2023 hearing  
**Date:** January 24, 2023 at 4:29 PM  
**To:** DRodoni@marincounty.org, STR@marincounty.org STR@MarinCounty.org  
**Cc:** info@westmarinaccesscoalition.com, Rentals@seadriftrealty.com  
**Bcc:** Lynn Fuller lynn@cowhollowgardener.net



Dear Supervisor Rodoni:

I'm writing to urge you/the Marin Country Board of Supervisors to slow down and re-evaluate the current policy initiatives to limit and/or regulate short term rentals (STRs) in West Marin. The current course appears certain to damage not only individual property rights but also the economies of small coastal communities like Stinson Beach that depend on tourism.

I own a vacation home in the Seadrift subdivision in Stinson Beach and I hold a business license to rent the house out to vacationers. The bulk of my rentals are one- or two-week rentals during the busy season (June through September) and around Thanksgiving. Many are regular renters who rent the house year after year for their summer holidays. The rest of the year, my family and I use and enjoy the house regularly.

The primary purpose of my owning the property is for personal use of the house, not as an investment. If I were not allowed to rent the house out for STRs for part of the year, I would not sell the house or rent it to a long-term renter (which would make it unavailable to me and my family). It would, however, make it more difficult for me to afford the substantial upkeep that coastal properties require. It would also mean the families who enjoy renting the house for their annual vacations would no longer have my house (which is currently the first choice of many of my renters) as an option. What currently is a win-win-win for me, the short-term renters and the local economy would be turned into a lose-lose-lose — and no additional housing would be created.

My path to owning and operating a Stinson Beach STR began over 20 years ago when my family made a day trip from our home in San Francisco to Audubon Canyon Ranch because my then-first-grader was passionately interested in birds. We enjoyed that visit and the birdwatching at Bolinas Lagoon that day so much that we decided to look into vacation rentals in Stinson Beach. We wanted to spend more time in those surroundings without having to drive home at the end of the day. We found Seadrift Realty on the web and managed to book our first one-week rental just a few weeks later. Every year for the next 14 years, we rented a house in Stinson Beach for one or two weeks each summer and we have happy memories from each visit. We enjoyed walking into town to eat at the Parkside Cafe, renting kayaks and boogie boards from the local rental shop, and visiting the Stinson Beach library. We faithfully attended Shakespeare at Stinson productions until the company left Stinson.

One of our children was born with a genetic condition that led to complex medical needs and limited mobility. This made travel by air impossible and travel anywhere away from home challenging. Even the one-week vacation rentals began to feel unmanageable because of our child's special needs. In 2014, we decided to begin the search for a property of our own that we could make accessible and properly set up for our child. With the assistance of Seadrift Realty, we purchased our house in Seadrift in 2015. Soon afterward, we registered for a business license and began offering it as a vacation rental. I'm proud of the fact that it's one of the most accessible rentals in Stinson Beach and each year we use some of the proceeds from the rentals to improve its accessibility and make it more welcoming to guests with disabilities.

Here are some key points the Board of Supervisors should consider:

1. A thriving vacation rental economy has existed in Stinson Beach and other coastal villages since long before AirBnb.
2. Vacation rentals in West Marin are a popular vacation choice for Bay Area families, avoiding the need for climate-damaging long plane trips to destinations such as Hawaii and Mexico. The bulk of renters of my property are from San Francisco, Marin and the East Bay.
3. Vacation rentals in West Marin are becoming more popular. This is my anecdotal experience, but the Board can and should develop data on this point before taking further action to restrict STRs. My summer rentals used to be fully booked by February/March. Then it was January. This year, it was December. While I'd like to think this is because my house is so fabulous (which it is!) and my rental agency is so great (which it is!), I'm pretty sure this trend reveals a growing scarcity of STRs relative to demand.
4. The local economies in coastal villages like Stinson Beach benefit greatly from STRs. Remember that for people who rent a house for a week or two, this is their vacation. They are more likely to eat out, visit attractions, buy an artwork, take surfing lessons, etc. than they might be in their daily life at home. This spending benefits all those small businesses that make our coastal communities so charming and inviting. In addition, the business of offering and managing STRs directly employs housekeepers, gardeners, handypersons, real estate professionals and others.
5. The housing shortage is a state-wide problem of long standing. The efforts of local governments to address the problem legislatively can backfire if they are undertaken without sufficient concern for economic consequences. The San Francisco Chronicle reported recently that actions by the Board of Supervisors designed to increase the supply of affordable housing units have instead had the effect of stifling the construction of housing of any kind. See "Affordable-housing quotas imperil new S.F. building projects, study says" by Noah Arroyo, Jan 19, 2023. <https://www.sfchronicle.com/bayarea/article/sf-affordable-housing-projects-17727101.php> Similarly, the proposed actions by the Marin BOS to restrict and over-regulate STRs come from the same impulse and seem likely to cause unintended harm without doing anything to increase the supply of affordable housing.
6. Regulation of STRs should be narrowly tailored to achieve the stated objectives, should be clearly supported by high-quality data and should be adopted only with adequate input from all stakeholders. As things stand, many local stakeholders have been left out of the planning and are confused about what is being proposed and why.



In conclusion, the STR economy in Stinson Beach and other coastal villages is a complex and important part of West Marin's ability to thrive in the future. Past mainstays of the economy like fishing and farming are fading, but tourism is growing. The Board needs to understand better who owns STRs, who rents them, and what local businesses and institutions benefit from them before wielding blunt legislative instruments that risk doing more harm than good. I hope that offering my own experience and perspective has contributed to that understanding.

Yours sincerely,

Lynn Fuller  
415-310-7615  
[lynndfuller@gmail.com](mailto:lynndfuller@gmail.com)



Marin County Planning Commission  
Draft Regulations on Short Term Rentals

October 20, 2023

### **Inverness Association response to the County of Marin's Draft Short-Term Rental Standards**

The Inverness Association supports the Draft's restriction to limit short-term rentals to one unit per property. This restriction is consistent with the results from the survey the IA conducted, where the majority of respondents were in favor of limiting STRs to no more than one unit per property owner.

The IA also supports the Draft's restriction preventing the licensing of STRs in accessory dwelling units (ADUs) and junior dwelling units (JDUs), as these housing units are intended to increase housing in unincorporated Marin. However, the Draft needs to specify whether all second units, outbuildings, cottages etc. that meet the specifications of ADUs\* and JDUs\*\* will be restricted from having STRs. The Standards should make clear the criteria by which the county will issue or deny licenses based on the ADU/ JDU restriction.

The IA does not agree with the Draft's distinction between hosted and unhosted STRs. Caps on STRs should pertain to both unhosted and hosted STRs so as not to unintentionally increase the number of STRs in the Inverness Community beyond current levels. A modification to the meaning of a hosted unit, where the host and STR are both within the same unit, for example the STR is a basement or a bedroom in the host's house, could merit a distinction between hosted and unhosted rentals. Furthermore, a hosted unit should exclude units where the primary resident vacates the property for the purposes of renting their unit, instead a host should be required to be onsite during the period of a rental.

The IA supports measures the Draft takes to consider parking, garbage and other impacts STRs have on the community.

Thank you for your consideration,

A handwritten signature in black ink that reads "William Barrett". The signature is written in a cursive, flowing style.

William Barrett, *president*  
Inverness Association Board of Directors

\*An ADU is accessory to a primary residence and has complete independent living facilities for one or more persons and has a few variations:

- Detached: The unit is separated from the primary structure.
- Attached: The unit is attached to the primary structure.
- Converted Existing Space: Space (e.g., master bedroom, attached garage, storage area, or similar use, or an accessory structure) on the lot of the primary residence that is converted into an independent living unit.

\*\*JADU: A specific type of conversion of existing space that is contained entirely within an existing or proposed single-family residence.

(Source: <https://www.hcd.ca.gov/sites/default/files/2022-07/ADUHandbookUpdate.pdf>)

**From:** [PlanningCommission](#)  
**To:** [Kilgariff, Kathleen](#); [Lacko, Leslie](#)  
**Cc:** [Damazyn, Michele](#)  
**Subject:** FW: Oppose Draft STR Regulations  
**Date:** Monday, October 23, 2023 8:58:16 AM

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**From:** Marisa Atamian-Sarafian <marisa.atamian@compass.com>  
**Sent:** Friday, October 20, 2023 9:37 PM  
**To:** PlanningCommission <PlanningCommission@marincounty.org>  
**Subject:** Oppose Draft STR Regulations

You don't often get email from [marisa.atamian@compass.com](mailto:marisa.atamian@compass.com). [Learn why this is important](#)

Dear Marin County Planning Commission,

I write in opposition to the County's draft short term rental standards which will result in making housing in West Marin less cost-efficient for everyone and limit visitor access to the coast and parks in the region.

With no rationale nor data to support the draft regulations, it is evident that the draft regulations will greatly impact visitors to the region. By reducing housing options for visitors, the county is inadvertently reducing visitor access to the coast and parklands.

For the visitors, the draft regulations will limit access and raise the cost of available lodging for those wishing a deeper experience in the region. The regulations go beyond the moratorium by decreasing the number of vacation homes available to families visiting the region. GGNRA is the most visited national park in the Nation. PRNS had over 2.3 million visitors last year. Vacation rentals are already limited. Fewer vacation homes, means fewer visitors to the coast and parks.

For the County, the regulations will limit economically feasible lodging for visitors who come to experience the nearby public land. A single-family home is more cost-effective for a family than renting multiple single rooms in a hotel. In addition to allowing a family to experience the national parks more deeply, these homes give visitors an authentic experience in unique communities throughout West Marin. These limits will result in limiting visitor's access to affordable housing on the coast.

For the homeowner, the regulations are costly, burdensome, and possibly unattainable. The unprecedented 11-pages of detailed restrictions and requirements will all but ensure compliance failure among a substantial number of homes and result in less lodging to visitors. For those few that can comply, the time and expenses associated with gathering the documentation, additional services, and the annual inspections will lead to a large increase in the overall costs of operation, which will result in increased nightly rates for visitors to the region.

Overall, these regulations will make homeownership more costly and out of reach for more people—visitors and residents alike. West Marin has always been a community with large numbers of

vacation homes used in part as short-term rentals for generations. Renting one's second home for others to use for vacation purposes has also been a means by which many local people are able to live permanently in West Marin during their retirement years. Limiting people's ability to rent their homes, or cottages and in-law units that have been rented for many years on a part-time basis, reduces their ability to achieve homeownership.

Please vote no on the draft regulations and help stop the County's misguided effort to limit visitor access to the region's public lands.

Sincerely,  
Marisa Atamian-Sarafian

Marisa Atamian-Sarafian #01482275  
Compass Realtor

**From:** [Isaac Pross](#)  
**To:** [STR](#)  
**Cc:** [BOS](#); [Rice, Katie](#); [Rodoni, Dennis](#); [Kilgariff, Kathleen](#)  
**Subject:** West Marin STR Testimony  
**Date:** Saturday, October 21, 2023 8:01:55 AM

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Some people who received this message don't often get email from isaac.pross@gmail.com. [Learn why this is important](#)

Dear County of Community Development Agency,

I hope all is well. I'm a twenty-three year old musician visiting from Los Angeles. During my brief visit in West Marin, I have not only enjoyed the peace and quiet, but have felt inspired by the natural landscapes. This is a corner of the state—and world—filled with immense beauty and magic. I understand the desire and need to protect this rare space, but as a short-term resident/visitor, I have found it immensely healing.

A breath of fresh air, a walk into an organic local bakery, perusing a family-owned bookstore. Over the past two weeks, as I've spent time (and money) at plenty of shops throughout Point Reyes Station and Inverness I've also tried to respect the community by having conversations with local residents, whether that's a cheese monger or the owner of a record store.

As a young artist and working professional, accessibility to communities like this is deeply inspiring, nurturing, and productive. At this stage in my life, travel is priceless, even and especially if it's brief.

Thank you,  
Isaac Pross

**From:** [no-reply@marincounty.org](mailto:no-reply@marincounty.org)  
**To:** [STR](#)  
**Subject:** Short-term Rental Ordinance  
**Date:** Saturday, October 21, 2023 8:31:49 AM

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Laura Boscoe with email address [laurie\\_boscoe@comcast.net](mailto:laurie_boscoe@comcast.net) would like information about:  
Dear Kathleen,

I am a short-term rental host located in Marin county. I decided to build out the basement of my house in 2018 and convert it to an ADU, as my kids were no longer home. I found it wasteful for one person to occupy a home of my size and I need the extra income to cover my mortgage.

I totally understand the need to regulate short-term rentals in Marin, but not allowing ADU's to be short-term rentals is going to be devastating to people like me. I may be forced to sell my home. I believe this will cause many people with adu's to move into their smaller units and short-term rental their larger homes, which will be more disruptive to our neighborhoods. When I first ventured upon becoming a short-term rental host, I did a lot of research. I wanted a small space where couples or business people could come visit family or work, not a party house. I host locals who need a temporary place to live while remodeling. Many guests are parents of locals coming to visit.

**From:** [no-reply@marincounty.org](mailto:no-reply@marincounty.org)  
**To:** [STR](#)  
**Subject:** Egalitarian to reopen STR permits, will not equal lost rentals  
**Date:** Saturday, October 21, 2023 11:15:32 AM

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Chris with email address [moveda@comcast.net](mailto:moveda@comcast.net) would like information about:  
We need short term rentals to maintain the property my family has owned for 100 years. We will not offer it for full time rent in response to this moratorium but will have to find a way to make ends meet. There needs to be an opening for owners to legally generate income without losing access to their home. Additionally, how can people visit the area and keep business open? It's very elitist to only allow those who got their permit during three years to operate while the rest of us can't get access to STR permits.

**From:** [levanrk@gmail.com](mailto:levanrk@gmail.com)  
**To:** [Kilgariff, Kathleen](#)  
**Subject:** Proposed STR Regulation Change  
**Date:** Saturday, October 21, 2023 8:54:57 AM

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You don't often get email from [levanrk@gmail.com](mailto:levanrk@gmail.com). [Learn why this is important](#)

We own a property in the Calles in Stinson Beach that is used for our personal use and for short-term rentals. It is a triplex and I strongly urge you to reconsider the blanket prohibition on multi-family rentals. The people who rent from us are Californians just like us. Many are from Marin County. We really love to share our home with so many individuals and families who we have the pleasure to get to know over the years. It would be a huge shame not to be able to do so due to the ban on licenses for multi-family housing. Instead of hundreds of families being able to stay at our place each year, just our family and friends will use our three units on an occasional basis if this ordinance is passed as written.

While we recognize the theory that traditional multi-family housing is used by long-term renters, we do not believe that is true for all properties that happen to have more than one unit – especially those used as second homes located in historic vacation communities. In our case, we frequently use all of our units to host friends and family so we would not be able to make our three units available for long-term renters. This is likely true of others who use their properties as a second home.

If you were to look at all the properties in the Calles and Patios in Stinson Beach that are vacation rentals, those properties with more than one unit are indistinguishable from those with only one unit. Some of our neighbors who rent out a separate ADU type units are wholly dependent on their rental income to be able to stay in the homes they have lived in for years. If they are unable rent on a short-term basis, rent received from a long term renter would not provide sufficient income to live in the home they have lived in for much of their adult lives and would likely be forced to sell. We are sure that the new ordinance is not looking to push long term residents who are simply looking for ways to supplement their income into selling. And should they actually have to sell, the new owner will not likely be of the income level that the STR is designed to support.

Finally, while we appreciate the need to limit hosts who are “bad actors,” there is no correlation between bad hosts and multi-family properties. We are unclear why we and other well-liked hosts and their guests should be penalized because we have three units on the same property instead of one.

Thank you for your consideration,

Becky Levan



**From:** [Steven Levan](#)  
**To:** [Kilgariff, Kathleen](#)  
**Subject:** STR Ordinance Public Comment  
**Date:** Saturday, October 21, 2023 11:21:33 AM

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You don't often get email from [stevenklevan@gmail.com](mailto:stevenklevan@gmail.com). [Learn why this is important](#)

I own a property in the Calles in Stinson Beach that is used for my personal use and as a short-term rental. The draft STR ordinance proposes requiring on-site parking for all licensees. On narrow roads in the Marin hills, I understand why that is a desirable restriction, but will leave it to county officials and others in those areas to speak to how that should work. However, that approach does not work in Stinson.

If parking is going to be addressed as part of this ordinance, please address it community by community. In Stinson Beach, there is minimal on-site parking for many of the properties west of Highway 1. Whether someone is a renter or an owner, off-street parking is limited. Of the 14 properties on our street, only four have on-site parking, whether for renters or owners.

The concern is not so much about on-site vs off-site parking, but that day trippers to the beach park on Highway 1 and the streets adjacent to the beach causing safety issues and impacting the parking of locals and overnight guests. On public and private roads in the beach communities, street parking should be permitted for valid STR licensees and the ordinance should encourage local law enforcement to protect parking for those residing in homes on the impacted streets.

Please consider a more flexible approach to the parking requirement to address different needs in different parts of the county.

Sincerely,

Steve Levan

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(323) 481-3083 Cell

**From:** [Dakota Whitney](#)  
**To:** [Dennis Rodoni](#); [Kilgariff, Kathleen](#)  
**Subject:** STR Comment  
**Date:** Saturday, October 21, 2023 11:52:28 AM

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[You don't often get email from [dakotawhitney@gmail.com](mailto:dakotawhitney@gmail.com). Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

To address the housing crisis in California and particularly in tourist destinations, cities and counties across the State have drastically restricted STRs. I ask you follow their lead by imposing meaningful limitations on the number of STRs in West Marin. The proposed standards are overly bureaucratic and cumbersome for STR operators, but do little to limit the number of STRs in our communities.

Thank you.

**From:** [Shelley Finci](#)  
**To:** [Kilgariff, Kathleen](#)  
**Subject:** STR Ordinance Public Comment  
**Date:** Saturday, October 21, 2023 12:05:53 PM

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You don't often get email from shellefyfinci@gmail.com. [Learn why this is important](#)

Dear Planning Commission,

I own a property in the Calles in Stinson Beach that is used for our personal use and for short-term rentals. My husband and I have fully supported efforts by the County to regulate STRs up to this point. We have maintained a business license, collected and paid TOT, and complied with all other requirements set forth in recent years (e.g., notification of neighbors about our vacation rental). We also support the County's efforts to update its regulations for many of the reasons noted. We already comply with most of these requirements as a matter of course in being an excellent host.

We are hopeful that the Commissioners and Staff will consider minimizing added ongoing regulatory requirements that are burdensome both from a time and cost perspective. For example, while there is a public interest in ensuring STRs manage water use and keep septic systems in good working order, there is minimal benefit to requiring every single licensee to report on these and other items annually since the large majority are likely to be in compliance. Using staff time to conduct periodic audits either on licensees against whom complaints have been registered or on a random basis will provide more benefit than using staff time to review applications that do not show violations.

Thank you for your consideration,

Shelley Finci

**From:** [Frank Leahy](#)  
**To:** [PlanningCommission](#)  
**Cc:** [Kilgariff, Kathleen](#); [Rodoni, Dennis](#); [Rice, Katie](#); [BOS](#); [West Marin Access Coalition](#)  
**Subject:** Comments on West Marin STR regulations  
**Date:** Saturday, October 21, 2023 2:10:37 PM

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I read the new regulations with mild amusement, and more than a bit of dismay.

Amusement, because the regulations appear designed to do little more than catch people with little "gotchas", as though that will solve the problem. "One false move and we will strike thee from the list, and never shall ye rent again."

Dismay because numbers are being tossed around by the two sides, numbers that don't add up. And the County could, but isn't, doing anything to set the record straight.

From the October 12, 2023 Pt Reyes Light "Perspective" come these claims:

"year-round average of **\*\*20\*\*** days per month one can expect to have an S.T.R. occupied"

"an S.T.R. ... [can expect to make] **\*\*\$6,000\*\*** a month"

"The S.T.R. bonanza brought in a **\*\*big wave\*\*** of new second-home buyers and investors"

"twice as many - **\*\*870\*\*** - [S.T.Rs](#) in unincorporated Marin [today] as there were in 2018, when there were **\*\*480\*\***"

**\*\*16\*\*** percent of West Marin's housing stock [is] in S.T.R.s"

"[the new] S.T.R. ordinance ... ends up adding **\*\*108\*\*** houses to the current count"

While in a letter to the editor in the same paper was this claim:

"I just can't help think what **\*\*63\*\*** more houses might do...for the people wanting to both work and live in Point Reyes"

Where did these numbers come from? Are they real? Are they made up? Are they quoted from a reputable source, or simply copied from a dubious source with no provenance?

But the County has real data that it could share -- and my question is, why doesn't it? Why was the County relying on AirDNA numbers (that it now disavows), when it could simply publish real numbers?

The data the County has access to, but has decided not to publish, includes:

(All numbers could be easily broken out by town in West Marin, as all of this data is available by parcel number)

- The number of houses in West Marin, by town (Pt Reyes, Inverness, etc.)
- The number of houses that have filed homeowners exemption
- The number of houses currently owned by a corporation or LLC
- The number of houses that have sold, by year, over the past 20 years
- The number of homes that have sold over the past 20 years, by year, which have homeowners exemption, or are now owned by a corporation or LLC

- The number of STRs that are filing tax forms each month
- The number of STRs which are owned by corporations or LLCs
- The number of STRs that have a homeowners exemption filed
- The average, median and P95 number of days STRs are rented per month
- The average, median and P95 of STR income filed each month

And there's plenty of other ways to slice and dice the existing data the County has.

What we don't measure we can't understand. And what we don't understand we can't fix. Let's start by publishing real numbers, so we can all understand whether there is a problem, and if so, how big it really is.

Sincerely,  
-- Frank Leahy  
Inverness, CA

**From:** [PlanningCommission](#)  
**To:** [Kilgariff, Kathleen](#); [Lacko, Leslie](#)  
**Cc:** [Damazyn, Michele](#)  
**Subject:** FW: Proposed Short Term Rental Regulations  
**Date:** Monday, October 23, 2023 8:57:44 AM

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**From:** Aran Kaufer <[aran@bright-street.com](mailto:aran@bright-street.com)>  
**Sent:** Friday, October 20, 2023 4:32 PM  
**To:** PlanningCommission <[PlanningCommission@marincounty.org](mailto:PlanningCommission@marincounty.org)>  
**Subject:** Proposed Short Term Rental Regulations

You don't often get email from [aran@bright-street.com](mailto:aran@bright-street.com). [Learn why this is important](#)

Dear Planning Commission:

I am writing in opposition to the proposed Short Term Rental Regulations. I think this is short-sighted and overbearing. Please reconsider.

Thanks,

**Aran Kaufer**

**From:** [PlanningCommission](#)  
**To:** [Kilgariff, Kathleen](#); [Lacko, Leslie](#)  
**Cc:** [Damazyn, Michele](#)  
**Subject:** FW: Oppose Draft STR Regulations  
**Date:** Monday, October 23, 2023 8:58:39 AM

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-----Original Message-----

From: Melanie Nichols <[melanienichols@comcast.net](mailto:melanienichols@comcast.net)>  
Sent: Saturday, October 21, 2023 6:58 AM  
To: PlanningCommission <[PlanningCommission@marincounty.org](mailto:PlanningCommission@marincounty.org)>  
Subject: Oppose Draft STR Regulations

[You don't often get email from [melanienichols@comcast.net](mailto:melanienichols@comcast.net). Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

Dear Marin County Planning Commission,

I write in opposition to the County's draft short term rental standards as currently written. The statute makes it hard for owners to afford to keep and maintain their houses, and be able to also sometimes enjoy them.

We have lived in San Anselmo since 1976.

We have been able to rent a house in the summer for 1 week for the last 30 years. Otherwise we would not be able to afford to visit with our family.

Please vote no and reconsider more balanced options.

For the County, the regulations will limit economically feasible lodging for visitors who come to experience the nearby public land.

Overall, these regulations will make homeownership more costly and out of reach for more people—visitors and residents alike. West Marin has always been a community with large numbers of vacation homes used in part as short-term rentals for generations.

Please vote no on the draft regulations and help stop the County's misguided effort to limit visitor access to the region's public lands.

Sincerely,

Melanie Nichols

**From:** [PlanningCommission](#)  
**To:** [Kilgariff, Kathleen](#); [Lacko, Leslie](#)  
**Cc:** [Damazyn, Michele](#)  
**Subject:** FW: STRs  
**Date:** Monday, October 23, 2023 9:00:26 AM

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**From:** Lea Earnheart <earnheartlea@gmail.com>  
**Sent:** Saturday, October 21, 2023 10:52 AM  
**To:** PlanningCommission <PlanningCommission@marincounty.org>  
**Subject:** STRs

You don't often get email from [earnheartlea@gmail.com](mailto:earnheartlea@gmail.com). [Learn why this is important](#)

To Whom it May Concern;

**PLEASE PLEASE PLEASE reduce the number of Short Term Rentals in West Marin!!!**

There are *so many* reasons that those of us who live in small communities in West Marin are begging for the number of STRs to be reduced . . . but, at this moment in time, may I refer you to the front page of the Point Reyes Light this week (Oct. 19, 2023) "Restaurants face uphill battle amid rising costs".

The first line of this article:

"Local restaurants are finding it difficult to stay afloat amid the housing shortage and rising costs of food and labor", and goes on to describe the crisis wherein these businesses can't find local people to work, nor can they afford to pay wages high enough for any worker to live here, or to commute from the distance of a non-local community where they have managed to find housing.

So, if all those corporate-owned, host-in/host-out owners justify their STR by believing that they are contributing to the local economy, someone needs to inform them that the issues are far more complicated and, in fact, in many ways are undermining it.

If service people cannot afford to live in the area they serve, this is an enormous problem; to say nothing of the fragmenting of the fabric of community and low-income people desperately turning to sub-standard housing (eg. The Tacherra Ranch).

We need those with the authority to seek and implement ways to support affordable housing in Marin to realize that when they protect long term rentals, and limit short-term rentals, they are supporting our local businesses and service industries as well as the continuation of precious communities.

**PLEASE FURTHER LIMIT STRs!**

Sincerely,  
Lea Earnheart



71 Olema-Bolinas Rd.  
PO Box 1002  
Bolinas, CA 94924

**From:** [PlanningCommission](#)  
**To:** [Kilgariff, Kathleen](#); [Lacko, Leslie](#)  
**Cc:** [Damazyn, Michele](#)  
**Subject:** FW: Oppose Draft STR Regulations  
**Date:** Monday, October 23, 2023 9:01:08 AM

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-----Original Message-----

From: Kathleen Tilt <kathleentilt@icloud.com>  
Sent: Saturday, October 21, 2023 3:19 PM  
To: PlanningCommission <PlanningCommission@marincounty.org>  
Subject: Oppose Draft STR Regulations

[You don't often get email from kathleentilt@icloud.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

Dear Marin County Planning Commission,

I write in opposition to the County's draft short term rental standards which will result in making housing in West Marin less cost-efficient for everyone and limit visitor access to the coast and parks in the region.

With no rationale nor data to support the draft regulations, it is evident that the draft regulations will greatly impact visitors to the region. By reducing housing options for visitors, the county is inadvertently reducing visitor access to the coast and parklands.

For the visitors, the draft regulations will limit access and raise the cost of available lodging for those wishing a deeper experience in the region. The regulations go beyond the moratorium by decreasing the number of vacation homes available to families visiting the region. GGNRA is the most visited national park in the Nation. PRNS had over 2.3 million visitors last year. Vacation rentals are already limited. Fewer vacation homes, means fewer visitors to the coast and parks.

For the County, the regulations will limit economically feasible lodging for visitors who come to experience the nearby public land. A single-family home is more cost-effective for a family than renting multiple single rooms in a hotel. In addition to allowing a family to experience the national parks more deeply, these homes give visitors an authentic experience in unique communities throughout West Marin. These limits will result in limiting visitor's access to affordable housing on the coast.

For the homeowner, the regulations are costly, burdensome, and possibly unattainable. The unprecedented 11-pages of detailed restrictions and requirements will all but ensure compliance failure among a substantial number of homes and result in less lodging to visitors. For those few that can comply, the time and expenses associated with gathering the documentation, additional services, and the annual inspections will lead to a large increase in the overall costs of operation, which will result in increased nightly rates for visitors to the region.

Overall, these regulations will make homeownership more costly and out of reach for more people—visitors and residents alike. West Marin has always been a community with large numbers of vacation homes used in part as short-term rentals for generations. Renting one's second home for others to use for vacation purposes has also been a means by which many local people are able to live permanently in West Marin during their retirement years. Limiting people's ability to rent their homes, or cottages and in-law units that have been rented for many years on a part-time basis, reduces their ability to achieve homeownership.

Please vote no on the draft regulations and help stop the County's misguided effort to limit visitor access to the region's public lands.

Sincerely,

Kathleen Tilt  
San Francisco

Sent from my iPhone

**From:** [PlanningCommission](#)  
**To:** [Kilgariff, Kathleen](#); [Lacko, Leslie](#)  
**Cc:** [Damazyn, Michele](#)  
**Subject:** FW: Consider exemption to STR cap  
**Date:** Monday, October 23, 2023 9:01:20 AM

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**From:** no-reply@marincounty.org <no-reply@marincounty.org>  
**Sent:** Saturday, October 21, 2023 9:18 PM  
**To:** PlanningCommission <PlanningCommission@marincounty.org>  
**Subject:** Consider exemption to STR cap

Elizabeth Robbins, M.D. with email address [eliz.robbins@gmail.com](mailto:eliz.robbins@gmail.com) would like information about:  
As you consider regulations on short term rentals, I hope that you will consider adding this exemption from the cap on short term rentals:

Houses that are within 500 yards of the waterfront are exempt from the cap on short term rentals.  
The reason for adding this exemption is as follows:

Houses on or near the waterfront are not likely to ever be affordable housing. They are currently vacation homes or second homes. Limiting short term rentals for these houses by capping the number available for rent means that only billionaires will be able to enjoy these houses; middle class families will no longer have access to the coast for a week's vacation.

Please consider adding this exemption from the cap on short term rentals to ensure coastal access for all.

Sincerely,

Elizabeth Robbins, M.D.

Ross Town Council member

**From:** [Eric Oldmixon](#)  
**To:** [PlanningCommission](#); [STR](#)  
**Subject:** Fwd: STR Ordinance  
**Date:** Sunday, October 22, 2023 10:08:05 AM

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Some people who received this message don't often get email from ericalanoldmixon@gmail.com. [Learn why this is important](#)

Good Morning Sup. Rodoni and BOS,

As Sup Rodoni may know, I have been an active member of the West Marin community for over a decade. Over that time, my peer community group of families working and attending school here has decreased dramatically. Watching friends, families, and most of my daughter's classmates be forced to leave West Marin as a result of housing instability is more than sad, it is a real threat to the vitality and functionality of the West Marin Community. We are at a tipping point. Our communities cannot continue to function without places for local workers, teachers, firefighters, families, and seniors to live!

Escalating home prices and the incredible high percentage of cash sales further squeeze out all but the wealthiest class. **The facts are clear, the easy access to transitioning of new sales to Short Term Rentals has directly fueled this inflation of property value and the reduction of long term rental availability.** Throughout my time living in an affordable home, thanks to the work of the Community Land Trust of West Marin, I have watched countless homes on this street be put on the market because long time resident owners "just cannot pass up the windfall" only to have the new home sit dormant soon to become offered as a vacation rental. One property investor purchased two such homes and rents them together for nearly \$10,000 per weekend. (This is not about access.)

Only two of the homes on my street are listed as permitted short term rentals. Yet a minimum of 6 are used this way on a regular basis, and more less frequently. When the newest ordinance proposal was released I was shocked by the incredibly high number of permits being offered. Furthermore, **the ordinance offers little more than 'giving up when" it comes to creating enforceable policy for the growing number of unpermitted operations.** In less than 5 minutes comparing Marin's permit map to the one on AirBNB.com I found 5 unpermitted offers operating in plain sight. Thus, we need to assume there will always be illegal STR's. In the Coastal Zone's case, **I urge you to reduce the number of unhosted STRs by half, from 480 to 230.**

In terms of the permitting process and proposal, I urge you to gain more insight about the actual feedback garnered in the process and how they arrived at such a simple result. I hear from locals time and again that owner occupied STR's are more highly supported than unoccupied homes. Furthermore, those properties with the space to create both long-term and short term rentals should also be treated as more valuable

to the community. **I propose a weighted permitting system that adds and subtracts points based on factors that support the functioning of the broader community.** Owner occupants, and long term property tenants add points; infractions (STR policy, water and local ordinances, police calls, etc) subtract points. Make the owners more broadly responsible for their impact on the quality of life in the places where they choose to own property.

Do not rush. Work to create and adopt a system for the long term sustainability of our community!

**I appreciate your time spent reading this!** Unfortunately, I cannot be at meetings to comment in person during the regular school day.

Thank you,

Eric Oldmixon,  
Inverness Resident, Teacher, Volunteer, Coach

**From:** [Sally Peacock](#)  
**To:** [STR](#)  
**Subject:** STOP short term rentals  
**Date:** Sunday, October 22, 2023 2:20:59 PM

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Dear Board members,

I have lived and worked in West Marin since 1976, and have seen a marked shift in the communities of our region during this time. As short term rentals have increased, our ability to house families, essential workers of all types from home caregivers to teachers and firefighters has seriously diminished - even restaurants can't staff their businesses. Please cut the number of short term rentals permitted, in half would be good! Our towns are being hollowed out as long term residents are forced to leave, and the workers we need to function as communities have to drive from out of the county to service West Marin. Let's house residents first!

Sincerely, Sally Peacock

Bolinas

**From:** [Robert Densmore](#)  
**To:** [Rodoni, Dennis](#)  
**Cc:** [Rice, Katie](#); [Moulton-Peters, Stephanie](#); [Sackett, Mary](#); [Lucan, Eric](#); [STR](#); [PlanningCommission](#)  
**Subject:** Houses Should Be Homes. (West Marin Resident)  
**Date:** Sunday, October 22, 2023 7:43:02 PM

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Dear Planning Commissioners and Supervisors,

I am a West Marin resident deeply concerned about the number of residential properties that have been commercialized and turned into short term rentals (STRs) over the past 5 years.

I believe in these top level goals;

Everyone living in West Marin has stories of friends, family, and neighbors who have had to relocate because their long-term rental has been lost. Our communities cannot continue to function without places for local workers, teachers, firefighters, families, and seniors to live!

The draft STR ordinance is a step in the right direction but it has no teeth and doesn't go far enough. The negative effects STRs are having on the housing crisis in West Marin is well-documented in both Marin's Housing Element and its Local Coastal Program. Small communities cannot function when 16% of their limited housing stock is taken away.



The only way to improve this situation is to do what other communities up and down the coast have done – i.e., substantially reduce the number of permitted STRs.

In the Coastal Zone's case, I urge you to reduce the number of unhosted STRs by half, from 480 to 230. Added to the 108 existing hosted STRs, there would still be 338 STRs in our coastal villages; along with existing campgrounds, motels and BnB's, more than enough to serve visitors. This would bring the number of STRs back to 2018 levels.

With this ordinance you can either help restore the balance in our coastal communities or further hollow them out in perpetuity. Please make the right decision.

Thank you for your consideration,  
Bob Densmore  
POBox 836  
Bolinas, Ca 94924  
densmorerobert4@gmail.com

Sent from my iPhone

# Rifkind Law & Mediation, PC

1010 B Street, Suite 200, San Rafael, CA 94901

Telephone: (415) 785-7988

[www.rifkindlawgroup.com](http://www.rifkindlawgroup.com)

Leonard A. Rifkind

[len@rifkindlawgroup.com](mailto:len@rifkindlawgroup.com)

October 22, 2023

## **Corrected**

Marin County Planning Commission

3501 Civic Center Drive, Room 308

San Rafael, CA 94903

Re: Proposed Short Term Rental (STR) Ordinance

Dear Planning Commissioners:

Our firm represents Eric Davis, who owns a single-family dwelling in the Village at Dillon Beach that is used as short term rental. We write to express our concerns on behalf of Mr. Davis about proposed revisions to the County's STR Ordinance that will adversely affect his legal non-conforming right to operate a short term rental in his Dillon Beach single family residence.

Mr. Davis has operated a short term rental in Dillon Beach for many years, both prior to the County's first enactment of an STR Ordinance (Chapter 5.41) in 2018 and subsequently. He operates his short term rental in compliance with the current STR Ordinance, having obtained both a business license and transient occupancy tax certificate.

Mr. Davis's Dillon Beach Property is zoned C-R1 (Coastal Residential District) pursuant to the Implementation Plan for Marin County Code in the coastal zone, Section 22.62.070. Under Table 5-2-c, rental of this single family dwelling, whether for long-term or short-term, is a Principal Permitted Use. No use permit is required.

The proposed STR Ordinance now makes short terms rentals *conditional* for the first time, requiring a new two-year STR license, in addition to the existing requirements for a business license and TOT certificate. This new STR license is conditioned upon satisfying a large number of specified standards, including two onsite parking spaces, a positive professional septic report, and a cap on the number of licenses permitted, none of which apply to use of the same single-family dwelling used as either a long-term rental or occupied by the owner.

If the County wishes to *regulate* the *business* aspects of short term rentals, as it has done previously, then amendments to Chapter 5.41 are appropriate. However, Mr. Davis objects properly to a change in the *use* of his property from permitted to conditional, without a change in the applicable zoning ordinance. As made clear above, his use of his single family property would migrate from permitted to conditional without the necessary and required change in the applicable zoning ordinance. At the very least, Chapter 5.41, requiring a use permit would

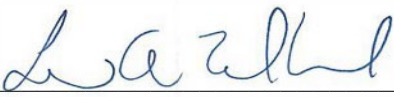
conflict with Section 22.62.070. We understand that many of the California jurisdictions that have adopted so-called STR ordinances have done so by adoption of amendments to their zoning codes (Sonoma County, Cities in Santa Cruz County and Half Moon Bay) and suggest Marin County should follow suit.

The County certainly has the right to amend the Marin County Code to require in the *future* that owners of single-family dwellings elect to *begin* using such dwellings for short term rentals to comply with the proposed conditional use requirements. However, the County cannot deprive owners of single-family dwellings who are *currently* using their dwellings legally for short term rentals of their vested legal nonconforming rights. Mr. Davis's longstanding legal use of his property in Dillon Beach as a short term rental is a legal non-conforming use. The County cannot legislate away his legal rights to continue that use. He does not oppose reasonable business regulations, like requiring a business license and paying TOT, but is steadfastly opposed an ordinance that purports to take away his legally vested right to continue his short term rental where that is a use by right and cannot be made conditional.

In closing, if the County wishes to proceed with its intention to change the short term rental use of a single-family dwelling from a permitted use to a conditional use, we urge you to direct the Community Development Agency to amend the proposed ordinance to place its conditional use requirement for the short term rental use of single-family dwellings into the County's zoning codes and protect property owners like Mr. Davis by recognizing his legal non-conforming status to operate his short term rental by right as a permitted use.

Sincerely,

RIFKIND LAW & MEDIATION, PC

By:   
Leonard A. Rifkind

LAR/es

cc: Eric Davis, [panamadaviseric@gmail.com](mailto:panamadaviseric@gmail.com)  
Sara Jones, CDA Director, [sbjones@marincounty.org](mailto:sbjones@marincounty.org)  
Jeremy Tejirian, CDA Planning Manager, [jtejirian@marincounty.org](mailto:jtejirian@marincounty.org)  
Kathleen Kilgariff, CDA Planner, [kkilgariff@marincounty.org](mailto:kkilgariff@marincounty.org)

**From:** [Len Rifkind](#)  
**To:** [Kilgariff, Kathleen](#); [Jones, Sarah](#); [Jeremy Tejirian](#)  
**Cc:** [panamadaviseric@gmail.com](mailto:panamadaviseric@gmail.com)  
**Subject:** RE: Rifkind Law & Mediation, PC/ Eric Davis -Proposed Short Term Rental (STR) Ordinance  
**Date:** Sunday, October 22, 2023 10:33:39 AM  
**Attachments:** [Corrected 2023-10-22 Marin County Planning Commission STR Ordinance.doc Final.pdf](#)

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Kathleen,

My apologies, I had two typographical errors in the letter sent on Friday and would appreciate if you will substitute in this corrected letter. There are no substantive changes.

Thank you,

Leonard ("Len") A. Rifkind

**RIFKIND LAW & MEDIATION, PC**

1010 B Street, Suite 200

San Rafael, California 94901

T: 415-785-7988,

C: 415-308-8269

E: [len@rifkindlawgroup.com](mailto:len@rifkindlawgroup.com)

W: [www.rifkindlawgroup.com](http://www.rifkindlawgroup.com)

Named to **Superlawyers**, Northern California Real Estate Law, 2012-2023

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**From:** panamadaviseric@gmail.com <panamadaviseric@gmail.com>  
**Sent:** Saturday, October 21, 2023 10:54 PM  
**To:** Len Rifkind <len@rifkindlawgroup.com>  
**Cc:** Elssy Solano <elssy@rifkindlawgroup.com>  
**Subject:** Rifkind Law & Mediation, PC/ Eric Davis -Proposed Short Term Rental (STR) Ordinance

Len:

I think the letter was great, but unfortunately there were two typos in the second sentence of the first paragraph:

1. The "is" should have been "his". This is the "is" that I referenced in our phone call on Friday but could not specifically point out to you since when we spoke I was at lunch, during my drive with my son from LA to Davis, and did not have access to my computer to review the letter.
2. The "non-confirming" should have been "non-conforming".

I don't know if it makes any sense to send a corrected letter to the parties to whom you emailed the letter last Friday. I will leave that up to you.

Thanks

Eric Davis

530-400-9899

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**From:** Elssy Solano <[elssy@rifkindlawgroup.com](mailto:elssy@rifkindlawgroup.com)>  
**Sent:** Friday, October 20, 2023 4:37 PM  
**To:** [sbjones@marincounty.org](mailto:sbjones@marincounty.org); [jtejirian@marincounty.org](mailto:jtejirian@marincounty.org); [kkilgariff@marincounty.org](mailto:kkilgariff@marincounty.org)  
**Cc:** [panamadaviseric@gmail.com](mailto:panamadaviseric@gmail.com); Len Rifkind <[len@rifkindlawgroup.com](mailto:len@rifkindlawgroup.com)>  
**Subject:** Rifkind Law & Mediation, PC/ Eric Davis -Proposed Short Term Rental (STR) Ordinance

Dear Planning Commissioners:  
Please find attached Mr. Rifkind's correspondence regarding the subject matter identified above.  
Thank you,  
Elssy

Elssy Solano  
Office Administrator / RIFKIND LAW & MEDIATION, PC  
[elssy@rifkindlawgroup.com](mailto:elssy@rifkindlawgroup.com) | [www.rifkindlawgroup.com](http://www.rifkindlawgroup.com)  
1010 B Street, Suite 200, San Rafael, CA 94901  
t.: 415.785.7988



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**From:** [J. S.](#)  
**To:** [PlanningCommission](#)  
**Cc:** [Kilgariff, Kathleen](#); [Rodoni, Dennis](#); [Rice, Katie](#); [BOS](#); [West Marin Access Coalition](#)  
**Subject:** STRs and Rumors of Corporate Buy Up  
**Date:** Sunday, October 22, 2023 3:59:52 PM

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Some people who received this message don't often get email from [jeaniceskvaril@gmail.com](mailto:jeaniceskvaril@gmail.com). [Learn why this is important](#)

Dear Members of the Planning Commission:

**In response to Commissioner Desser's request after my verbal testimony on June 12, I am writing about my research on STRs in West Marin. You may add this to the record.**

We've heard a lot of concern about "corporations coming into West Marin and buying homes for profit." These "investors" seem to be one of the top concerns of folks opposed to STRs. Based on my research, they don't exist. **I reviewed every AirBnB and VRBO listing in West Marin and contacted every associated owner or manager and found zero evidence of true corporate ownership or profit-motivated investment.** To be clear: It was not uncommon to find vacation rental owners that held the title in LLCs for personal liability protection, but these are not the nameless faceless corporations or profit-seeking investors that townspeople are concerned about. Nor was it uncommon to find generational owners or families who made some profit because their purchase took place decades ago. However, I did not find evidence of any owner who purchased a home as a purely profit-motivated investment.

I am not claiming that my research is definitive, but my findings make sense based on the simple math of STR ownership in West Marin. With real estate prices and operating costs where they are, you cannot charge enough rent consistently to make a weekend-only rental pencil as an investment. **Despite the claims, West Marin is not a money-maker for a profit-motivated investor.**

#### Summary of my outreach and conversations with owners

Last November, when the County announced it would be updating its restrictions and regulations of STRs, I didn't learn about it in an email from the County, I learned about it from a neighbor. I reached out to other locals who I knew to rent their house on occasion, or with regularity, and found that nobody was aware of this news. It turned out none of us were subscribed to receive the County's STR updates, and it dawned on me how troubling this was.

Over the next several months, I took the time to comb hundreds of STRs listed on AirBnB or VRBO. All of the profiles were personal and appeared authentic. There was no indication of any company or group ownership, other than families. **Importantly, investment groups**

**almost always have more than one property listed, which is revealed on AirBnB. I found no evidence of this.** There are a handful of local property managers who manage multiple properties, but this is different than corporate ownership. I was able to contact every one of them to confirm the relationship and the nature of underlying ownership structures.

From Dillion Beach to Point Reyes, down to Stinson Beach, I did what anyone can do - I scrolled listings, read host profiles, and messaged each one to let them know that changes to restrictions and regulations were coming. I urged every host to sign up for Marin's STR updates. Because I was sharing highly relevant and urgent information, I also had a very high response rate to my survey. I connected with a lot of folks over Airbnb messaging, and then over email and phone when possible. People were surprised, worried, and wanted more information. I didn't have any to give but I hoped that I could help as many folks like me get the information we deserved.

I heard a lot of stories in my conversations with STR owners. **There is a wide range of situations and reasons for people choosing to rent their property (or part of it), for a little bit or a lot of the year.** One thing that became clear to me was that most folks do it to offset some costs, most hosts are the homeowners themselves and love the job of hosting visitors and take their job seriously (like I do!), and **the only people making money are long-time owners with little or no mortgage and low property taxes.** "Airbnb has been a lifesaver for us," said one senior retiree.

### LLC's

I saw no evidence of "corporate" ownership in the commonly understood sense. It is not uncommon for owners, like my husband and me, to take title in a single-asset, single-member LLC structure to limit personal liability. This ownership structure is simply an extra layer of personal liability protection; it does not mean much on its own. **I did not find a single listing with a nameless, faceless corporate investor. Everyone I contacted was a real person with a real story.**

I did not do the additional work to compare each listing to publicly available ownership records and sort out the LLCs to do further investigation. That said, the true ownership of LLCs is about to become public. **Beginning in 2024, new transparency laws will require public disclosure of beneficial ownership for most LLCs across the nation. With a little bit of effort from the County (or any engaged citizen), my findings could be more firmly confirmed early next year.**

*Does the lack of pure investment interest in West Marin make sense?*

Yes. As an STR owner myself, I know how difficult it is to make any profit running an STR in

West Marin. **The only reliable way to make an STR investment pencil out is to have owned it for a long time.** This is just math. The total cost of ownership for a West Marin property purchased in the modern era cannot reliably be covered by STR revenues. Rental rates in West Marin are at a max 30% if you can rent the property every weekend of the year, and a bit more in summer. This is nowhere near high enough to cover property taxes, insurance, management, administrative overhead, repairs, maintenance, and regularly required capital expenditures, let alone debt service. You might have some good months with July and August, but they don't make up for the majority of months when West Marin only has visitors Friday through Sunday.

Anybody can do what I did with a handful of hours. Airbnb and VRBO are open to all to comb. One by one you can read all the host profiles of properties offered for rent when not in use by the owner. Someone might suggest that these "corporations" or LLCs are disguising their greedy intentions with candid profile shots and seemingly genuine host descriptions but that's not the way big business works. Our neighbors are single women and men, working and retired, families with legacy, and enthusiastic newcomers. We are here because we love and cherish West Marin just as much as anyone else.

Sincerely,

Jeanice Skvaril  
Inverness and Ross



**From:** [PlanningCommission](#)  
**To:** [Kilgariff, Kathleen](#); [Lacko, Leslie](#)  
**Cc:** [Damazyn, Michele](#)  
**Subject:** FW: Vacation rental moratorium  
**Date:** Monday, October 23, 2023 9:01:53 AM

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**From:** bayloanmike@aim.com <bayloanmike@aim.com>  
**Sent:** Sunday, October 22, 2023 2:22 PM  
**To:** PlanningCommission <PlanningCommission@marincounty.org>  
**Subject:** Vacation rental moratorium

You don't often get email from [bayloanmike@aim.com](mailto:bayloanmike@aim.com). [Learn why this is important](#)

Dear Sir,

As an owner of rental property in Stinson Beach I oppose any restraint on personal property rights.

My experience is that long term doesn't work for my house.

Please restore my basic right to do what I want with my own property.

Sincerely,

Michael Hanley

**From:** [PlanningCommission](#)  
**To:** [Kilgariff, Kathleen](#); [Lacko, Leslie](#)  
**Cc:** [Damazyn, Michele](#)  
**Subject:** FW: Oppose Draft STR Regulations  
**Date:** Monday, October 23, 2023 9:02:20 AM

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-----Original Message-----

From: Daggett Howard <[dagkip@sbcglobal.net](mailto:dagkip@sbcglobal.net)>  
Sent: Sunday, October 22, 2023 4:20 PM  
To: PlanningCommission <[PlanningCommission@marincounty.org](mailto:PlanningCommission@marincounty.org)>  
Subject: Oppose Draft STR Regulations

[You don't often get email from [dagkip@sbcglobal.net](mailto:dagkip@sbcglobal.net). Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

Dear Marin County Planning Commission,

I write in opposition to the County's draft short term rental standards which will result in making housing in West Marin less cost-efficient for everyone and limit visitor access to the coast and parks in the region.

With no rationale nor data to support the draft regulations, it is evident that the draft regulations will greatly impact visitors to the region. By reducing housing options for visitors, the county is inadvertently reducing visitor access to the coast and parklands.

For the visitors, the draft regulations will limit access and raise the cost of available lodging for those wishing a deeper experience in the region. The regulations go beyond the moratorium by decreasing the number of vacation homes available to families visiting the region. GGNRA is the most visited national park in the Nation. PRNS had over 2.3 million visitors last year. Vacation rentals are already limited. Fewer vacation homes, means fewer visitors to the coast and parks.

For the County, the regulations will limit economically feasible lodging for visitors who come to experience the nearby public land. A single-family home is more cost-effective for a family than renting multiple single rooms in a hotel. In addition to allowing a family to experience the national parks more deeply, these homes give visitors an authentic experience in unique communities throughout West Marin. These limits will result in limiting visitor's access to affordable housing on the coast.

For the homeowner, the regulations are costly, burdensome, and possibly unattainable. The unprecedented 11-pages of detailed restrictions and requirements will all but ensure compliance failure among a substantial number of homes and result in less lodging to visitors. For those few that can comply, the time and expenses associated with gathering the documentation, additional services, and the annual inspections will lead to a large increase in the overall costs of operation, which will result in increased nightly rates for visitors to the region.

Overall, these regulations will make homeownership more costly and out of reach for more people—visitors and residents alike. West Marin has always been a community with large numbers of vacation homes used in part as short-term rentals for generations. Renting one's second home for others to use for vacation purposes has also been a means by which many local people are able to live permanently in West Marin during their retirement years. Limiting people's ability to rent their homes, or cottages and in-law units that have been rented for many years on a part-time basis, reduces their ability to achieve homeownership.

Please vote no on the draft regulations and help stop the County's misguided effort to limit visitor access to the region's public lands.

Sincerely,

Kip Howard  
160 Madrone Ave  
Larkspur, CA 94939

**From:** [no-reply@marincounty.org](mailto:no-reply@marincounty.org)  
**To:** [STR](#)  
**Subject:** Happy Airbnb Hostess and Neighbors  
**Date:** Monday, October 23, 2023 6:13:27 AM

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Lis Addison with email address [lis@lisaddison.com](mailto:lis@lisaddison.com) would like information about:  
I have been an Airbnb Hostess since 2017. The experience has been very positive with no complaints from either guests or neighbors. My guests are respectful, quiet, appreciative and follow my rules as well as the guidelines set out by Airbnb. My guests understand that I am opening my home to them and are appreciative and understanding. My neighbors have not once complained. As a hostess I have met interesting people and have earned helpful additional income. I have followed all the protocols of the county, including paying my taxes on time and notifying my neighbors of my STR, and I also follow the rules and protocols set out by Airbnb which are numerous. This is a business after all and I treat it that way. It dismays me to discover that neighbors and the County are trying to shut us down. I often find the behavior of my neighbors more onerous and disrespectful than that of my guests, for example occasional drag racing and loud arguments. Thank you for reconsidering, Lis Addison

**From:** [Maureen C](#)  
**To:** [PlanningCommission](#); [STR](#); [Rodoni, Dennis](#); [BOS](#)  
**Subject:** Comment letter on STR draft ordinance  
**Date:** Monday, October 23, 2023 8:16:20 AM

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Marin County Planning Commission  
Marin County Board of Supervisors  
3501 Civic Center Drive  
San Rafael, CA 94902

**Subject: Comments on Marin County Draft STR Ordinance**

My name is Maureen Cornelia. I am a full-time resident of Inverness, having lived there for the past 20 years. I'm a registered voter in Marin County. I have followed the work of County staff on the STR issue, participating in the Fall 2022 Zoom listening sessions conducted by CDA. In December, I joined with a group of civically engaged housing advocates in West Marin to assess the impact that the escalating number of STRs is having on our rural coastal villages. We have also taken time understand the approaches that other communities have taken to manage and curtail STR growth. Our group, West Marin Residents for Housing, submitted a detailed comment letter on the draft ordinance last week with recommended changes.

My comments here come from serving 12 years on the board of CLAM (Community Land Trust Association of West Marin), eight of those as Board President. I bring the learnings from those 12 years of many volunteer hours to advocate for and create affordable housing options – both rental and home ownership. I have witnessed the changes that STRs have brought to my Inverness neighborhood and our community.

**Access**

Much of the conversation on the STR issue has centered around access. The public has extensive free access to the Point Reyes National Seashore, GGNRA and CA State parks and beaches. Yet somehow access is now being conflated as synonymous with overnight stay accommodations and is being presented as a justification for more STRs in West Marin. But where in the Coastal Commission public access directive does it specify that overnight accommodations must be within 15 minutes of local hiking trails and beaches? There are numerous hotel/motel accommodations from the Marin 101 corridor out to West Marin. I would hope that County staff has documented the number of rooms offered throughout the County and that those numbers are being considered as STR limits are set.

A related question in considering overnight accommodation options is: **access for whom?** In looking at the nightly rental rates for STRs currently operating in West Marin, they are most certainly out of reach for individuals and families with limited incomes. Instead, STRs are for the most part serving a privileged group of visitors who can afford the steep nightly rental rates. Is that really what the Coastal Commission intended for public access? And what about access for people who work every day to serve our community? The draft STR ordinance does not consider the ways in which STRs are limiting access to secure, full-time housing for local community members and workers who serve our community every day, both full-time residents and visitors.

**Commercial Use in Residential Neighborhoods**

The advent of online platforms like Air BnB, VRBO, Picasa et al has transformed the way that residential housing stock is being used. Those platforms have morphed from their early days of renting a room in a private home into an investment model for property owners, investors and corporations. We have watched as houses in our rural villages are being marketed based on STR revenue – most often purchased with all cash offers. That has left middle income families who need a mortgage to purchase a home out of the game. As an STR, the home becomes a commercial venture in a residential zone. Our residential housing stock is being monetized every day in the STR model, most especially by individuals/investors/corporations who don't live in our communities, don't vote in Marin County and in some cases have no intention of ever living in our communities. With those considerations, how can the Planning Commission possibly approve the draft STR ordinance without requiring significant reductions in the current number of STRs?

### **Fear**

The STR issue became front and center in our communities since the County STR moratorium was implemented, I've talked with community members about their housing situations and how they view the dramatic growth in STRs since 2018. A common sentiment is **fear**:

- <!--[if !supportLists]--> > <!--[endif]-->Fear that a landlord will give them notice to leave
- <!--[if !supportLists]--> > <!--[endif]-->Fear that the death of the property owner will lead to the sale of the property and their displacement as it is converted to an STR
- <!--[if !supportLists]--> > <!--[endif]-->Fear of speaking out about sub-standard living conditions: mold, rat infestations, septic issues
- <!--[if !supportLists]--> > <!--[endif]-->Fear of identifying property owners who STR their homes without a County STR license
- <!--[if !supportLists]--> > <!--[endif]-->Fear that you as Commissioners, the BOS and County staff will fail us in approving a weak STR ordinance.

Dating back to post-WWII years and going forward, Marin County has not had a good track record in implementing progressive housing policy that promotes equity and diversity. While it boasts of its progressive values and its strong environmental policies, it falls far short when it comes to housing policy.

The West Marin housing organizations and community supporters have done a heavy lift for the County in creating affordable full-time homes. It is undeniable that STRs have contributed to the escalating house costs in our community – both home sale prices and monthly rental costs. Marin is behind in reining in STRs but there are plenty of examples of jurisdictions who have implemented effective STR policies. It's time that the Planning Commission and BOS do the same for West Marin.

Thank you for your consideration,  
Maureen Cornelia  
92 Vision Road  
Inverness

October 21, 2023

Dear County Staff & Planning Commission:

My husband and I own a house in Dillon Beach used by our family and friends so we can go to the ocean and get out of the Sacramento valley heat. We subsidize the substantial cost of maintaining a home at the coast by renting it out as a Short Term Rental (STR). We have been licensed STR operators for that entire time, since 2011. The house was built in 1923 and has been a STR for at least 50 years.

### **Overview**

Seeking to reduce the number of STRs at the coast is contrary to the obligation to provide for visitor accommodations at California's coast – especially accommodations for lower and middle income families.

- Commercial facilities are exempt from the proposed STR rules. Commercial lodgings are typically more expensive for a family than an STR.
  - The new “Tiny Houses” at Dillon Beach rent for \$500/night. My house rents for half of that.
  - STRs allow families to cook and thereby help make a beach vacation affordable.
- Remote work for remote locations – The Planning Commission noted that remote work may make living in places such as Dillon Beach possible.
  - Short Term Renters have said they have tried unsuccessfully to work remotely. The wifi is neither sufficiently reliable nor does it have the speed and capacity required for working – plus Dillon Beach has frequent power outages.
  - Even if working remotely might be possible, living full time in Dillon Beach is expensive and time consuming. One must still shop for groceries and other necessities, take kids to school, buy gas, and go to the doctor's. Dillon Beach provides none of the services.

Marin County states that a primary justification for the proposed STR rules is to increase the availability of lower and middle income long term rentals.

- What have been the results in the other California locales? What data do you have that your desired result has been or can be achieved?
- Does the county have any data showing that long term rentals in Dillon Beach have been turned into STRs? Were there ever any or many long term rentals in Dillon Beach?
- STR properties will not be suddenly converted to long term rentals with implementation of the proposed rules.
  - The cost of mortgage, property tax, property insurance, maintenance and utilities result in monthly rental costs being significantly more than affordable rent for lower and middle income households for owners just to break even.

## **Problems with draft STR rules**

Although many of the proposed new STR rules are reasonable (land line phones, proof of Septic permit, one STR per owner), the overall effect of the rules will increase the cost of visitor accommodations at the coast.

- The Cap on the number of STRs will increase costs to visitors due to reduced supply with no reduction in demand.
- The cost of biennial requirement of septic system inspection by a licensed professional.
- The parking requirement of two off-street spaces per STR. Many Dillon Beach village houses simply do not have the ground to allow for a second parking space. Again, increased cost to visitors due to reducing supply of accommodations.

## **My request – Maintain current county grandfathering of parking space requirements**

The proposed parking requirement of two off-street spaces is contrary to existing county policy, is discriminatory and regressive. Further it attempts to solve an issue that is not currently a problem.

- Contrary to current county policy – Section 24.040.332, Applicability, of Title 24 Development, Chapter 24.04 Improvements, Section 24.04.019, Definitions, III. Parking and Loading – states that the parking and loading requirements in that Chapter, (the 2 space requirement) *apply to new developments*. My house, built in 1926, is grandfathered in with its existing onsite parking for one car.
  - The proposed STR rules single out STRs by eliminating this grandfathering of dwellings built prior to adoption of the two space parking requirement.
  - This STR parking proposal does not address an existing problem. Dillon Beach parking is not plentiful, but is and has been adequate for the existing housing. Vacation renters know this and plan accordingly.
- Discriminatory – The proposed parking requirement discriminates against the small, older dwellings on small lots that are the hallmark and charm of the village at Dillon Beach in favor of the newer, larger and more expensive houses in Oceana Marin.
  - Village houses are in walking distance to the beach – people staying in Oceana Marin typically use their cars to drive to the beach.
  - Most renters come in one car. Village houses are small, most accommodate 2 – 6 guests. Our typical renters are either a family or a group of two – three friends. The drive from the Valley is a little over 100 miles, with high gas prices renters economize and drive in one car.
- Regressive – The State of California along with many local entities have abandoned tighter parking requirements – the opposite of your proposal. The State and land use planners have realized that more parking means less space for actual



housing. Your rules purport to want to encourage affordable housing, but your proposed rules have the opposite effect.

- The rules are also regressive in that current STRs which can't meet the new requirements and can't afford to maintain their houses without rental income - will be sold. Buyers will be wealthier people who do not need the offset of rents to defray costs. No additional long term rentals will result.

By revising the proposed rules on: Caps on STRs, septic inspections and especially the parking requirement, you can help Marin County actually meet the intent of the California Coast Act and its intent to allow for accommodations for coastal visitors of all income levels.

Please re-think your overly restrictive requirements and the adverse effect it will have on reasonable cost accommodations for visitors to our coast.

Sincerely,

Nancy and Tom Smith  
9 Summer Street  
Dillon Beach, CA 95822

**From:** [no-reply@marincounty.org](mailto:no-reply@marincounty.org)  
**To:** [STR](#)  
**Subject:** Draft Short Term Rental Standards September 2023  
**Date:** Monday, October 23, 2023 9:20:09 AM

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Dennis OConnell with email address [dennisococonnell@sbcglobal.net](mailto:dennisococonnell@sbcglobal.net) would like information about:

We licensed our short-term rental business about one year ago. We have found this to be a successful venture. Our property is well-rated, and our guests have been very satisfied with their visits to Marin. We have not experienced a problematic impact on our neighbors. We have collected temporary occupancy taxes for the county. If not for quality short term rental properties like ours, these funds would not likely be recouped by local hotels, but visitors would seek other short-term rentals in the bay area. We entered this venture based on the current regulations, and hope that we will be able to continue to operate based on these rules. We hope that any changes to regulations will apply only to new licensees and that these new rules are favorable to short term rental operators. Caps on un-hosted rentals should be minimized. The restrictions proposed for multi-family properties/condos should be nuanced as there is significant variability of the setup of these properties.

October 21, 2023



Dear Planning Commission and Board of Supervisors,

The Bolinas Community Land Trust (BCLT) has observed a clear connection between an increase in short-term rentals and the decrease in long-term affordable housing in our Community over the past 10-years. We believe BCLT waitlist data illustrates this relationship and have offered to share it with the CDA for their analysis.

Your current proposal will result in a net increase in STRs in Bolinas. This is NOT what we have heard our community wants and needs. The only way to improve this situation is to follow the precedent established by other communities up and down the California coast: substantially reduce the number of permitted STRs.

STR's have escalated dramatically during COVID years. The current drafted ordinance would lock in this COVID-era inflation of housing for commercial use. This point is substantial enough; but the additional truth is that home prices and home sales have also increased during COVID – resulting in a loss of long-term rental housing and an increase of rent prices – all adding to the displacement of people who are of lower and moderate income from our communities. Any ordinance needs to take into account not just numbers of STRs, but all forces that have already acted to diminish opportunities for community housing.

The BCLT staff and Board appreciate this is a complex issue, which is why we defer to the expertise and excellent work of the community members represented by West Marin Residents for housing. We endorse their policy recommendation to reduce the level of unhosted STR's to 2018, pre-Covid levels.

We urge the County planners to reconsider their proposal, and the Coastal Commission to recognize the equity and access issues that are at risk if they do not partner with our community to help preserve long-term affordable housing. We know it is the most vulnerable members of our communities that will be displaced and fear a net negative impact on the socioeconomic, racial, ethnic and other diversity of our community. These are also the members of our community, and every community, who can least afford the high STR rental prices. They deserve access to our coastal areas as well and are often essential workers providing the necessary services that enable others to visit and enjoy this region.

Thank you for considering this important opportunity to help those of us who are working on the ground to fulfill our mission to preserve, create, and sustain permanently affordable housing.

Sincerely,

Annie S. O'Connor  
Executive Director, BCLT

## **Bolinas Community Land Trust**

6 Wharf Rd. #8  
P.O. Box 805  
Bolinas, CA 94924  
(415) 868-9468  
info@bolinaslandtrust.org

### **2023-24 Board**

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*Communications Associate*

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*Director of Properties*

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**From:** [PlanningCommission](#)  
**To:** [Kilgariff, Kathleen](#); [Lacko, Leslie](#)  
**Cc:** [Damazyn, Michele](#)  
**Subject:** FW: Oppose Draft STR Regulations  
**Date:** Monday, October 23, 2023 9:02:20 AM

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-----Original Message-----

From: Daggett Howard <[dagkip@sbcglobal.net](mailto:dagkip@sbcglobal.net)>  
Sent: Sunday, October 22, 2023 4:20 PM  
To: PlanningCommission <[PlanningCommission@marincounty.org](mailto:PlanningCommission@marincounty.org)>  
Subject: Oppose Draft STR Regulations

[You don't often get email from [dagkip@sbcglobal.net](mailto:dagkip@sbcglobal.net). Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

Dear Marin County Planning Commission,

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With no rationale nor data to support the draft regulations, it is evident that the draft regulations will greatly impact visitors to the region. By reducing housing options for visitors, the county is inadvertently reducing visitor access to the coast and parklands.

For the visitors, the draft regulations will limit access and raise the cost of available lodging for those wishing a deeper experience in the region. The regulations go beyond the moratorium by decreasing the number of vacation homes available to families visiting the region. GGNRA is the most visited national park in the Nation. PRNS had over 2.3 million visitors last year. Vacation rentals are already limited. Fewer vacation homes, means fewer visitors to the coast and parks.

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For the homeowner, the regulations are costly, burdensome, and possibly unattainable. The unprecedented 11-pages of detailed restrictions and requirements will all but ensure compliance failure among a substantial number of homes and result in less lodging to visitors. For those few that can comply, the time and expenses associated with gathering the documentation, additional services, and the annual inspections will lead to a large increase in the overall costs of operation, which will result in increased nightly rates for visitors to the region.

Overall, these regulations will make homeownership more costly and out of reach for more people—visitors and residents alike. West Marin has always been a community with large numbers of vacation homes used in part as short-term rentals for generations. Renting one's second home for others to use for vacation purposes has also been a means by which many local people are able to live permanently in West Marin during their retirement years. Limiting people's ability to rent their homes, or cottages and in-law units that have been rented for many years on a part-time basis, reduces their ability to achieve homeownership.

Please vote no on the draft regulations and help stop the County's misguided effort to limit visitor access to the region's public lands.

Sincerely,

Kip Howard  
160 Madrone Ave  
Larkspur, CA 94939

**From:** [Frank Leahy](#)  
**To:** [Kilgariff, Kathleen](#)  
**Cc:** [PlanningCommission](#); [Rodoni, Dennis](#); [Rice, Katie](#); [BOS](#); [West Marin Access Coalition](#)  
**Subject:** Re: Comments on West Marin STR regulations  
**Date:** Monday, October 23, 2023 10:03:03 AM

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You don't often get email from frank@backtalk.com. [Learn why this is important](#)

Hi Kathleen,

To me it's all the same County...but maybe there's no one in charge who can say "Hey. all you departments, work together to get the right data together so we can see what's really going on?"

Your comment below: "information about the number of STRs that are owned by LLCs and information about the primary home tax exemption"

Is there a table, like that on [page 4](#), that has that info by town? Do you happen to know where it is?

Best,  
-- Frank

On Mon, Oct 23, 2023 at 9:47 AM Kilgariff, Kathleen <[KKilgariff@marincounty.org](mailto:KKilgariff@marincounty.org)> wrote:

Hi Frank,

We have shared the data that we have available. Some of the data you are requesting would need to come from the Department of Finance and we have been told that they do not have this information. We have been clear in the project record about the limitations of some of our data and the manner in which it is collected.

I would take a further look at Staff Report and the Staff Report and Attachments from the previous Planning Commission workshop as some of this information is in those, including information about the number of STRs that are owned by LLCs and information about the primary home tax exemption.

Best,

Kathleen

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**From:** Frank Leahy <[frank@backtalk.com](mailto:frank@backtalk.com)>  
**Sent:** Monday, October 23, 2023 9:28 AM  
**To:** Kilgariff, Kathleen <[KKilgariff@marincounty.org](mailto:KKilgariff@marincounty.org)>  
**Cc:** PlanningCommission <[PlanningCommission@marincounty.org](mailto:PlanningCommission@marincounty.org)>; Rodoni, Dennis <[DRodoni@marincounty.org](mailto:DRodoni@marincounty.org)>; Rice, Katie <[KRice@marincounty.org](mailto:KRice@marincounty.org)>; BOS <[BOS@marincounty.org](mailto:BOS@marincounty.org)>; West Marin Access Coalition <[info@westmarinaccesscoalition.com](mailto:info@westmarinaccesscoalition.com)>  
**Subject:** Re: Comments on West Marin STR regulations

Thank you Kathleen.

I took a look at that web page, but don't see any raw data that would allow someone to dive more deeply into questions such as:

- The number of houses in each area that have filed homeowners exemptions
- The number of houses currently owned by a corporation or LLC
- The number of STRs that are filing tax forms each month
- The number of STRs which are owned by corporations or LLCs
- The number of STRs that have a homeowners exemption filed
- The average, median and P95 number of days STRs are rented per month
- The average, median and P95 of STR income filed each month

Without this data, it's hard to look at something like and know if there's truly a problem.

"10% of Inverness parcels with living units have an STR license"

(see [page 4](#) of MARIN COUNTY SHORT TERM RENTAL ORDINANCE COASTAL ACT CONSISTENCY ANALYSIS)

If the bulk of Inverness STR are people who, like us, live in their homes full time, then that home will never be available as a full time rental, and should be considered differently than a house that is nothing but a full time STR.

The Count has more data. Can it be made available in some type of semi-anonymized form for further study?

Sincerely,

-- Frank Leahy

On Mon, Oct 23, 2023 at 8:39 AM Kilgariff, Kathleen <[KKilgariff@marincounty.org](mailto:KKilgariff@marincounty.org)> wrote:

Thank you for this correspondence. A lot of the numbers you ask for are outlined in [the staff report and attachments](#). I will be sure to include this in the project record and share this with the Planning Commission prior to their meeting today.

Best,

Kathleen

**Kathleen Kilgariff**  
PLANNER

she/her

County of Marin

Community Development Agency

3501 Civic Center Drive, Suite #308

San Rafael, CA 94903

---

**From:** Frank Leahy <[frank@backtalk.com](mailto:frank@backtalk.com)>

**Sent:** Saturday, October 21, 2023 2:10 PM

**To:** PlanningCommission <[PlanningCommission@marincounty.org](mailto:PlanningCommission@marincounty.org)>

**Cc:** Kilgariff, Kathleen <[KKilgariff@marincounty.org](mailto:KKilgariff@marincounty.org)>; Rodoni, Dennis <[DRodoni@marincounty.org](mailto:DRodoni@marincounty.org)>; Rice, Katie <[KRice@marincounty.org](mailto:KRice@marincounty.org)>; BOS <[BOS@marincounty.org](mailto:BOS@marincounty.org)>; West Marin Access Coalition



<[info@westmarinaccesscoalition.com](mailto:info@westmarinaccesscoalition.com)>

**Subject:** Comments on West Marin STR regulations

I read the new regulations with mild amusement, and more than a bit of dismay.

Amusement, because the regulations appear designed to do little more than catch people with little "gotchas", as though that will solve the problem. "One false move and we will strike thee from the list, and never shall ye rent again."

Dismay because numbers are being tossed around by the two sides, numbers that don't add up. And the County could, but isn't, doing anything to set the record straight.

From the October 12, 2023 Pt Reyes Light "Perspective" come these claims:

"year-round average of **\*\*20\*\*** days per month one can expect to have an S.T.R. occupied"

"an S.T.R. ... [can expect to make] **\*\*\$6,000\*\*** a month"

"The S.T.R. bonanza brought in a **\*\*big wave\*\*** of new second-home buyers and investors"

"twice as many - **\*\*870\*\*** - [S.T.Rs](#) in unincorporated Marin [today] as there were in 2018, when there were **\*\*480\*\***"

**\*\*16\*\*** percent of West Marin's housing stock [is] in S.T.R.s"

"[the new] S.T.R. ordinance ... ends up adding **\*\*108\*\*** houses to the current count"

While in a letter to the editor in the same paper was this claim:

"I just can't help think what \*\*63\*\* more houses might do...for the people wanting to both work and live in Point Reyes"

Where did these numbers come from? Are they real? Are they made up? Are they quoted from a reputable source, or simply copied from a dubious source with no provenance?

But the County has real data that it could share -- and my question is, why doesn't it? Why was the County relying on AirDNA numbers (that it now disavows), when it could simply publish real numbers?

The data the County has access to, but has decided not to publish, includes:

(All numbers could be easily broken out by town in West Marin, as all of this data is available by parcel number)

- The number of houses in West Marin, by town (Pt Reyes, Inverness, etc.)
- The number of houses that have filed homeowners exemption
- The number of houses currently owned by a corporation or LLC
- The number of houses that have sold, by year, over the past 20 years
- The number of homes that have sold over the past 20 years, by year, which have homeowners exemption, or are now owned by a corporation or LLC
- The number of STRs that are filing tax forms each month
- The number of STRs which are owned by corporations or LLCs
- The number of STRs that have a homeowners exemption filed
- The average, median and P95 number of days STRs are rented per month
- The average, median and P95 of STR income filed each month

And there's plenty of other ways to slice and dice the existing data the County has.

What we don't measure we can't understand. And what we don't understand we can't fix. Let's start by publishing real numbers, so we can all understand whether there is a problem, and if so, how big it really is.

Sincerely,

-- Frank Leahy

Inverness, CA

Email Disclaimer: <https://www.marincounty.org/main/disclaimers>

Email Disclaimer: <https://www.marincounty.org/main/disclaimers>

**From:** [Kilgariff, Kathleen](#)  
**To:** [Sharon Fletter](#)  
**Cc:** [info@westmarinaccesscoalition.com](mailto:info@westmarinaccesscoalition.com); [Rodoni, Dennis](#); [PlanningCommission](#)  
**Subject:** RE: STR Regulations  
**Date:** Monday, October 23, 2023 10:02:30 AM

---

Thank you for this correspondence. I will be sure to include it in the project record and share this with the Planning Commission prior to their meeting today.

Best,

Kathleen

**Kathleen Kilgariff**  
PLANNER  
she/her

County of Marin  
Community Development Agency  
3501 Civic Center Drive, Suite #308  
San Rafael, CA 94903

---

**From:** Sharon Fletter <sharonslifeforce@gmail.com>  
**Sent:** Monday, October 23, 2023 9:58 AM  
**To:** Rodoni, Dennis <DRodoni@marincounty.org>; Kilgariff, Kathleen <KKilgariff@marincounty.org>; PlanningCommission <PlanningCommission@marincounty.org>  
**Cc:** [info@westmarinaccesscoalition.com](mailto:info@westmarinaccesscoalition.com)  
**Subject:** STR Regulations

Some people who received this message don't often get email from [sharonslifeforce@gmail.com](mailto:sharonslifeforce@gmail.com). [Learn why this is important](#)

Dear Marin County Planning Commission, Ms. Kathleen Kilgariff,  
and Supervisor Dennis Rodoni:

I write in opposition to the County's draft short term rental standards which will result in making housing in West Marin less cost-efficient for everyone and limit visitor access to the coast and parks in the region.

**Define the actual problem.** Visitors are not the problem, unless the goal is to have fewer restaurants, fewer options at the hardware and grocery store, fewer local jobs, and fewer artists in the community.

The County has failed to provide any data stating the problem they are trying to address. These draft regulations ensure that the outcome will be to house fewer visitors and to provide fewer job opportunities in the region.

**Marin County is proposing to exclude people from lower economic communities from staying in West Marin.**

The Local Coastal Programs states that "Overnight accommodations are a key element in the

provision of coastal recreational opportunities, since many coastal visitors travel long distances to reach the variety of recreation options found throughout the County. . . Lower costs for overnight facilities . . . helps to ensure that everyone, regardless of economic status, can take advantage of public recreational opportunities.”

Reducing the number of permits allowed in each community undermines the community’s ability to keep “costs low.” So does banning all short-term rentals in more modestly priced dwellings,

such as guest cottages and in-law units. A direct consequence will be to exclude people from the local community. In effect, the County of Marin is telling people from lower economic communities that they can use the parks, just don’t stay overnight in our community.

**Imposing an economic barrier, rather than a physical barrier across Sir Francis**

**Drake:** A physical barrier would be illegal, but the economic barrier will have the same result. This proposal is isolationism at its best and economic elitism at it worse. Essentially declaring that *we have our protected resource, now everyone else stay out!*

**We should be creating incentives for visitors to come and enjoy the unique services (restaurants, art galleries, and nature tours), not putting up barriers to entry.** Why is the County proposing rules that will put businesses and community at risk of losing the region’s greatest economic base and negatively impacting our economic diversification in the region?

Please vote no on the draft regulations and help stop the County’s misguided effort to limit visitor access to the region’s public lands.

Sincerely,  
Sharon F  
Mt Shasta, CA

--

**From:** [Sean Callagy](#)  
**To:** [Kilgariff, Kathleen](#); [Rodoni, Dennis](#); [Rice, Katie](#); [BOS](#); [PlanningCommission](#)  
**Cc:** [West Marin Access Coalition](#)  
**Subject:** Re: Comments from WMAC to Draft Regulations  
**Date:** Monday, October 23, 2023 10:18:22 AM  
**Attachments:** [2023.10.23 -- WMAC Report to Marin Planning Commission re Draft STR Regulations FINAL with updated signatures.pdf](#)

---

Some people who received this message don't often get email from [mailseancallagy@gmail.com](mailto:mailseancallagy@gmail.com). [Learn why this is important](#)

Ms. Kilgariff and Members of the Planning Commission:

For your consideration at today's hearing, I am resubmitting the October 11 letter from the West Marin Access Coalition, to reflect additional signatures that have been received in the last 2 weeks. A total of 210 members of the community have now signed the letter. Additionally, the West Marin Access Coalition now totals approximately 350 members.

Best regards,  
Sean Callagy

On Wed, Oct 11, 2023 at 3:57 PM Sean Callagy <[mailseancallagy@gmail.com](mailto:mailseancallagy@gmail.com)> wrote:

Ms. Kilgariff and Members of the Planning Commission:

Please see the attached letter from the West Marin Access Coalition, signed by 123 members of the community.

Best regards,  
Sean Callagy

Report & Recommendations re Draft STR Regulations  
Marin County Planning Commission  
October 23, 2023

October 23, 2023

Marin County Planning Commission  
Board of Supervisor Chambers, Room 330  
Civic Center  
San Rafael CA

***Report & Recommendations Concerning Draft Short Term Rental Regulations for Unincorporated Marin County, September 2023***

Dear Members of the Planning Commission:

We are members of the West Marin Access Coalition (WMAC), a grass-roots organization of 350 individuals (and growing), predominantly West Marin homeowners, but including long- and short-term rental (STR) hosts, visitors, local businesses, and concerned citizens interested in preserving West Marin’s tourism-friendly community.<sup>1</sup> We are entirely volunteer-operated and receive no funding whatsoever.

We believe that everyone should have access to the beautiful parks, beaches, and forests of West Marin. This area has a unique and unparalleled range of coastal and outdoor recreation offerings, framed by over 100 miles of coastline in Marin County along the Pacific Ocean and Tomales Bay and their inlets. The area includes three national park units—Golden Gate National Recreation Area, Muir Woods National Monument and Point Reyes National Seashore—collectively receiving millions of visitors per year. Also in or adjacent to West Marin are three spectacular state parks (Mt. Tamalpais, Samuel P. Taylor and Tomales Bay State Parks), and further open space and beaches owned or administered by local agencies and Marin County Parks. Beyond enjoying the coast and open space, visitors come to the region to connect with nature, family, and self.

On June 9, 2023, we submitted a letter in connection with a June 12, 2023 hearing held before the Marin County Planning Commission. The June 9, 2023 Letter was co-signed by 51 members of the community who are concerned with the County’s targeting of short-term rentals (STRs) and ongoing efforts to reduce or eliminate this essential means of visitor access and mainstay of the local economy. Many of our members spoke at the June 12 hearing. Our central message has been consistent: the County’s recent efforts to target STRs under the guise of protecting housing have been misplaced and not backed by sound data or analysis. In its zeal to target STRs, the County risks jeopardizing coastal access for visitors while irreparably harming the local economy.

---

<sup>1</sup> See <https://www.westmarinaccesscoalition.com/>.

Report & Recommendations re Draft STR Regulations  
Marin County Planning Commission  
October 23, 2023

With the following Report & Recommendations, we address the 11 pages of draft regulations released by the County, after several unexplained delays, on September 18, 2023. These draft regulations, relating to the licensure, operation and reduction of STRs in all of unincorporated Marin County, are referred to below as the “September 2023 Draft Regulations” or “Draft Regulations.”

We recommend that the Planning Commission vote to reject the September 2023 Draft Regulations as unworkable, impractical, and inconsistent with the mandates under the Coastal Act and Local Coastal Program that the County provide visitor access to coastal Marin. Our position is explained below. We thank you for your time and attention to this matter which is essential to the security and livelihood of so many members of our community.

This letter has been updated since it was originally submitted on October 11, 2023 to reflect the size of the West Marin Access Coalition – 350 members – and the total number of signatories, now at 210.

With our gratitude,

West Marin Access Coalition

| <b>Signatories:</b>           | Stinson Beach                   | Inverness                          |
|-------------------------------|---------------------------------|------------------------------------|
| Sean Callagy<br>Inverness     | Bettina Stiewe<br>Stinson Beach | John Arguelles<br>Dillion Beach    |
| Claire Hunsaker<br>Inverness  | Payton Stiewe<br>Stinson Beach  | Morgan Schwanke<br>Marshall        |
| Rachel Dinno<br>Inverness     | Barbara Schwanke<br>Marshall    | Garrett Schwanke<br>Marshall       |
| Jess Taylor<br>Inverness      | Steven Schwanke<br>Marshall     | Maggie Washburn<br>Stinson Beach   |
| Claire Herminjard<br>Petaluma | Winslow Strong<br>Marshall      | Richard Volk<br>Stinson Beach      |
| Audry Koh<br>Stinson Beach    | Tom Duncan<br>Dillion Beach     | Tim Corriero<br>Stinson Beach      |
| Gaeta Bell<br>Stinson Beach   | Camille LeBlanc<br>Inverness    | Roberta Hawthorne<br>Stinson Beach |
| Lynn Fuller                   | Anna McDonnell                  | Jim Hawthorne                      |



Report & Recommendations re Draft STR Regulations  
Marin County Planning Commission  
October 23, 2023

|                                  |                                   |   |
|----------------------------------|-----------------------------------|---|
| Stinson Beach                    | Steven Rubin<br>Stinson Beach     | Lori Butler<br>Stinson Beach            |
| Sophia Schwanke<br>Marshall      | Anna Sonnerstedt<br>Stinson Beach | Catherine Pickel-Hicks<br>Dillion Beach |
| Brianna Schwanke<br>Marshall     | Irving Rubin<br>Stinson Beach     | Rosemary Pickel<br>Dillion Beach        |
| Scott Grooms<br>Stinson Beach    | Mike Durrie<br>Inverness          | Kris Pickel<br>Dillion Beach            |
| Loren Quaglieri<br>Stinson Beach | Catherine Lucas<br>Inverness      | Roger Ravenstad<br>Dillion Beach        |
| Tucker Grooms<br>Stinson Beach   | Jesus Cardel<br>Stinson Beach     | Ken Abrams<br>Dillion Beach             |
| Griffin Grooms<br>Stinson Beach  | Ashley Bird<br>Stinson Beach      | Elizabeth Sterns<br>Stinson Beach       |
| Daniel Kramer<br>El Dorado Hills | Nancy Painter<br>Walnut Creek     | Gerald Sterns<br>Stinson Beach          |
| Ann Kramer<br>El Dorado Hills    | Joe Tobin<br>Stinson Beach        | Lauri Hughes<br>Stinson Beach           |
| Yaella Frankel<br>Richmond       | Zoe Johns<br>Stinson Beach        | Jennifer Battat<br>Stinson Beach        |
| Pat Gallagher<br>Stinson Beach   | Jennifer Bowman<br>Stinson Beach  | Heather Cooper<br>Stinson Beach         |
| Joan Gallagher<br>Stinson Beach  | Bassem Yacoubé<br>Dillion Beach   | Tom Cooper<br>Stinson Beach             |
| Sandy Barger<br>Dillion Beach    | Jennifer Yacoubé<br>Dillion Beach | Esther Martino<br>Inverness             |
| Erick Alvarez<br>Stinson Beach   | Katie Beacock<br>Stinson Beach    | Graham Chisholm<br>Point Reyes Station  |
| Warren Hukill<br>Inverness       | John Butler<br>Stinson Beach      | Jane Thrush<br>Inverness                |

Report & Recommendations re Draft STR Regulations  
Marin County Planning Commission  
October 23, 2023

James Heyman  
Stinson Beach

Michael Parman  
Inverness

Lulu Taylor  
San Francisco

Lisa Hielscher  
Bolinas

Aaron Ely  
Inverness

James Arrigoni  
Stinson Beach

Rob Hielscher  
Bolinas

Hanna Morris  
Point Reyes Station

Jeanice Skvaril  
Inverness

Katherine Kennedy  
Stinson Beach  
Anna Edmondson  
Stinson Beach

Curtis Linton  
Petaluma  
Beatriz Gomez  
Petaluma

Lisa Altman  
Inverness  
Gordon Polon  
Inverness

Peter Rumsey  
Stinson Beach

Juan Gomez  
Petaluma

Ramon Cadiz  
Inverness

James Wayand  
Stinson Beach

Liliana Salgado  
Petaluma

Lisa Hielscher  
Bolinas

Sarah Butler  
Stinson Beach

Maira Garcia  
Marshall

Rob Hielscher  
Bolinas

Nick Tucker  
Oakland

Carolina Renteria  
Inverness

Jhaya Warmington  
Bolinas

Meg Cadiz  
Inverness

Katie Beacock  
Stinson Beach

Adam Warmington  
Bolinas

Michael Anderson  
Forest Knolls

Chip Fuller  
Bolinas

Nicole Brownstein Woods  
Stinson Beach

Brittany Anderson  
Forest Knolls

Neal George  
Bolinas

Lynda Balzan  
Bolinas

John Parman  
Inverness

Susan Raynes  
Inverness

Robert Balzan  
Bolinas

Kathy Snowden  
Inverness

Jim Pettigrew  
Inverness

Julianne Havel  
Inverness

Bojana Miloradovic  
Inverness

Christina Pettigrew  
Inverness

Nick Palter  
Inverness

Report & Recommendations re Draft STR Regulations  
Marin County Planning Commission  
October 23, 2023

|  |   |   |
|--|---|---|
| Peter Havel<br>Woodacre                                    | Michael Malaney<br>Dillon Beach   | Maggie Malaney<br>Dillon Beach                      |
| Jan O'Connor<br>Stinson Beach                              | Michael Wechsler<br>Inverness   | Diana Craig<br>Stinson Beach                        |
| John O'Connor<br>Stinson Beach                             | Kay Kimpton Walker<br>Stinson Beach                                     | Jennifer Golub<br>Inverness                         |
| Jordana Brondo<br>Mill Valley<br>Ali Palmer<br>Mill Valley | Blythe Friedmann<br>Point Reyes Station<br>Linda Martin<br>Dillon Beach | Dino Wilson<br>Petaluma<br>Heidi Wilson<br>Petaluma |
| Robert Palmer III<br>Mill Valley                           | Paula Conrad<br>Mill Valley   | Jim Patterson<br>Point Reyes Station                |
| Dimitra Havriluk<br>Mill Valley                            | Matt Soldo<br>Bolinas   | Ann Patterson<br>Point Reyes Station                |
| Felix Chamberlain<br>Inverness                             | Frank Leahy<br>Inverness  | Jennifer Maher<br>Placerville                       |
| Don Anderson<br>Stinson Beach                              | Brian Maggi<br>Dillon Beach   | Felicia Casper<br>Yakima, Washington                |
| Mark Talucci<br>Bolinas                                    | Linda Maggi<br>Dillon Beach   | Michael Egge Casper<br>Yakima, Washington           |
| Nancy York<br>Inverness                                    | Ian MacColl<br>Stinson Beach  | Darlene Casper<br>Yakima, Washington                |
| Janet Libarle<br>Dillon Beach                              | Lauren Maass<br>Stinson Beach   | Betsy Woods<br>Stinson Beach                        |
| Jeff Libarle<br>Dillon Beach                               | Tim Riley<br>Marshall   | Kathleen Hurley<br>Stinson Beach                    |
| Maureen Pasha<br>Stinson Beach                             | David Hegarty<br>Inverness  | Betsy Wood<br>Stinson Beach                         |
| Sandy Malaney<br>Dillon Beach                              | Jake Malaney<br>Dillon Beach  | Kathleen Hurley<br>Stinson Beach                    |

Report & Recommendations re Draft STR Regulations  
Marin County Planning Commission  
October 23, 2023

Susan Hayes  
Inverness Park

Steve Wiles  
Stinson Beach

Deborah Armanino  
Grass Valley

Paula Hess  
Sacramento

Barbara Wiles  
Stinson Beach

Lawrence LeBlance  
Grass Valley

Terri Lamp  
El Sobrante

Tyson Wiles  
Stinson Beach

Jane Sinton  
Oakland

Alicia Engstrom  
San Francisco  
Nancy Yoshikawa  
Stinson Beach

Kathy Wiles  
Stinson Beach  
Briana Rudolph  
Stinson Beach

Colby Gilbert  
Stinson Beach  
Tracy Minichiello  
Mill Valley

Joshua Kriesel  
San Francisco

Shaun Rudolph  
Stinson Beach

Christiane de Bord  
San Francisco

Sherri Clearlake  
Cupertino

Mary Tesluk  
Stinson Beach

Laurie Dubin  
Larkspur

Elizabeth Garone  
Bolinas

Britta Gooding  
Stinson Beach

Scott Dubin  
Larkspur

Elizabeth Brekhus  
Greenbrae

Michelle Buckles  
Mill Valley

Wendy Donner  
San Anselmo

Keely Hamilton  
San Anselmo

John Maniscalco  
Stinson Beach

Peggy Northrop  
Sausalito

Virginia Erck  
Oakland

Molly Burke  
Novato

Sean Elder  
Sausalito

David Petta  
Oakland

Aran Kaufer  
Berkeley

Cynthia Kula  
San Anselmo

Tom Tuckerman  
Phoenix, AZ

Jennifer Kaufer  
Berkeley

Kenneth Kula  
San Anselmo

Linda Wiles  
Stinson Beach

Adella Kaufer  
Berkeley

Linda Shane  
Rohnert Park

Brad Wiles  
Stinson Beach

Eamonn Kaufer  
Berkeley

Kenneth Shane  
Rohnert Park

Report & Recommendations re Draft STR Regulations  
Marin County Planning Commission  
October 23, 2023

Ingrid Evans  
Stinson Beach

Art Klein  
Stinson Beach

Barbara Borruso  
Mill Valley

Kathleen Tilt

San Francisco  
Lee Flynn  
San Francisco

Ann Hobson  
Big Sur

Peter Hobbs DiGrazia  
Bolinas

Alecia Cotton  
Novato

Mary Wiese  
Mill Valley

Joseph Wiese  
Mill Valley

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## **I. Introduction & Summary of Analysis**

Because we cover considerable subject matter with this Report & Recommendations, we begin with an Executive Summary and then provide an outline of the detailed discussion points that follow.

### **A. Executive Summary**

The September 2023 Draft Regulations are deeply flawed, and the Planning Commission should vote to reject them. In brief, the Draft Regulations suffer from the following key flaws:

1. The September 2023 Draft Regulations will reduce visitor access by imposing arbitrary numerical caps for unhosted or whole-house STRs—by far the most popular form of rental—that are *lower* than those currently in place. These caps were not arrived at by any form of democratic process, and appear to simply represent the status quo ante from the period immediately prior to the County’s announcement of its intent to impose a moratorium. This would create a permanent moratorium frozen at early 2022 levels. Reducing STRs in this manner will reduce lodging options, especially of more modestly priced homes. The result would be to greatly limit public access to the 100+ miles of Pacific and Tomales Bay coastline in Marin County and the nearly 500 square miles of land comprising all of unincorporated Marin County and each of the parks therein. This would represent the single greatest loss in public access in the history of Marin County, if not the entire state of California.
2. The Draft Regulations will further reduce visitor access to the Coast and unincorporated Marin County by making the ongoing operation of existing STRs so burdensome, costly and uncertain that many STR operators will be driven from the market. Potential operators of new STRs will be discouraged from applying for a license due to the unreasonably high costs and uncertainty of completing an application and qualifying for the onerous criteria the County is seeking to impose. The loss of coastal access will be felt most acutely by visitors of modest means who lack the resources to rent luxury homes or stay in expensive local hotels.
3. The September 2023 Draft Regulations irreconcilably conflict with the Coastal Act and applicable Local Coastal Program by changing the long-standing legal status of STRs from a principal permitted use under current law to a presumptively illegal use absent a County-issued permit. This flaw renders the Draft Regulations vulnerable to being rejected by the California Coastal Commission or overturned via costly legal challenges.
4. The County has not outlined the purpose of the September 2023 Draft Regulations, nor presented data or analysis showing that the Draft Regulations will do anything to increase housing availability or affordability in West Marin,



despite the County's claim that this is the main reason for proposing the Draft Regulations in the first place. The County has likewise presented no data demonstrating what impacts these unprecedented regulations will have on the economy of the region, especially the low- and middle-income workers whose livelihood depends on the local tourist economy. Finally, the County has not shown that the 11 pages of detailed and highly burdensome Draft Regulations are justified by current risks to public health, safety or welfare uniquely created by STRs. Indeed, the County's pivot away from a housing-focused approach and toward enacting hyper-technical and unnecessarily burdensome "health and safety" and "good neighbor" rules—with no showing that current regulations are falling short or that the Draft Regulations will be a net benefit to the community—appears indicative of an ulterior motive to punish STR operators and drive them out of the market.

5. By reducing or taking away an economic lifeline counted on by homeowners and local workers alike, the September 2023 Draft Regulations will destroy local jobs and destabilize the very communities they purport to protect. The Draft Regulations will also reduce tax revenues and Measure W funds that are intended to support fire safety and affordable housing goals—directly undermining the very goal the County purports to be protecting. The County has done nothing to quantify these impacts, much less explain how (if at all) it intends to ameliorate these very foreseeable adverse consequences. This further deprives the Commission of the ability to perform a meaningful analysis of the costs and benefits of the Draft Regulations.
6. The September 2023 Draft Regulations are discriminatory. They single out a long-standing residential property use for unprecedented levels of scrutiny and financial burden, as well as unequal and illegal treatment by local agencies. To give one example, the Draft Regulations would expressly permit water companies to cut water allotments to any property with an STR license, such that any property with an STR license could be allotted *less* water than any other similarly situated residential use. If long-term tenants were treated in this way, housing advocates would be howling in protest. The full extent of the burdens is presently unknown, as the County has not disclosed the anticipated permitting fees or the scope of future administrative regulations to be enacted outside of the democratic process. The Draft Regulations would also deprive STR operators of due process rights by vesting unfettered enforcement authority in the Community Development Agency (CDA). Under the Draft Regulations, the CDA could suspend an STR license based on any claim of violation, with no due process rights or recourse for property owners. Owners are concerned about being subject to the whims of the CDA, an unelected body that has shown unjustified hostility by scapegoating STRs for the last several years for a housing situation that STRs did not create.

7. The September 2023 Draft Regulations will create unintended but entirely foreseeable consequences beyond reducing visitor access, destroying local jobs and reducing tax revenues. For instance, the requirement for highly conspicuous signage announcing that a property operates as an STR will act as an invitation for vandalism or break-ins when guests are away. The County's collection of burdensome levels of private data will also bring unwelcome and unnecessary scrutiny to any individual with an interest in a property operated as an STR while risking data breaches. For example, the CDA has made available for download on its website, perhaps accidentally, the names, addresses and business license numbers of all people currently operating Short Term Rentals in unincorporated Marin County, inviting vandalism and theft to these properties. And, by making the lawful operation of STRs virtually impossible to achieve for many properties, the Draft Regulations will encourage individuals to look for ways to circumvent the law and operate in a shadow market.<sup>2</sup>

For each of these reasons, and as further explained below, we recommend that the Planning Commission vote to reject the September 2023 Draft Regulations.

## **B. Outline of Report & Recommendations**

In this Report & Recommendations, we first provide a Historical Background discussing: (1) the history of the region and the fact that STRs have long played a leading role in providing public access to unincorporated Marin County; (2) housing-related issues in unincorporated Marin County; (3) the unfortunate history of anti-visitor sentiment in West Marin; (4) facts and data concerning the operation of STRs in West Marin; and (5) a discussion of the lack of data presented by the County supporting its efforts to target and reduce STRs in West Marin.

Second, we provide a Regulatory Background discussing: (1) the regulatory framework applied by the California Coastal Commission in the evaluation of STR regulations, and (2) the Local Coastal Program (LCP) in unincorporated Marin County and its applicability to STRs.

Third, we provide a Summary of Comments and Questions received during the Planning Commission's June 12, 2023 Hearing, both from members of the Planning Commission and the public.

Fourth, we provide a detailed Analysis of the September 2023 Draft Regulations. We begin by articulating the major flaws in the September 2023 Draft Regulations, before providing commentary in response to each individual provision.

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<sup>2</sup> For a cautionary tale of what happens when overzealous bureaucrats try to limit STRs by governmental fiat, see Amanda Hoover, *New York's Airbnb Ban Is Descending Into Pure Chaos*, Wired (Oct. 9, 2023), available at: <https://www.wired.com/story/airbnb-ban-new-york-illegal-listings/>.

Fifth, we provide questions that we suggest members of the Planning Commission ask County Staff at forthcoming hearings, including questions that Commission members previously asked during the June 12 Hearing and follow-ons thereto but which remain unanswered by the County.

Sixth, we provide concluding remarks and a recommendation that the Planning Commission vote to reject the September 2023 Draft Regulations as unjustified, unworkable and inequitable.

## **II. Historical Background**

In this section, we discuss the background of the communities of West Marin and the role played by STRs in the development of the region. We then discuss housing issues in West Marin over time. Next, we discuss the history of anti-visitor sentiment in the region. We then discuss relevant facts and data concerning STRs in West Marin. Finally, we discuss the lack of data the County has presented in support of its efforts to reduce and hyper-regulate STRs in West Marin.

### **A. Development of Unincorporated West Marin and STRs**

The first settlers of European descent in West Marin largely made their livelihoods through ranching, dairying, farming, fishing, and logging. Several small towns in West Marin formed around these activities. Tomales, Olema and Nicasio were each small towns surrounded by agricultural activity. Bolinas formed around a logging and fishing port on the Bolinas Lagoon. With the construction of the North Pacific Coast Railroad connecting East Marin to Tomales and beyond after 1876, other small communities formed and grew along the railroad's route, including communities in the San Geronimo Valley (Woodacre, San Geronimo, Forest Knolls, Lagunitas), the town of Pt. Reyes Station, and communities on the east shore of Tomales Bay (Bivalve, Marshall, Marconi).

As early as the late 19<sup>th</sup> Century, and continuing throughout the 20<sup>th</sup> Century, short-term rentals have been a prominent means of visitor access to West Marin. For decades, many homeowners spent part of the summer in their homes and rented their homes out during periods the property would otherwise be vacant. The term "short-term rental" was not in parlance; these arrangements were simply called "vacation rentals." Often, visitors returned to the same summer home for several weeks or a set month each summer. Vacation rentals were also arranged by word of mouth, classified ads, bulletin boards in town centers, or set up through local real estate offices.

In the late 19<sup>th</sup> Century and into the 20<sup>th</sup> Century, new communities were also formed to serve summer visitors, while existing communities increasingly shifted to hosting seasonal visitors as well. Inverness was formed as a "summer colony" with dozens of small lots platted for cabins along the west shore of Tomales Bay<sup>3</sup>; the area expanded throughout the 20<sup>th</sup> Century to encompass all of present-day Inverness and Inverness Park. Willow Camp formed across the lagoon from Bolinas as a summer destination; it is now known as Stinson Beach. Dillon Beach was formed in the early 20<sup>th</sup> Century as a resort with rental cabins and saw most of its growth in summer homes after World War II. When the Bolinas Lagoon silted in due to logging and the railroad could more efficiently transport the wood and paper products milled at the S.P. Taylor mill, Bolinas also became more of a summer destination for visitors from Marin and beyond.

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<sup>3</sup> Inverness Community Plan, at 1-2, *available at*: [https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/publications/communityandareaplans/inverness\\_ridge\\_communities\\_plan\\_1983.pdf](https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/publications/communityandareaplans/inverness_ridge_communities_plan_1983.pdf).

Throughout the 20<sup>th</sup> Century, and especially following World War II, the region saw a gradual shift away from farming and ranching being the predominant form of land use, toward conservation-oriented and recreational uses. In 1908, President Roosevelt established Muir Woods National Monument. Mt. Tamalpais became a state park in 1912, followed by Tomales Bay State Park in the 1950s. Congress authorized the creation of Point Reyes National Seashore in 1962, and the park was established in 1972 along with the Golden Gate National Recreation Area, which runs from the north end of the Golden Gate Bridge all the way to the southern boundary of Point Reyes National Seashore at Bolinas. Between GGNRA and PRNS, the entire coastline of Marin is held in public trust, primarily by the National Park Service. Marin is thus unique in having all of the coast and coastal zone, with the exception of the villages themselves, dedicated to the public. Many other parts of West Marin are protected or made accessible to the public by conservation easements and the creation of numerous smaller park units. Parks are our history. They are what attract residents and visitors alike, and they are a pillar of the present-day local economy.

Many present-day homeowners first became acquainted with West Marin as visitors staying in “vacation rentals,” now referred to as short-term rentals. Indeed, for much of the history of the region, vacation rentals were the sole or predominant means to visit a community. Many individuals with longstanding ties to the community continue to patronize short-term rentals if they are not fortunate enough to have a home of their own. Of course, first-time and infrequent visitors to the region also use short-term rentals because they provide a private, cost-effective, and authentic way to experience the communities and the coastal recreational opportunities nearby. The County recognized this in its Staff Report in advance of the June 12 Hearing, noting: “A number of communities in the Coastal Zone have traditionally been popular vacation destinations with many homes being used as vacation rentals for many years, if not generations.” Moreover, renting out a vacation home has traditionally been a path to enabling homeownership, as the owner can use the supplemental income to pay down the mortgage and manage the carrying costs. This is a practice very much in evidence today, as many individuals use STR income to afford a home and remain members of the community.

With the advent of online platforms such as VRBO and AirBNB, the rental of STRs shifted from informal and local means (word-of-mouth, classified ads or listings hosted by real estate companies) to centralized platforms. This has made the process of searching for and booking an STR more convenient, secure and cost-effective for individuals while providing a greater share of revenues to homeowners. The effect has been to preserve and increase visitor access without requiring the creation of new large hotels or resorts and the stresses on infrastructure and resources that these entail.

Considering the established history of vacation communities in which STRs have indisputably been a feature of how visitors have accessed the region’s public resources for generations, the County has not presented data concerning the historical levels of STRs by community, nor how they will meet visitor housing needs. While it may be that more homes are now available for rent that would previously have simply sat vacant, thanks to the ease and

security of platforms like VRBO and AirBNB, this Commission has not been presented with a numerical basis for assessing long-term trends in the numbers of STRs over time. What is clear is that STRs are not a new phenomenon, and banning or reducing STRs would not only be contrary to long-standing traditions and local and state policy, it would be deeply unfair and inequitable.

## **B. Housing in Unincorporated West Marin**

As with much of California, the need for housing has been a topic in Marin County and West Marin for decades. From 1940 to 1970, the population of Marin County increased fourfold, from 52,907 to 206,038.<sup>4</sup> In recent decades, many more individuals have chosen to reside in West Marin full-time, creating the pattern of limited housing options and relatively high prices evident today.

Many factors have contributed to a housing shortage in West Marin. In 1971, the Bolinas Community Public Utility District passed an emergency moratorium on new connections to the town's water system. That moratorium, still in effect today, has acted both as a limit on growth and a catalyst for more expensive housing.<sup>5</sup> Other communities such as Inverness have had similar water metering policies and moratoria in place at various times that have limited growth. In addition, zoning rules require single-family homes on large lot sizes in many communities, leading to the construction of expensive homes that are not affordable for lower- or middle-income residents.

With supply limited (or capped outright) and demand increasing over the course of decades, it should come as no surprise that the availability and affordability of housing have long been a concern. The Bolinas Community Plan of 1975, for example, recognized that the price of a single-family home had "increased dramatically" from just 1970 to 1974 (*i.e.*, following the enactment of the water meter moratorium).<sup>6</sup> The same Plan recognized the "increasing difficulty for low- and medium-income families and individuals to find housing in Marin. The elderly and young families with restrict incomes have less and less chance to live here," such that "[o]ut-law buildings and shared households are rapidly becoming the only low income housing in Bolinas."<sup>7</sup> In other words, housing availability and affordability were just as much of a topic in 1975 as they are today.

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<sup>4</sup> See <http://www.bayareacensus.ca.gov/counties/MarinCounty50.htm>, <http://www.bayareacensus.ca.gov/counties/MarinCounty70.htm>.

<sup>5</sup> See Sean Callagy, *The Water Moratorium: Takings, Markets, and Public Choice Implications of Water Districts*, 35 *ECOLOGY LAW QUARTERLY* 223 (2008), available at <https://www.jstor.org/stable/24114645>.

<sup>6</sup> Bolinas Community Plan, at 51, available at: [https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/publications/communityandareaplans/bolinas\\_community\\_plan\\_1975.pdf](https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/publications/communityandareaplans/bolinas_community_plan_1975.pdf).

<sup>7</sup> *Id.*

While housing-related concerns are not new, what is unprecedented is laying the blame for this state of affairs on STRs. A vocal minority has, without evidence and contrary to studies that show this is not the case, claimed that STRs are chiefly responsible for reducing the stock of affordable housing. The County itself has echoed this without critical analysis or evidence, stating without evidentiary support in a recent Staff Report that:

*a high percentage of homes being dedicated to STRs in some smaller towns and villages is seen as hollowing out local communities, adversely affecting the schools and social fabric enjoyed in these smaller towns and villages. Further, there are growing concerns in Marin communities about impacts of STRs on the availability of housing for workforce, families, and community members as well as the ability to build and maintain the human relationships that form community.*

The County's use of the passive voice, and failure to cite evidence, are telling. The County has offered no data or reliable analysis of the impact of STRs on schools, housing, or other aspects of the "social fabric" that anti-STR voices claim are adversely impacted. We implore the Commission to ask the County why it has not presented data and why it has uncritically accepted the unsubstantiated claims and opinions of anti-STR voices in lieu of fact-based analysis.<sup>8</sup>

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<sup>8</sup> For example, the County's Background Information page on STRs relies entirely on unsubstantiated and anecdotal concerns and claims about what effects "may" be flowing from STRs, or what "appears" to be happening, yet never offers proof or data in support. Namely:

*At the time the Ordinance No. 3739 was approved [in 2020], both staff and the Board acknowledged that a number of public commenters expressed concerns about the impacts of STRs on communities and requested reevaluation of the County's STR Ordinance to expand its scope and purpose. [...]*

*Community discussions connected with the Housing Element have indicated that STR uses may be affecting the supply and affordability of housing, particularly in West Marin communities which have become increasingly attractive to homebuyers and where there are relatively small numbers of homes. Overall, it appears that in the context of labor shortages, increased costs, and demand, STRs are increasingly impacting the health and safety of local communities, especially in the West Marin Area.*

See <https://www.marincounty.org/main/short-term-rental-background-information>.

### **C. Anti-Visitor Sentiment in West Marin**

While all can seemingly agree that West Marin is a wonderful place, some residents appear to be of the view that they should not have to share it with visitors. For decades, West Marin has displayed a hostility toward visitors (often derisively referred to as mere “tourists”) bordering on xenophobia. This appears to be especially prevalent among those who are economically privileged enough that they do not need to rely on visitors, or the economic activity they generate, for any part of their livelihood or ability to remain in West Marin. As the drafters of the Bolinas Community Plan put it in surprisingly blunt terms nearly fifty years ago: “It is not the proper business, nor is it the duty of Bolinas to provide overnight facilities for tourists just because we are here!”<sup>9</sup> The California Coastal Commission and Local Coastal Program do not agree with this sentiment, as will be discussed below.

While certain Bolinas residents have long been notorious for tearing down road signs and organizing shadowy anti-visitor groups like the “Bolinas Border Patrol” that leave nasty notes and faux “parking tickets” on visitors’ cars<sup>10</sup>, other communities have shown their own flavors of hostility to visitors as well.

When the Point Reyes National Seashore was being created, residents of Inverness did not want visitors to the park driving through their community. Rather than take Sir Francis Drake, the residents of Inverness advocated for the development of a new “bypass” route that would cut directly across the middle of the National Seashore, across Muddy Hollow, to reach the Point Reyes Lighthouse.<sup>11</sup> This would have caused the destruction of a natural landscape simply to limit visitors from driving on a public road through the community. Fortunately, they were overruled.

This history is repeating itself. In 2018, the County added a 4% increase on the cost of every short-term rental in West Marin, and only West Marin, bringing the county tax to 14% on visitors to West Marin (one of the highest transient occupancy taxes in the nation). And, with the September 2023 Draft Regulations, opposition to visitors and efforts to erect legal roadblocks and reduce overnight stays are on full display.

### **D. Facts and Data Concerning STRs**

Because the County has not fairly presented facts concerning STRs, we endeavor to do so here.

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<sup>9</sup> Bolinas Community Plan, at 59.

<sup>10</sup> See <http://www.adobebooks.com/adobe-blog-scroll/2018/11/11/the-bolinas-scene>;  
<https://www.ptreyeslight.com/news/new-parking-tickets-bolinas/>.

<sup>11</sup> Inverness Ridge Communities Plan (1983), at 100, available at: [https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/publications/communityandareaplans/inverness\\_ridge\\_communities\\_plan\\_1983.pdf](https://www.marincounty.org/-/media/files/departments/cd/planning/currentplanning/publications/communityandareaplans/inverness_ridge_communities_plan_1983.pdf).



**1. Overnight visitors spend money in the local community.** In addition to the transient occupancy tax revenues, visitors create jobs by spending money in our restaurants, stores and galleries, as well as on wildlife and sporting-related amenities and services. In California’s coastal communities, studies have found that for every \$100 spent on lodging, visitors spend an additional \$69 on food, \$48 on recreational activities, and \$59 on retail shopping. This is supported by a report released by the National Park Service in August 2023 that calculates that the 2.3 million visitors to the Point Reyes National Seashore contributed over \$117 million to the economy of the nearby communities, supporting over 1,120 jobs with an accumulative benefit of \$149 million to Marin’s local economy in 2022.<sup>12</sup>

Other studies return consistent findings: overnight guests contribute far more to the economy than day-only visitors. A 2019 study by the Marin County Visitor’s Bureau and Marin Economic Forum found that “Marin County visitors spend on average \$147 when they stay overnight and just over \$59 when they do not per person per day.”<sup>13</sup>

The County has not calculated how the September 2023 Draft regulations would impact this economy. Nor has the County modeled what the sudden loss of transient occupancy tax revenues would mean for the County’s general funds, nor for achieving fire safety and housing affordability goals that Measure W taxes directly support. The Planning Commission should ask the County why it has not performed any of this analysis, despite purporting to have studied this issue for several years.

**2. Tourism is West Marin’s primary economic driver,** and overnight stays are a vital part of West Marin, ultimately creating jobs and millions of dollars in economic activity, wages and tax revenue. The County needs to encourage overnight visitors, not push them away or deter them with artificially constrained options at prohibitive costs. What will happen if fewer homes are available for vacation purposes? The local economy will suffer a loss of jobs, services and tax revenue; the community will be less vibrant due to the rise in neglected homes, and the middle class who depend on the revenue to pay mortgage and property tax will be driven out of the community and lose their path toward homeownership.

**3. Limiting visitors to the region will result in a loss of jobs, quality services and tax revenue.** Most businesses in our community (from restaurants, grocery stores, artists, shops, galleries as well as operators of farm and oyster tours, cheese and wine tastings) depend on visitors to the region. If people don’t stay in West Marin, they will not shop in our stores, dine in our restaurants, buy our art, rent kayaks, tour and taste delicacies from nearby farms. This will

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<sup>12</sup> See <https://www.kron4.com/news/bay-area/tourism-at-point-reyes-contributed-149m-to-local-economy-report/>.

<sup>13</sup> Marin Economic Forum & Marin County Visitor’s Bureau, State Of The Visitor Industry in Marin County (November 2019), available at: <https://marineconomicforum.org/wp-content/uploads/2020/02/MCVB-visitors-study-120619-Final.pdf>.

result in a decline in the goods and services provided to the existing residents, jobs will be lost, and tax revenue will decline.

**4. Affordable accommodations within the park are slim and becoming more scarce and costly.** There are only four hike-in campgrounds within the Point Reyes National Seashore and limited public and private camping options elsewhere in West Marin that are regularly completely booked during peak times (and not suitable for all visitors). In 2021, the NPS closed the Marin Headlands Youth Hostel and in 2023, NPS transferred the management of the Limantour Youth Hostel from a nonprofit to a corporation. The campground at Tomales Bay State Park is now closed, and the number of overnight spaces at other low-cost options such as Lawson’s Landing has been reduced over time.

**5. Short-term rentals provide a range of affordable options with minimal community impact.** Short-term vacation rentals/homes, spread throughout West Marin, provide many housing options from camping to single-family luxury homes. Visitor housing, spread throughout the region, preserves the unique character of our community, avoids large concentrations around mega-hotel projects, reduces traffic from those that would otherwise be forced to find housing elsewhere and commute to West Marin daily, and ensures that services on which we each depend (groceries, restaurants, and stores) have enough business to economically sustain themselves.

Short-term rentals, dispersed throughout the region, increase both the supply and variety of tourist accommodation, making travel more affordable, especially for families and groups for whom purchasing multiple hotel rooms can be costly. In a recent analysis, short-term rentals were found to be nearly 3x less expensive than hotels, motels and lodges in the region. An assessment of the cost of every available home on a randomly sampled date, in the communities closest to the National Parklands (including Marshall, Point Reyes Station, Olema, Inverness, Bolinas, Stinson and Muir Beach) revealed that the average cost per bed in a single-family home was \$162 per night. In comparison, the average cost of a bed in a single room in one of the six hotels, motels, resorts, and inns is \$427 per night.

In addition to providing a more affordable nightly rate per room, a home provides families with private kitchens and dining areas where they can share meals, lounging and relaxation areas, and outdoor patios and yards, as well as greatly appreciated services such as washers and dryers. For larger families and groups of more modest socioeconomic means, this may be the only way they can afford to spend time in the region. Other visitors from diverse communities value the ability to feel safe and “at home” in a private home in a way that is often not possible in a large hotel or campground. By shutting out these visitors, the County will make an area that already has shockingly little socioeconomic and racial diversity even more exclusive.

The Planning Commission should ask why the County has not considered the needs of diverse visitors and is seemingly willing to bar visitors of lower socioeconomic means from their ability to enjoy a stay in the local communities of West Marin.

**6. STRs fund affordable housing and fire safety.** In addition to providing the most affordable vacation housing on the coast, STRs provide a key funding source for affordable housing in West Marin. Since its inception, the 4% Measure W tax on every STR visit (imposed over and above the County’s 10% transient occupancy tax) has generated over \$3 million for affordable housing and another \$3 million for emergency services. Why undermine or cut off this source of funding for affordable housing and vital, life-saving services?

The Planning Commission should ask why our county officials are targeting vacation rentals when these hosts are providing a much-needed service in a manner that has the least impact on our community’s character and our collective climate footprint while providing the financing that ensures daily services for the permanent residents.

**7. STRs do not drive up housing or rent prices.** A recent study by Oxford Economics<sup>14</sup> has concluded that, in inflation-adjusted terms, STRs contributed just 0.4% to the increase in U.S. housing prices from 2014 to 2021. In the same period, STRs contributed just 0.5% to the increase in U.S. inflation-adjusted rents. In other words, even if STRs had been *banned* in West Marin in the last decade—which of course would not be permitted under the Local Coastal Program—the economic factors affecting housing prices would have been virtually identical, and the housing situation would be the same. Conversely, this shows that the proposed caps and reductions on STRs in the Draft Regulations would have virtually no impact on long-term housing affordability and availability.

**8. The economics of STRs are challenging.** A common misconception among the County and opponents of STRs is that the operation of STRs is so simple and lucrative that they excessively drive up property values, create a huge incentive to drive out long-term tenants, and attract absentee corporate investors. None of these assumptions is true.

Many operators of STRs are only able to defray a portion of homeownership costs and are not anywhere near breaking even in paying for their mortgage, taxes, utilities, upkeep costs, and operating costs (including platform fees, local agent fees, perks for guests, etc.). West Marin visitor patterns are highly weekend-oriented and seasonal, with few visitors mid-week and a significant drop-off in visitors in colder, wetter months. As a result, year-round occupancy rates are often well below 50%. This distinguishes West Marin from markets with sustained year-round demand, such as New York City. Moreover, the spike in visitors seen in 2021 and early 2022 has ebbed as the Coronavirus pandemic has ended and international destinations are open once again. Many owners hope at best to break even or make a small surplus in the summer months and accept that they will make almost nothing and lose money in the winter months.

To illustrate: one single-family house in Inverness’s Seahaven neighborhood saw a total of 34 nights rented over a six-month period from December 2022 to May 2023, an occupancy rate of under 19%. After costs, the operators netted approximately \$800 per month. Even after

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<sup>14</sup> *Understanding The Real Drivers of Housing Affordability, An Assessment of the Role of Short-Term Vacation Rentals*, Oxford Economics, June 2023.

factoring in the higher summer occupancy rates of around 50%, the operators netted just under \$1300 per month on an *annualized* basis. This did not pay even a quarter of the carrying costs of the home. Had the homeowners rented the house on a long-term basis and received the median rent for unincorporated Marin (\$2900, as reported by the County), they would have netted over double the revenue over the course of the year (yet still lost money on the property as a whole). However, a long-term tenancy was not an option for the homeowners, who enjoy spending time with their family at the home as well.

Furthermore, visitors are discerning. They carefully select from among options in picking a home of the appropriate size, stocked with the appropriate amenities and safety features, in their desired location. STR operators have to invest in their properties and quickly respond to guest inquiries to earn favorable reviews. Thus, the operating costs and sweat equity that come with operating an STR are often far higher than for a long-term rental. The communities benefit from this dynamic, as these additional efforts create and support many local jobs.

Several homeowners who spoke at the June 12, 2023 Planning Commission meeting confirmed that occupancy rates have come down substantially from pandemic-era highs, as much as 40% from the high-water marks briefly seen in 2021 and 2022. In tandem with this trend, nightly rates have come down, too. These trends, and other factors making STR ownership a challenge, have been evident in other STR markets nationwide. The County cannot make good policy based on assumptions concerning a brief but extraordinary set of market conditions that is unlikely to recur.<sup>15</sup>

**8. The only “corporations” operating STRs in West Marin are the hotels and motels that the County would exempt from the Draft Regulations.** There is no evidence for the often-heard talking point about “corporate” investors allegedly snapping up properties locally to operate as STRs. Our members have reviewed practically every STR listing in West Marin and were able to identify individuals associated with each property who either reside locally or have long-standing ties to the community. A commenter at the June 12, 2023 Hearing provided numerical support to explain that, at typical property prices in West Marin, it would make no economic sense for a Real Estate Investment Trust (REIT) or other investor-driven entity to buy properties to add to the local STR market—the median nightly rates and occupancy rates would cause each property to immediately lose thousands of dollars per month. The claim that “corporations” are behind STRs or are driving out residents is an empty talking point devoid of evidentiary support. The only instances in which corporations have invested in and driven up prices of overnight accommodations are for larger hostel properties, such as the Marconi Conference Center, which just this year became “part of a larger hospitality portfolio owned by Oliver Hospitality who own multiple high-end properties across the U.S.”<sup>16</sup>

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<sup>15</sup> See <https://www.bloomberg.com/news/features/2023-08-10/why-being-an-airbnb-host-is-much-harder-than-in-the-past?srnd=premium>.

<sup>16</sup> See <https://brokeassstuart.com/2023/06/02/youll-soon-be-able-to-stay-at-an-infamous-cult-house/>.

### **E. The County Has Not Presented Data In Support of its Draft Regulations**

Despite its efforts to blame STRs for various ills, the County has provided no data concerning the historic levels of STRs in prior periods and thus has offered no evidence to contextualize the degree to which STRs have grown in popularity versus simply becoming more visible due to being listed on easy-to-search online platforms. Rather, the County has, time and again, repeated talking points from the anti-STR contingent or cited isolated anecdotes without connecting these to broader trends.

Last year, the County presented projections from companies like AirDNA in lieu of the County's data. After substantial and justified public criticism that AirDNA's projections vastly overstated the occupancy rates and median returns from STRs in the region, the County abandoned these projections.<sup>17</sup> However, the County has not come forward with actual data relevant to occupancy rates and nightly prices. The County has indicated that it does not have such data in readily available form. This is a surprising statement given that each STR operator must submit a monthly report indicating the revenues received. These reports include the number of nights that STR guests have stayed in a home. Why isn't the County using the very data it requires STR operators to submit? Instead of doing so, the Draft Regulations rely on faulty and misleading assumptions.

Further compounding the problem, the County has provided no data concerning how STRs were previously used – *i.e.*, how many homes simply sat vacant when the owners were away. At the June 12 Hearing, the Director of the Community Development Agency admitted that the County does not have this information, meaning it would be pure speculation to assert that today's STRs were yesterday's long-term rentals, or something other than vacation homes that sat vacant for part of the year. It would therefore be further speculation to assume that a property that loses its STR license would convert to a long-term tenancy or low-income housing, perhaps for the first time in the property's history. Indeed, many STR owners have made abundantly clear that they have no interest in becoming long-term landlords. However, the false assumption that there is a direct, inverse correlation between the number of STRs and long-term rentals is at the heart of the County's assertion that by imposing operational barriers and numerical limits on the numbers of STRs allowed to legally operate, it can somehow cause more long-term rentals to come into existence.

Furthermore, the County has presented no data concerning the *intensity* of use. As this Commission recognized during the June 12 hearing, context matters, and there can be a qualitative difference in the impacts made by a home that is used as an STR part-time and

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<sup>17</sup> To give one example of the flawed methodology behind the projections, it appears that AirDNA assumed that any period of unavailability shown on a listing calendar was indicative of a paid booking, ignoring that it was at least equally likely that this was a time in which the homeowner had blocked out the calendar for personal use.

occupied by the owners part-time (which describes the vast majority of STRs in West Marin), versus a property that is solely used as an STR and occupied virtually every night of the year (which are comparatively few). Additionally, we are aware of some STRs that have a TOT license but are currently not available for rent, either because the owners rented in the past but have taken a break from doing so, or because an STR license was acquired “defensively” in anticipation of the moratorium. The County has not collected or presented any data on the intensity of the use of STRs, acknowledging that the Department of Finance does not track such information. Without data concerning the range and intensity of uses, however, there is no basis to accept the County’s assertion that it is now necessary to impose caps or additional, highly burdensome health and safety and “good neighbor” measures. There is also no support for the assertion that a property primarily used as an STR is tantamount to a “commercial use.”<sup>18</sup> Nor is there evidence to support the County’s assertion that reduced numerical limits on whole-house STRs should be implemented in every single community in West Marin.

The draft regulations and the Community Development Agency webpage on STR regulation repeatedly assert that the goal of the regulations is to create affordable housing. As shown above, there is no data to suggest that driving out or hyper-regulating STRs will do anything in this regard. The creation of affordable housing has not been supported by a single piece of data, professional or academic research. It is simply a reiteration of talking points or rationales from non-comparable housing markets by STR opponents. The communities impacted by the proposed regulations are predominantly tourist destinations developed and maintained at great public expense—many of these communities were originally developed exclusively as vacation home communities. The housing stock covered by this regulation is not consistent with the goals of affordable housing creation, offering limited employment opportunities, high cost of living, low transit service and limited public services, especially medical service. Moreover, the housing stock covered by this policy, even if transitioned from STR to other use, would not be affordable based on the level of finish, square footage and location. The ordinance will have the effect not of creating affordable long-term housing, but eliminating affordable short-term housing—reducing the public’s access to the Coast at affordable levels. Affordable outdoor recreation opportunities will be removed with no resulting increase in affordable housing.

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<sup>18</sup> We discuss why STRs are not legally considered a “commercial” use in Section III.B.

### **III. Regulatory Background**

In this Section, we describe the framework that applies to the September 2023 Draft Regulations and other regulations applicable to STRs within the Coastal Zone of Marin County.

#### **A. The Coastal Commission’s Regulatory Framework**

The Coastal Act of 1976 provides the framework for making land use decisions in the state’s Coastal Zone. The Act is administered by the California Coastal Commission. As the Coastal Commission has explained, the Coastal Act emphasizes, among other things, “the importance of the public being able to access the coast.”<sup>19</sup> The Act also “prioritizes coastal recreation as well as commercial and industrial uses that need a waterfront location. It calls for orderly, balanced development, consistent with these priorities and taking into account the constitutionally protected rights of property owners.”<sup>20</sup>

In 2016, Steve Kinsey, then Chair of the Coastal Commission and formerly a Marin County Supervisor for West Marin, issued a guidance memorandum for Coastal Planning and Community Development Directors with respect to the regulation of STRs.<sup>21</sup> While we will not attempt to summarize the entirety of this document, the Kinsey memorandum did note that “vacation rental regulation in the coastal zone must occur within the context of your local coastal program (LCP) and/or be authorized pursuant to a coastal development permit (CDP). The regulation of short-term/vacation rentals represents a change in the intensity of use and of access to the shoreline, and thus constitutes development to which the Coastal Act and LCPs must apply.”

The Kinsey memorandum further noted that “in situations where a community already provides an ample supply of vacation rentals and where further proliferation of vacation rentals would impair community character or other coastal resources, restrictions may be appropriate. In any case, we strongly support developing reasonable and balanced regulations that can be tailored to address the specific issues within your community to allow for vacation rentals, while providing appropriate regulation to ensure consistency with applicable laws.” Further, the Kinsey memorandum stated: “We believe that vacation rentals provide an important source of visitor accommodations in the coastal zone, especially for larger families and groups and for people of a wide range of economic backgrounds.” The memorandum later reiterated its obligation to uphold “Coastal Act provisions requiring that public recreational access opportunities be maximized.”

We will not purport to summarize the various STR provisions and limits that the California Coastal Commission has rejected as inconsistent with the Coastal Act, or the limited

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<sup>19</sup> See <https://www.coastal.ca.gov/coastalvoices/IntroductionToCoastalAct.pdf>.

<sup>20</sup> *Id.*

<sup>21</sup> See [https://documents.coastal.ca.gov/assets/la/Short\\_Term\\_Vacation\\_Rental\\_to\\_Coastal\\_Planning\\_&\\_Devt\\_Directors\\_120616.pdf](https://documents.coastal.ca.gov/assets/la/Short_Term_Vacation_Rental_to_Coastal_Planning_&_Devt_Directors_120616.pdf).

instances in which the Commission permitted limits to be enacted based on the required showings discussed above. However, it is worth noting that, in rejecting as unduly restrictive certain proposals by the City of Half Moon Bay, the Commission reiterated that it “has long recognized that STRs can provide a unique and important source of visitor-serving accommodations in the Coastal Zone, especially for larger families and groups, and has typically found that bans or undue restrictions on this type of lodging are inconsistent with Coastal Act and/or LCP policies prioritizing public access and visitor-serving uses.”<sup>22</sup>

In sum, the Coastal Commission requires that STR regulation be consistent with the Local Coastal Program and maximize recreational access to the public, including for individuals of a wide range of economic backgrounds. And, for limits on STRs to be considered appropriate, the County must come forward with evidence that “a community already provides an ample supply of vacation rentals,” and that “further proliferation of vacation rentals would impair community character or other coastal resources.” To date, nothing in the data or analysis presented by the County meets these requirements. This lack of evidence cannot be backfilled by talking points and mere opinions. Indeed, it is worth noting that many of the communities in West Marin and areas close to the most popular visitor attractions have little to no other overnight options, making STRs the main, of not only, way to experience many unique attractions in West Marin. In short, the County has not explained or presented evidence that the September 2023 Draft Regulations are consistent with the mandates of the Coastal Act and the requirements of the Local Coastal Program.

## **B. Relevant Policies of the Marin County Local Coastal Program**

The Marin County Local Coastal Program consists of a Land Use Plan (LUP), a Development Code, and various maps and appendices.<sup>23</sup> The Community Development portion of the LUP provides numerous community-specific policies. Fully ten pages of the LUP are dedicated to “Parks, Recreation, and Visitor-Serving Uses” (PK).

In the Background to the PK policies, the LUP notes (emphasis added):

*Provision of recreational opportunities in the Coastal Zone is important as a means to preserve the natural landscape, as well as to enable the public to use and enjoy its many parks and recreation areas. Enjoyment of coastal resources increases public knowledge about the value of the natural environment and the need to protect it. **Overnight accommodations are a key element in the provision of coastal***

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<sup>22</sup> California Coastal Commission, City of Half Moon Bay LCP Amendment Number LCP-2-HMB-21-0078-2 (Short Term Rentals and Home Occupations), Staff Report for Feb. 24, 2023 and Mar. 8, 2023 Hearing, at 2.

<sup>23</sup> See <https://www.marincounty.org/-/media/files/departments/cd/planning/local-coastal/2021/plans-policies-regulations-lcpage/new-lup-policies.pdf?la=en>.



*recreational opportunities, since many coastal visitors travel long distances to reach the variety of recreation options found throughout the County. By supporting lower cost overnight facilities and public recreation, the Local Coastal Program (LCP) is helping to ensure that everyone, regardless of economic status, can take advantage of such opportunities.*

Several specific policies further support these goals:

***C-PK-1 Opportunities for Coastal Recreation.** Provide high priority for development of visitor-serving and commercial recreational facilities designed to enhance public opportunities for lower-cost coastal recreation. [...]*

***C-PK-7 Lower Cost Recreational Facilities.** Protect and retain existing lower cost visitor and recreational facilities. Prohibit conversion of an existing lower-cost overnight facility unless replaced in kind. [...]*

Many community-specific policies call for maintaining or increasing visitor-serving facilities and overnight accommodations. For example, in Point Reyes Station:

***C-PRS-3 Visitor-Serving and Commercial Facilities.** Encourage development of additional visitor-serving and commercial facilities, especially overnight accommodations.*

Finally, the LUP recognizes the role of short-term rentals in the LUP, and merely permits the County to regulate—but not reduce or eliminate—the use of “primary or second units” as short-term vacation rentals. And, in implementing this policy, the County must work together with community groups:

***C-HS-6 Regulate Short-Term Rental of Primary or Second Units.** Regulate the use of residential housing for short term vacation rentals.*

***Program C-HS-6.a Vacation Rental Ordinance***

- 1. Work with community groups to develop an ordinance regulating short-term vacation rentals.*
- 2. Research and report to the Board of Supervisors on the feasibility of such an ordinance, options for enforcement, estimated program cost to the County, and the legal framework associated with rental properties.*

Indeed, the County has already implemented two separate Ordinances to “regulate” the STR market. In 2018, the County passed Ordinance No. 3965. This “required neighbor notification of STRs, required renters be provided with ‘Good Neighbor’ house rules, and established a STR Hotline for complaints (which is currently operated by Host Compliance, the County’s third party STR monitor). Additionally, the Ordinance requires STR operators register for a Business License and TOT Certificate, providing accountability and payment of taxes and fees commensurate with the commercial use.”<sup>24</sup>

The County re-enacted and updated certain of these provisions in 2020 with the enactment of Ordinance No. 3739.<sup>25</sup> Thus, the County has already complied with the LUP’s policy guidance to provide regulations. Nothing in the LUP permits the County to cut out community involvement in the way it has done, nor to *reduce* STR access via moratoria, caps or over-regulation. But, with the County’s surprise moratorium enacted via Ordinance Nos. 3768 (initial 45-day moratorium) and 3769 (extending the initial moratorium through May 23, 2024), and now with the Draft September 2023 Regulations drafted behind closed doors and released with virtually no involvement of the communities in question, the County would undermine the policies and requirements of the LUP.

The County’s Implementation Plan for the LUP contains several zoning provisions relevant to STRs that confirm that the County’s efforts to reduce STRs are contrary to law.<sup>26</sup> In particular, Table 5-2-c provides that, in the Coastal Residential Districts that comprise the majority of the areas where STRs are located, “Room rentals” and “Residential accessory uses and structures” are both “principal permitted uses” for which no use permit is required. The County defines “Residential Accessory Uses and Structures (land use)” to consist of and include “any use that is customarily a part of, and clearly incidental and secondary to, a residence and does not change the character of the residential use.” STRs have been customarily a part of residential use for generations in West Marin, as discussed above. Further, the character of the use of an STR is identical to that of a residential use—in both cases, individuals are using a residential property for sleeping, cooking, washing, recreation, etc. Contrary to this longstanding history, the September 2023 Draft Regulations would usher in a fundamental change in land use by treating STRs as presumptively *banned* and unpermitted unless the owner obtains and renews a use permit in the form of an STR license.

In discussions about this issue, some opponents of STRs have espoused the view that the operation of an STR is tantamount to a “commercial use” and thus not within the scope of the above-listed principal permitted residential uses. This is false. *Protect Our Neighborhoods v. City of Palm Springs*, a decision issued by the California Court of Appeal just last year, addresses this issue. In its decision, the Court of Appeal rejected the “STR as commercial use”

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<sup>24</sup> See <https://www.marincounty.org/main/short-term-rental-background-information>.

<sup>25</sup> See *id.*

<sup>26</sup> See <https://www.marincounty.org/-/media/files/departments/cd/planning/local-coastal/2021/plans-policies-regulations-lcpage/new-development-standards.pdf?la=en>.

argument as resting on “a false dichotomy between ‘residential’ and ‘commercial.’”<sup>27</sup> Specifically, the Court recognized that under the applicable Palm Springs ordinance—just as in the above-cited ordinances in West Marin—operating an STR “is a use *customarily incident to* use as a single-family dwelling. An owner customarily can rent out a house short-term as well as long-term. Airbnb did not invent this practice; it just made it easier and more common.”<sup>28</sup>

In other words, whether the owner rents to guests on a short-term basis or tenants on a long-term basis, the fact that money changes hands does not change the character of the *use* of the property by the occupant—it is still being used as a residence. Indeed, if all it took to make a use “commercial” was the use of a property in exchange for money, during which time the owner was not present, then every single long-term rental would have to be recharacterized as “commercial use.” This does not make sense, nor does recharacterizing STRs in this manner.

Because vacation rentals have been a use customarily incident to residential use for generations in West Marin, the novel argument that they are “commercial” uses, and not principal permitted uses under local law, should be rejected outright.

In sum, STRs are a long-recognized, principal permitted form of residential use in West Marin. Their legal status as such is reflected in the Local Coastal Program and its associated policies and implementation materials. These policies require maintaining or increasing visitor access to the Coastal Zone through STRs and other lower-cost forms of accommodation. In seeking to undermine these policies, the September 2023 Draft Regulations would be a step backward and are incompatible with the Coastal Act and Local Coastal Program.

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<sup>27</sup> See <https://www.courts.ca.gov/opinions/archive/E074233.PDF>.

<sup>28</sup> *Id.* at 15 (emphasis in original).

#### **IV. Summary of June 12, 2023 Planning Commission Meeting**

On June 12, 2023, the Marin County Planning Commission held its first meeting devoted to STRs. County Staff first provided a presentation and the results of a survey concerning STRs. This was followed by questions from Commissioners concerning the presentation and Staff Report. The bulk of the meeting was devoted to public commentary, at which approximately 40 individuals spoke. Finally, the Commissioners provided another round of questions and comments before adjourning the meeting. Below, we summarize the questions and commentary from the Planning Commission and then summarize some of the public comments received.

##### **A. Comments and Questions from Planning Commission Members**

We first summarize the questions and comments from Commissioners at the outset and conclusion of the June 12 Meeting.

Commissioner Desser noted the need for public participation in the County’s development of draft regulations, and that it was important that all voices be heard, even if it meant hosting numerous focus groups to speak to every interested member of the public.

After the public comment period, Commissioner Desser commented that, in response to specific trash concerns raised about an STR in Marshall, a complaint should be made to the County or the Eastshore Planning Group. She also noted that many communities were historically not comprised mainly of full-time residents, and the trend toward greater full-time residency in West Marin is relatively recent. Further, a one-size-fits-all approach is not appropriate for the various communities in West Marin, including when it comes to regulating or limiting hosted and unhosted rentals. Commissioner Desser also emphasized the need for accurate data and noted the distinction between LLC ownership, which often indicates ownership by individuals, and REITs, which may signify corporate ownership.

On the issue of parking, Commissioner Desser noted that the state is no longer imposing parking requirements for new construction, such that parking rules may not be appropriate or justified here. On health and safety matters, Commissioner Desser noted that achieving basic health and safety standards may not require cost-prohibitive efforts to bring properties into compliance with current code requirements. Finally, Commissioner Desser noted that for many years, STRs were simply called “vacation rentals” and were the only way to stay in the area.

Commissioner Dickinson noted that the Planning Commission had not previously been involved in crafting rules and regulations for STRs enacted in 2018 and 2020. In response, CDA Director Sarah Jones acknowledged this and noted that the County had not previously viewed the issue through the lens of land use or housing, and instead was focused on “good neighbor” and taxation issues. More recently, the focus on STRs as a land-use issue prompted the County to seek the input of the Planning Commission.

Commissioner Dickinson further noted that in Sonoma County, a temporary moratorium was enacted that *exempted* the Coastal Zone because of the Coastal Commission’s policy favoring visitor-serving uses, which precluded Sonoma County from adopting a moratorium in the Coastal Zone. Commissioner Dickinson asked whether the County had received a different opinion from the Coastal Commission. Ms. Jones responded that in the case of Sonoma County, the moratorium was enacted closer to the implementation of final regulations due to a large number of applications. In contrast, Marin County’s intent in imposing the moratorium was to preemptively “stabilize” housing pending further consideration of the issue. According to Ms. Jones, the Coastal Commission understood and was aligned with this approach. County Staff Kathleen Kilgariff also noted that Sonoma County saw a spike in STR applications pending their consideration of new rules, and to avoid this, Marin County sought to “set the number” of STRs to allow planning. She also acknowledged that more STRs have been added since that time in East Marin.

After the public comment period, Commissioner Dickenson noted the potential for unintended consequences from regulations and then asked for data concerning whether outside corporate ownership is truly a factor in West Marin. Ms. Kilgariff noted that other jurisdictions require that a “natural person” operate an STR, but agreed that it is difficult to regulate and enforce ownership in this manner. She also noted the difficulty of determining a primary residence. Commissioner Dickenson noted the difference between occasional rentals versus a property that is solely operated as an STR, and asked whether there is data that bears on this. Ms. Kilgariff and Ms. Jones agreed to look into this, but Ms. Jones stated that it does not appear the case at present that full-time STRs are the predominant form of rental in West Marin. Ms. Kilgariff stated that over half of STRs are owned by trusts, indicating that these are not typically operated in a full-time manner or owned by corporations.

Commissioner Curran asked about the data for the number of bed-and-breakfast units provided in the Staff Report, observing that the Staff Report indicated that there were 27 bed-and-breakfasts listed for a total of 43 housing units, or less than 2 housing units per bed-and-breakfast, a number that appeared questionable. Ms. Kilgariff explained that the County was relying on a mix of parcel data and self-reported data collected by the Department of Finance that the County “cleaned up” and manually adjusted.

Commissioner Curran also noted seemingly incongruous occupancy and income data from the Marin County Visitor’s Bureau. Ms. Kilgariff noted that a table from the Department of Finance may have been flipped, which the County intended to follow up on. Ms. Kilgariff also noted that the data originated from the Department of Finance, whose definition of STRs included any short-term accommodation, including hotels, motels, inns and campsites, and that the Finance Department data did not separately track STRs in residential properties. Ms. Kilgariff acknowledged that this made it harder to garner accurate data about STRs.

After the public comment period, Commissioner Curran discussed ADUs, as well as the need to study hosted versus unhosted options for STRs. Ms. Jones discussed in response some of the County’s measures to encourage the construction of ADUs, as well as septic and water

regulations and ways to assist in conservation efforts. Commissioner Curran agreed with the sentiment that a one-size-fits-all approach across each of the communities in West Marin was not appropriate.

Commissioner Lind asked County staff what the purpose of the meeting was—whether to receive input from the Commission or to listen to public comment and receive information from County staff. Ms. Kilgariff indicated that the purpose was the latter. Commissioner Lind also asked if traditional bed-and-breakfasts were treated the same as STRs or “AirBNB” rentals. Ms. Kilgariff confirmed the land uses were different, namely that bed-and-breakfasts were considered commercial operations.

After the public comment period, Commissioner Lind reiterated the need for data on the types of hosts and STR uses to support any proposed regulations and respond to the varied needs articulated by the public. Commissioner Lind also noted that land use typically does not zone by ownership. Ms. Kilgariff acknowledged the need for improved coordination with the Department of Finance to obtain reliable data moving forward. Commissioner Lind also asked the County to look into flexibility to allow ADUs to be rented as STRs in West Marin.

Commissioner Stepanicich asked whether the County had data as to what percentage of housing units in West Marin were used as long-term rentals. Ms. Kilgariff stated that the County does not have data to answer that question.

After the public comment period, Commissioner Stepanicich asked about how other communities regulate STRs in multi-family housing units and preserve affordable housing.

Commissioner Muralles asked about the County’s data concerning parcels with STRs relative to all parcels with living units, as listed in the Staff Report. Ms. Kilgariff acknowledged that the data may not capture all parcels with more than one living unit.

Commissioner Muralles also asked whether the County had data on housing insecurity in West Marin. Ms. Kilgariff indicated that the County did not have this data at hand, but agreed to look into the issue with the County’s housing team. Ms. Jones noted that in the County’s Housing Element, the County needed to track housing within the Coastal Zone in terms of how many housing units were added in the Coastal Zone, and that in the last 12 years, very few units were added (fewer than 10), whereas nearly 600 units are currently registered as STRs. Ms. Jones acknowledged that this did not show if any of these STRs had previously served as long-term rentals.

After the public comment period, Commissioner Muralles asked about the community’s commitment to affordable housing goals and how the new regulations would reflect a commitment to this goal.

Commissioner Biehle also indicated that she would like to hear more from the County about housing security and its outreach efforts to community members to discuss these issues.

## **B. Summary of Comments From the Public**

In total, approximately 40 members of the public spoke at the hearing. As the Commissioners will recall, members of the public presented a wide range of viewpoints. By our tally, approximately two-thirds of these individuals spoke favorably about the history and benefits of STRs for visitors, homeowners, and the communities as a whole. Approximately one-third of commenters expressed concerns about what they perceived to be some of the downsides of STRs or raised concerns about issues such as trash from a specific neighbor or fears about corporate ownership of property in West Marin. Here, we highlight several common themes that came across in public comments:

- For decades, STRs have been a primary way to provide access to a diverse range of visitors, and are especially important in providing reasonably priced overnight accommodation options, as measured on a per-person basis.
- Several West Marin communities, including those where the greatest number of STRs are found today, have primarily been summer and vacation destinations for much of their history.
- STRs support many jobs in the community, including among low- and middle-income workers, and also allow many community members to remain in the community by partially offsetting the high costs of purchasing and maintaining a home in West Marin.
- There is no evidence of corporate investors purchasing homes in West Marin for use as STRs. One speaker explained why this model would simply not be economically feasible. Namely, investors would not be able to make a positive return given the high prices of properties and the highly viable seasonal occupancy patterns in West Marin.
- Another speaker explained that she had spoken to virtually every STR operator in her community and confirmed that none were backed by outside investors. It appears that some individuals have falsely conflated ownership of a property by an LLC or trust—common structures for individual owners—as indicative of outside “corporate” ownership.
- There is likewise no evidence that STRs have caused other broader trends that have been attributed to them, such as a drop in school enrollments, which were declining long before AirBNB and VRBO were founded.
- Singling out STR properties that were compliant when built for extensive upgrades to meet current codes would be cost-prohibitive and amount to a *de facto* ban on these properties continuing to operate STRs.

- Complaints about noise or trash issues often originate from a single property or tenant. These are not indicative of a broader problem.
- Many commenters called for this process to be data-driven, and were dissatisfied with the County’s reliance on anecdotes and opinions, and failure to collect and present methodologically sound data throughout the process.
- Commenters also called for the County to come forward with data concerning the impact of the present moratorium—*i.e.*, if STRs truly led to housing shortages, one would expect to see a change after the passage of the moratorium in May 2022. Indeed, this was a stated purpose of the moratorium—in Ms. Jones’s words, to have a “baseline” for studying the relationship, if any, between STRs and long-term housing options. However, it appears that the County has not used the moratorium as a time to gather data, instead proceeding with drafting highly restrictive regulations that would reduce STR access both by express caps and by burdensome regulations that will inevitably drive operators from the market.



## V. Analysis of September 2023 Draft Regulations

In this Section, we provide detailed Commentary on each of the provisions in the County’s September 2023 Draft Regulations. We first provide an overview. Below, we provide the text of the draft provisions or sub-provisions, followed by commentary.

### A. Overview

As an initial matter, however, the Draft Regulations are styled as Chapter 5.41 of Marin County Code, and thus to be codified within Title 5 – Business Regulations and Licenses. There is already a Chapter 5.41, currently titled “Notice of Short Term Rentals,” the codification of ordinances regulating STRs that were enacted by Ordinance Nos. 3695 and 3739, passed in 2018 and 2020, respectively. This current code provides, *inter alia*, relevant definitions, the establishment of the STR complaint hotline, local contact person and signage rules, STR tenant notification requirements for good neighbor purposes, and provisions regarding the process for issuing and adjudicating administrative citations. The County has not explained why current Chapter 5.41 has fallen short in the areas it already regulates. Nor has the County explained how to reconcile current Chapter 5.41 with the September 2023 Draft Regulations.

Thus, the legal effect of the new Draft Regulations is unclear. Would the new Draft Regulations repeal and entirely supersede the current regulations in Chapter 5.41? Would some prior provisions be maintained or carried over (*e.g.*, the complaint hotline)? Which provisions does the County intend to maintain, and would they be modified as well in part? In other words, the County has not communicated what the intended end result will be in terms of a final, comprehensive body of law, leading to greater uncertainty in the public as to what the County ultimately intends to do.

In total, the Draft Regulations have 8 subchapters: (1) Purpose of Chapter (5.41.010); (2) Applicability (5.41.020); (3) Exemption (5.41.030); (4) Short Term Rental Licenses (5.41.040); (5) Short Term Rental Property Standards (5.41.050); (6) Caps on the Number of Unhosted Short Term Rental Licenses (5.41.060); (7) Violations (5.41.070); and (8) Definitions (5.41.080). The vast majority of the text of the Draft Regulations—8 ½ out of 11 pages—is found in the subchapters concerning Short Term Rental Licenses and Short Term Rental Property Standards.

Aside from their sheer length and byzantine nature being of serious concern, the substance of the September 2023 Draft Regulations is deeply troubling and retrograde in many regards. Below are the most worrisome provisions that the Commission should be deeply troubled with:

1. **Draft Regulation §5.41.020** – “Applicability” aka “restrict access to public land”—applies to all coastal villages adjacent to the coast and national parks in the county.
2. **Draft Regulation §5.41.030** – “Exemption” aka “the corporate carve-out”—exempts all major facilities and commercial properties from the Draft Regulations.

3. **Draft Regulation §5.41.040(A)** – “License Required” aka “the presumptive ban”—violates the LUP by treating STRs as presumptively illegal absent a permit.
4. **Draft Regulation §5.41.040(C)** – “License Term” aka “the death penalty”—causes the forfeiture of an STR license upon any change in ownership, including the death of a co-owner such as a spouse.
5. **Draft Regulation §5.41.040(D)** – “Administrative Procedures” aka “the due process killer”—gives the CDA unfettered powers of rulemaking, administration, and enforcement.
6. **Draft Regulation §5.41.040(D)(2)** – “License Suspensions and Revocation” aka “guilty until proven innocent”—allows for immediate suspension of STR licenses with no recourse.
7. **Draft Regulation §5.41.040(D)(2)** – “Application Materials” aka “paperwork hell”—requires dozens of hours of homeowner time and thousands of dollars to merely *apply* for an STR license; must be repeated every 2 years.
8. **Draft Regulation §5.41.040(D)(7)** – “Exterior Signage” aka “rob me, please”—mandates visually jarring signage that creates security risks.
9. **Draft Regulation §5.41.040(D)(8)** – “Requirements for Advertisements” aka “rob me again, please”—requires online posting of information that creates additional security risks.
10. **Draft Regulation §5.41.040(I)** – “License Fee” aka “pay us to make you miserable”—allows the County to impose substantial, non-refundable application fees. The County has not stated what the fees will be.
11. **Draft Regulation §5.41.050(B)** – “Restricted Structures” aka “no creativity allowed”—outlaws any non-conventional or creative STR options, even those that cannot be used as long-term housing.
12. **Draft Regulation §5.41.050(C)** – “One Short Term Rental Per Property” aka “you will be a landlord and you will like it”—forces homeowners to remove guest cottages and second units from the STR market.
13. **Draft Regulation §5.41.050(G)** – “Municipal Services” aka “your forced septic system overhaul”—forces septic upgrades as a condition of STR operation.
14. **Draft Regulation §5.41.050(K)** – “Special Events” aka “the no fun rule”—bans weddings and other special events.
15. **Draft Regulation §5.41.050(M)** – “Host responsibilities” aka “the house arrest rule”—bans hosts from leaving their properties at night.
16. **Draft Regulation §5.41.060** – “Caps”—aka “the permanent moratorium”—eliminates 70 STRs, mainly in the Coastal Zone, makes the 2022 moratorium permanent, and enshrines gross disparities among communities.

17. **Draft Regulation §5.41.070** – “Violations” – aka “guilty until proven innocent II” — allows CDA to suspend or revoke STR licenses without due process.

## **B. Detailed Commentary on the September 2023 Draft Regulations**

Below, we provide, provision-by-provision, the language of the September 2023 Draft Regulations, followed by commentary relevant to each passage.

### **1. Chapter 5.41.010 – Purpose of Chapter**

#### **Draft text:**

#### ***5.41.010 Purpose of Chapter.***

*This Chapter establishes standards that regulate short term rentals. This Chapter is enacted to ensure that short term rental activity does not adversely impact the health and safety of residents and visitors, and that such activity is conducted in a manner that preserves existing housing and communities while balancing the protection of private property rights.*

*This Chapter is administered by the Marin County Community Development Agency.*

#### **Commentary:**

1. The precatory language of this section is divorced from what the statute would actually accomplish. The County has offered no evidence that the burdensome proposed provisions would maintain health and safety standards in a manner superior to those already in place. The County also has not shown that the Draft Regulations would “preserve existing housing and communities.” As discussed elsewhere in this Report, they are far likelier to have the opposite effect. The reference to “private property rights” is not credible in light of the extreme burdens and intrusions on both privacy and property rights that the Draft Regulations would impose.

2. Further, the County has not explained why it is appropriate to give sole, unfettered, and unreviewable power of administration to the Community Development Agency (CDA). Notably, the Draft Regulations contain no provisions providing for administrative review, a hearing officer selected from outside the CDA, or an appeal to the Superior Court, all of which are in the current code (Section 5.41.090). Does the County intend to strip away all due process rights currently afforded to STR operators?

## **2. Chapter 5.41.020 – Applicability**

### **Draft text:**

#### ***5.41.020 Applicability.***

*This Chapter shall apply to short term rentals in unincorporated Marin County, except as exempt per Section 5.41.030.*

### **Commentary:**

1. Unincorporated Marin County comprises over 85% of the County's 520 square miles of land and all of the County's Coastal Zone and 100+ miles of Coastline along the Pacific Ocean and Tomales Bay. And these are both the most popular areas with visitors and the areas that the Coastal Commission and Local Coastal Program are charged to protect public access to. These facts underscore the unprecedented scope of this Draft Regulation. It appears that all prior STR regulations considered by the Coastal Commission operated at the level of individual cities; none concerned an effort by a *County* to curtail visitor access to the entire Coastal Zone and the vast majority of the County itself. That a handful of small communities within Marin, such as Belvedere (land area: 0.51 mi<sup>2</sup>), have taken an anti-STR position in no way justified rolling this out to the vast majority of the County.

2. Moreover, despite admonitions from community members and members of the Planning Commission to be sensitive to individual community needs, with these Draft Regulations, the County is taking a one-size-fits-all approach, with the only variety between communities being the extent to which STRs will be capped and reduced (about which we have further commentary below). The County has drafted these regulations with no meaningful input from community organizations and groups, instead compiling a wish list of every conceivable restriction put forward by unelected employees and bureaucrats. This is not how the democratic process is supposed to work.

## **3. Chapter 5.41.030 – Exemption**

### **Draft text:**

#### ***5.41.030 Exemption.***

*This Chapter does not apply to any commercial lodging use including a hotel, motel, bed and breakfast inn, or campground.*

**Commentary:**

1. The County has not explained why it is singling out STRs while exempting all other forms of residential use and large-scale overnight accommodation from any further review or legislation. The County Code provisions addressing Auto Courts, Resorts and Motels (Chapter 5.20) contain none of the drastic and far-reaching provisions put forward in the Draft Regulations, and instead incorporate by reference different state-wide standards. Do campgrounds, resorts, hotels and motels not use water or generate trash and sewage, such that the goals of public health and safety do not apply to them? Of course they do. Are campgrounds, resorts, hotels and motels subject to the unfettered powers of the CDA? No. The fact that the County is taking aim at STRs alone is highly indicative of disparate treatment, if not animus.

2. In public meetings, the County justified regulations in part by stating concerns about corporations buying homes to operate as STRs. Yet the Draft Regulations are solely directed toward small, individually operated vacation rentals while exempting all corporate lodging operators.

3. What justifies holding STRs to different, and far higher and more stringent standards, than actual commercial operations often owned by large corporations and intended to be operated 365 days of the year and exclusively catering to visitors? STRs are used by guests for only part of the year, and very often used by the owners for a substantial majority of the time.

**4. Chapter 5.41.040 – Short Term Rental Licenses**

**Draft text:**

***5.41.040 Short Term Rental Licenses.***

*A. License Required. Advertising or operating a short term rental without a valid and current short term rental license issued pursuant to the requirements of this Chapter is prohibited. A license allows the operation of a single short term rental. Short term rental licenses are not transferable. Once a license expires or is revoked or suspended, the short term rental operation must immediately cease.*

**Commentary:**

1. As noted above in our discussion of the Local Coastal Program, this provision would fundamentally change the land use designations of all residential property in unincorporated Marin and the Coastal Zone. As discussed above, room rentals and STRs are a long-standing use, are clearly residential uses, and are thus legally a principal permitted use. This has been the case for decades, such that STRs cannot be banned as a default without running afoul of the Local Coastal Program and the Coastal Act. The present-day legal status under current Chapter

5.41 of the County Code reflects this, as it merely requires the operation of an STR to be consistent with the provisions therein, including health and safety requirements, notice to neighbors, and obtaining a business license.

2. By changing land use regulations from permitting STRs as of right to *banning* all STRs absent a limited license controlled exclusively by the CDA, the Draft Regulations would usher in a new legal regimen, one that is fundamentally inconsistent with the Local Coastal Program, and likely to be rejected when the Coastal Commission reviews the regulations, and/or via litigation.

3. The ban on operating or advertising an STR without a valid and current license “issued pursuant to the requirements of this Chapter” would immediately render illegal all current STR listings—because none of the current STRs have yet been issued licenses under “this Chapter,” and would not be issued until sometime after the Chapter was enacted. While this was not likely the intent of the drafters, at a minimum it reflects poor draftsmanship.

4. Given the expansive definition of “advertising” under state law, this provision also risks unjustly silencing individuals from offering the use of their property to friends or family even on an informal basis, or engaging in home-swapping, lest it be construed as “advertising” an STR. Once again, through incautious drafting, the County would sweep in activities that are beyond its purview and impinge on free speech rights.

5. The ban on transferability of licenses is not justified and would likely lead to inequitable results. If title to a property (and thus the STR license) is held by one spouse only, and that spouse passes away, the surviving spouse would be obliged to immediately cancel all pending reservations and cease all STR usage—a “death penalty” that cuts off an economic lifeline precisely when it is likely to be most needed, and potentially causing the surviving spouse to lose their home. Other such situations are easy to envision—one generation wishes to transfer a family property to the next, but cannot do so because to do so would lead to the immediate loss of the STR license. Or, siblings wish to transfer property rights among one another or otherwise clarify title. Or, a homeowner marries and wishes to share title with a new spouse. All of these situations would potentially jeopardize the ability to continue operating an STR and potentially lead to forfeiture of the license with zero justification.

6. Finally, the provision that all STR usage must cease if a license is “revoked or suspended” presents serious due process concerns. A license may be suspended without notice if the CDA believes that “the licensee [has] fail[ed] to meet the standards set forth in this Chapter or the requirements of the license.” Draft Regulations § 5.41.040(D)(2). Given the minutiae in the Regulations themselves and the unknown further administrative provisions the CDA may enact, this creates the potential for a Kafka-esque situation where an STR operator sees his license suspended for any alleged failure to comply that he may be unaware of, no matter how trivial or unrelated to health and safety standards. This would upend reasonable investment-backed expectations and require the cancellation of any and all upcoming reservations. Even more troublingly, the requirement that STR usage cease “immediately” upon an edict from the CDA would require evicting an STR guest for the duration of their stay. Many visitors look

forward to returning to the same property year after year, but this Draft Regulation jeopardizes this prospect by making it anyone's guess whether a given STR will still be in business tomorrow, much less a year hence. The lack of any due process rights in the Draft Regulations, or the right to continue operating the STR pending administrative review (which is likewise nowhere to be found in the Draft Regulations), only exacerbates this concern.

**Draft text:**

***5.41.040 Short Term Rental Licenses (continued)***

*B. License For Property Owner. The short term rental licensee must own the property where the short term rental is located. Only one license shall be issued per short term rental property owner.*

**Commentary:**

1. The County has provided no explanation for why this provision is necessary or what effect it would have on current STR operators. A non-owner such as a trustee may manage a property and thus it would make more sense to have a license issued in that person's name.

2. Further, while most owners of STRs appear to operate just one property, some do operate more than one. There is nothing inherently wrong with this, and it is a practice going back decades. The owners are typically individuals with long-standing ties to the community; there has been no showing that absentee or corporate investors are snapping up properties for this purpose. Further, the properties in question typically have been STRs for decades and are relied upon by visitors for some of the most economical overnight options in the area. Cutting them off now makes no sense and would take away visitor access to popular sites.

3. There has been no showing that merely owning more than one STR is contrary to the County's health and safety, good neighbor, or housing goals. Destroying STR owners' investment-backed expectations and forcing the sale of rental properties (for which no STR license can be acquired unless the transferee completes all requirements and is processed through the waitlist) raises takings concerns. It will also demonstrably reduce visitor access. The County has made no showing that eliminating such STRs is likely to convert them to full-time rentals, either. Given that there are very few people who own more than one STR in West Marin, the County should have studied this issue, presented data, and explained why it believes this proposed rule was necessary.

4. Finally, the proposed limit of one STR per person presents enforcement difficulties. Title can be held in the names of one's spouse, children, grandchildren, or other designee, but beneficial ownership may still ultimately reside in one individual. Alternatively, a family may jointly own multiple properties with ownership interests spread among siblings or cousins; will they collectively be limited to one STR because each of their names is on more than one title

document? The County has not addressed how it proposes to police this requirement or shown any regard to impacts in light of currently existing ownership patterns.

**Draft text:**

***5.41.040 Short Term Rental Licenses (continued)***

*C. License Term. A short term rental license expires two years after the date of issuance unless the license is renewed by the licensee for an additional two-year term. The term of the license expires immediately and automatically upon any change of ownership of the property.*

**Commentary:**

1. Together with §5.41.040(A), this draft provision calling for the automatic expiration of STR licenses after two years (or upon any partial change of ownership) would represent a fundamental shift in land-use policy contrary to the Local Coastal Program. Instead of STR operators being permitted to continue operating as of right, the Draft Regulations posit a presumptive expiration date of every single STR in West Marin unless the operator completes anew the burdensome and expensive application requirements. This will inevitably lead to a reduction in the number and variety of STR options if operators are unable to devote the time and money necessary to re-applying for a license every period (or simply miss the application window, for instance, because they have not yet secured a necessary certification from a separate agency, discussed further below). Lower-cost STRs will be particularly impacted, as these bring in more modest returns, and thus owners would be less likely to find it worthwhile to invest the time and resources necessary to re-applying. This will hurt visitors of lower socioeconomic means the most, as they may not be able to afford higher-priced lodging options from hotels or luxury STRs.

2. As noted above, a provision causing an STR license to expire upon “any change of ownership” would cause hardships as well. If a property is owned as community property among spouses, the death of one spouse causes a “change” in ownership as the surviving spouse would now own the property in her individual capacity. Under the draft regulation, however, that surviving spouse would immediately lose the right to continue operating the STR, jeopardizing his or her ability to remain in the community. Further, this rule makes it far more difficult to transfer a family property among members of a family or among generations, as doing so would cause the family to lose their STR license, potentially meaning they could no longer afford to maintain their tie to the community. The County has shown no facts supporting a need to impose rules with such punitive and anti-community impacts.



**Draft text:**

***5.41.040 Short Term Rental Licenses (continued)***

***D. Administrative Procedures.*** *Administrative procedures for short term rental licenses shall be prepared and made publicly available by the Agency Director. These administrative procedures shall set forth the process to apply for, obtain, maintain, monitor, and renew short term rental licenses. The administrative procedures shall set forth a ministerial licensing process based on objective criteria and shall be updated periodically by the Agency Director. The administrative procedures shall be consistent with the license framework set forth in the sections below.*

**Commentary:**

1. The Draft Regulations already propose a very intrusive and burdensome process. They include eight separate new requirements under this subsection, along with 23 additional sub-subsections. But here, the County is signaling that even more is to come in the form of “administrative procedures.” The County has not explained what those additional procedures would encompass or why it is appropriate for the CDA Director to impose them outside of the legislative process, for which there would be no review by the Planning Commission, Board of Supervisors, or Coastal Commission for compliance with the policies of the Local Coastal Program. STR owners are justifiably concerned, as the CDA has shown hostility toward STRs for the last several years, continuing to blame STRs for housing shortages despite failing to present evidence for this accusation.

2. Further, while the Draft Regulations assert there will be a “ministerial” process for issuing STR licenses based on “objective criteria,” there are several areas in which no objective standard has been articulated, and the CDA Director would be given unfettered discretion to deem an application incomplete, for instance, whether one’s garbage service is “sufficient” (Draft Regulation §5.41.040(D)(4)). Moreover, the ability for the CDA Director to impose additional requirements outside of the democratic process is highly worrisome, as it would make the process even more expensive and uncertain, and leave applicants with no form of redress for violations of due process.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D) continued)***

***1. Application Process.*** *An application for a short term rental license shall be submitted by the property owner or their agent (written property owner authorization and contact information is required for an agent to file the application) to the Community Development Agency.*

*No license application shall be accepted until the Agency Director has prepared and made publicly available the administrative procedures.*

*In townships where there is a cap limiting the number of short term rentals, only license applications for legal unhosted short term rentals in existence on January 1, 2024 will be accepted before July 1, 2025. Applications for properties where there is no legal unhosted short term rental in existence on January 1, 2024, will be placed on a wait list until all existing short term rentals have had the opportunity to apply for a license.*

**Commentary:**

1. As discussed above, the Draft Regulations make clear that even more “administrative procedures” are coming that will further complicate the process of applying for and maintaining an STR. Since the CDA Staff drafted these regulations, why have they not also specified or drafted the administrative procedures? The failure to do so leaves the Planning Commission, Board of Supervisors, and Coastal Commission without the ability to assess the full impact of these Regulations, in terms of the costs or impacts on visitor access. It appears that the County is intending that the “administrative procedures” will not be subject to any form of review or certification process. This is undemocratic and contrary to the Coastal Act. Moreover, there is no timeline provided for when the regulations will be prepared. That the County would not accept any applications until the regulations are complete might leave too little time to understand and comply with the regulations, causing STR operators to run out of time and lose their right to operate.

2. Furthermore, by only permitting legal STRs in place as of January 1, 2024 to apply for a permit prior to July 1, 2025, and refusing all other *applications*, and only thereafter placing applicants on a waitlist, the Draft Regulations extend the current moratorium by an additional thirteen months. And, the “caps” not only impose a permanent moratorium on net additional STRs, but they also envision a *reduction* in the number of STRs county-wide, with the greatest reductions proposed for the Coastal Zone. The Board of Supervisors only authorized the current moratorium for a period of two years under a specific declaration of emergency. Without saying so, these Regulations enshrine this so-called “state of emergency” in a permanent fashion, and provide no objective measure for what it would mean for the “emergency” to be over. They impose no housing goals or other criteria that might indicate when and how the County would consider revising the caps. Given the stated purpose of the Draft Regulations to protect and promote long-term housing, the failure to tie any of the current regulations to housing goals or the completion of the Housing Element is unjustifiable.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D) continued)***

***2. License Suspensions and Revocations.*** *Short term rental licenses may be temporarily suspended or permanently revoked if the licensee fails to meet the standards set forth in this Chapter or the requirements of the license. Suspension or revocation pursuant to*

*this subsection will be imposed according to the process described in the administrative procedures.*

**Commentary:**

1. As noted above, the Draft Regulations provide for no measures to protect due process in the suspension or revocation of an STR license, but require the immediate cessation of rentals if the CDA unilaterally deems any portion of the STR or license non-compliant, even a trivial provision of the 11 pages of Draft Regulations plus however many pages of administrative procedures the CDA may later promulgate. This is a recipe for arbitrary suspension of rights. It will require the cancellation of any future bookings and destroy individuals' investment-backed expectations in their properties.

2. The County has not explained why it wishes to put off specifying a process for adjudicating suspension or revocation until the promulgation of "administrative procedures." The current law has provisions for administrative procedures and review. *See* Marin County Code § 5.41.080–.090. The current Draft Regulations would apparently repeal this and place the procedures entirely within the control of the CDA. This is another troubling development that would make the new Draft Regulations subject to less democratic accountability and due process than current law.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D) continued)***

***3. License Wait Lists.*** *The Community Development Agency will maintain short term rental license wait lists for townships where the number of unhosted short term rental license applicants exceeds the number of available licenses. Licenses for qualifying properties on the wait list shall be issued on a first come first serve basis.*

**Commentary:**

1. Under this provision, the CDA will have to maintain community-specific waitlists for each of the 15 communities listed in § 5.41.060. The County has not provided a coherent rationale for the reduced caps and waitlists for unhosted rentals, as discussed further below. And, the fact that caps and waitlists only apply to "unhosted" rentals is indicative of discriminatory treatment of the most prevalent and popular form of rental, as recognized by the Coastal Commission.<sup>29</sup> A recent review of AirBNB listings showed only 9 listings in all of

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<sup>29</sup> California Coastal Commission, City of Half Moon Bay LCP Amendment Number LCP-2-HMB-21-0078-2 (Short Term Rentals and Home Occupations), Staff Report for Feb. 24, 2023 and Mar. 8, 2023 Hearing, at 18 (noting that "it has generally been the Commission's experience that unhosted rentals are the predominant and most popular form of STR in most coastal communities.").

unincorporated Marin County that might qualify as “hosted” listings under the Draft Regulations. By taking away 70 unhosted STRs and substituting in their place fewer than a dozen, less desirable “hosted” listings, the County would be significantly restricting public access to the Coastal Zone.<sup>30</sup>

2. The discriminatory treatment of unhosted STRs is especially worrisome as these are the types of rentals relied on by families or other groups seeking economical and private overnight options. Hosted options may be suitable for individuals or a couple with no children, but anyone who has traveled with children can recognize the difficulty of asking children to observe boundaries in a shared space. The same is true of groups who wish to cook and dine together; having to share the space with a host greatly detracts from the experience. Finally, if a host is required to be onsite during the stay, this will inevitably mean less space for guests, taking away, at a minimum, a bedroom and bathroom that otherwise could have hosted visitors. This will make STRs less economically attractive on a per-person basis, and reduce the capacity county-wide to host visitors.

3. A further concern is that there is no provision requiring CDA to regularly publish data on the status of waitlists, meaning the public may not know whether there is a waitlist in their community, or if so, the likely time it would take for the waitlist to turn over.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D) continued)***

***4. Application Materials.*** *No short term rental license shall be issued unless the application has first been deemed complete. The administrative procedures shall specify all the information necessary for a complete application, including, but not necessarily limited to, the following:*

**Commentary:**

1. The Draft Regulations specify sixteen subparts and four sub-subparts to an application, making for an extremely burdensome, expensive, and uncertain application process. In addition to 115 lines of particularized requirements, 3 of these line items include additional, unspecified, multi-tiered, multi-page inspections (modeled after cities that have self-inspections), but go even further. In addition, there are layers upon layers of requirements: several requirements simply cite code to other regulations and state that the homeowner needs to address everything in

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<sup>30</sup> Opponents of STRs in West Marin have argued, incorrectly, that the lower caps actually would permit more unhosted STRs in West Marin. An unstated premise of this argument is that the proposed reduced caps are higher than the actual number of unhosted STRs currently operating. The County (and anti-STR voices) have presented no data showing this to be the case. Given the scant number of rentals apparently meeting the County’s proposed new stringent standard for “hosted” rentals, this argument is untenable.

different code sections throughout other governmental regulations. A homeowner would have to hire an attorney simply to understand the application requirements.

2. Further, there is no requirement that the CDA review applications within a specified time period or provide feedback as to what in an application may cause it to be “deemed” incomplete.

3. Of even greater concern, with the prefatory language above, the County is signaling that the CDA wishes to impose additional requirements via the forthcoming administrative procedures. The fact that a “complete application” would include but “not necessarily [be] limited to” these already-burdensome requirements is highly troubling. And, the provision is written such that the CDA may “deem” an application incomplete for an unstated reason. The County needs to be transparent and explain what a completed application *will* include, not the partial list it has provided.

4. In sum, the draft application requirements and allusion to further administrative procedures appear to represent a compilation of everything every department head or unelected official within the County could think of throwing at a small mom-and-pop industry. This is in addition to adding every requirement every city regulating STRs has ever required, plus a wish list from other bureaucrats for any other requirement they would like to see imposed on homeowners. This is an unprecedented attack on the right to use one’s property in a “principal permitted” manner that goes back generations. With the Draft Regulations’ application requirements alone, the County may have drafted the most onerous STR regulations ever conceived of.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D)(4) continued)***

*i. The name(s) and contact information for all property owners. If the property owner(s) applying for the license own/s less than a 100% fee interest in the property, then such property owner(s) must provide proof that all persons and/or entities with an interest in the property consent to such application and license. If the host is different from the property owner, their contact information must be listed as well. All adults for whom the property provides a permanent residence shall be listed.*

**Commentary:**

1. This provision raises significant privacy concerns. Any individual with an ownership interest (no matter how small or remote) must complete paperwork and provide personal contact information and consent merely for the application to be deemed complete. This appears to be part of how the County intends to police its new “one STR per person” and “no corporations” policies. Many properties in the region are owned by a mixture of individuals, often from different generations. Requiring burdensome paperwork from each of them seems to be an

unnecessary hurdle not intended to protect valid interests, but to simply make it harder to apply for and receive an STR license. And, privacy concerns are valid here. The CDA is currently making available for download on its website, perhaps accidentally, the names, addresses and business license numbers of all people currently operating Short Term Rentals in unincorporated Marin County, inviting vandalism and theft to these properties.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D)(4) continued)***

*ii. The name of the local contact person for unhosted short term rentals, if different from the property owner, and an email and telephone number at which that party may be reached.*

*iii. Address and Assessor's parcel number for the property where the short term rental is located.*

*iv. Rental unit type (i.e., hosted or unhosted short term rental).*

*v. Number of bedrooms and bathrooms.*

**Commentary:**

1. Requiring objective data about the property is not in itself objectionable. However, as discussed below, the draft definitions of “hosted” and “unhosted” STRs are vague and raise compliance concerns in their own regard.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D)(4) continued)***

*vi. Total number and dimensions of onsite parking spaces.*

**Commentary:**

1. We agree that it is a good goal to avoid parking conflicts, and virtually all STRs currently have more than adequate parking. The County thus has not shown a need for requiring dedicated “onsite” parking spaces. Some STRs in village cores may not have parking dedicated to particular units, yet adequate parking may be available in the neighborhood without adversely impacting other residents or creating unsafe conditions. In the case of San Rafael, a parking plan is only required if a property with an STR shares parking with other properties. The County should implement a similar requirement here—only requiring a diagram and parking plan where an STR shares parking with other properties or there are *bona fide* parking complaints or documented safety-related concerns. Requiring measurements and diagrams of every single

parking space for every single STR in West Marin is unnecessarily burdensome and regulatory overkill.

2. Furthermore, as noted at the Planning Commission hearing on June 12, state law no longer requires identification and creation of parking for new construction. Thus, this Draft Regulation reflects an outdated mindset and legal framework. Requiring two dedicated parking spots for every single STR is not good land-use or environmental policy, and is contrary to the goal of encouraging people to visit via other means of transportation.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D)(4) continued)***

*vii. Site Plan showing:*

*a. Location of all existing buildings and location and dimensions of on-site parking.*

*b. Floor plan showing all rooms with each room labeled as to room type, and location of fire extinguishers, smoke and carbon monoxide alarms.*

*c. Location of waste containers.*

*d. If the rental property is served by a private water supply (well or spring) and/or a private sewage disposal system, the location of any existing or proposed septic system, including dimensions and sizes of the septic tank, disposal fields, and reserve area, and wells and water systems on the subject property.*

**Commentary:**

1. To comply with these regulations, STR owners would have to hire architects or draftspersons to visit, document, and measure their site, and thereafter prepare a detailed site plan. It is difficult and expensive to hire qualified individuals to do this in remote parts of the County. This would likely cost anywhere from \$500 to \$1000, plus the owner's time. By treating the mere rental of a property as tantamount to seeking a building permit or other major change for which a site plan is required, the County would violate and undermine the LUP's designation of STR usage as a customary incidental use and thus permitted as of right. Certainly the County is not proposing site plans for any other form of residential use, including long-term rentals, reflecting once more a discriminatory approach to STRs.

2. The County has not shown a need for any of this—that the creation of detailed site plans is justified by current needs, or that problems have arisen that these provisions would address. This appears to be singling out STRs for make-work and more stringent regulations than apply to any other properties or residential uses in the County. In addition, these interior

site plans would become public information, which further raises security and privacy concerns for homeowners.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D)(4) continued)***

*viii. If the rental property is served by a private water supply (well or spring), provide proof of a water supply permit with the County's Environmental Health Services Division and potability with a current bacteriological test.*

*ix. If the rental property is served by a private sewage disposal system, provide proof that the system is documented with the County of Marin Environmental Health Services Division and provide an inspection report for proper operation by an approved licensed professional.*

**Commentary:**

1. Beyond the costs of site plans identified above, documentation and certification of water and sewage systems every two years (far more often than justified) would cost homeowners thousands of dollars more. As most properties in West Marin are on septic systems, these requirements will impact a substantial majority of STRs, and all STRs in certain communities, like Inverness. This will create massive compliance costs and reduce the range of STRs available to visitors.

2. Further, singling out STR operators for stringent new sewage requirements that would not apply to any other form of residential use is unfair. Many homes were code-compliant when built and do not pose any known health and safety risks. Bringing them up to current standards such that they can receive certifications under today's standards may be cost-prohibitive and drive these STRs from the market, jeopardizing the homeowners' ability to keep and maintain their property. If the County were to impose the same requirements on all homeowners or long-term tenants, it would have to analyze their impacts and weigh costs and benefits. (Indeed, some of the same voices seeking to reduce STRs would likely object that these requirements would make it difficult, if not impossible, to continue providing long-term rentals on a cost-effective basis). Indeed, that the County is singling out STRs for standards that would not apply to any other residential use, including long-term leases, suggests that the County is using these provisions as a pretext to forcibly convert STRs to other uses, such as long-term rentals.

3. Aside from the discriminatory nature of this provision, the County has done nothing to model the impact of these regulations on ongoing STR operations. If the County is imposing these requirements on STRs as a mere prelude to imposing similar requirements on all other residential uses and long-term rentals at a later date, the County should disclose as much and give all owners the opportunity to assess compliance costs and a reasonable timeline for seeking to come into compliance.



**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D)(4) continued)***

*x. Bills from a hauler as proof of a minimum level of service with an authorized waste collector that is sufficient to handle the volume of garbage, recyclable materials and organic materials generated or accumulated.*

**Commentary:**

1. The County has provided no analysis or data to support this regulation. The County has not explained whether there have been a high number of complaints regarding waste from STRs, nor any study indicating that STRs are under-served in their waste-hauling arrangements. While some individuals at the June 12 Hearing raised complaints about waste, these complaints inevitably related to a single property or operator who was not following existing rules. The solution to this is for the County to enforce its current rules. The County has not explained, however, why the current regulations and enforcement mechanisms are insufficient to address any of the situations described at the hearing.

2. Furthermore, this draft provision is vague and fails to provide an objective standard. What level of service is “sufficient”? This will apparently be entirely for the CDA to determine in its sole discretion, which will allow it to impose higher costs on STR operators than are justified. What standards are to be applied? How will the director of CDA evaluate the level of service required? Without justifications and objective standards, what will prevent the director of CDA from requiring that homeowners purchase expensive and unnecessary add-ons?

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D)(4) continued)***

*xi. Proof of a working landline phone, Voice Over Internet Protocol, or National Oceanic and Atmospheric Administration (NOAA) radio.*

**Commentary:**

1. The County has not presented data showing why this provision is necessary. According to County staff, the Office of Emergency Services asked that this provision be included. But nobody has explained why it is necessary or whether there are less intrusive means to accomplish its goals.

2. The fact that this Draft Regulation is unnecessary is illustrated by the fact that STR platforms like AirBNB provide means of direct contact for the host and visitors. And, virtually all STRs offer internet service, but no visitor in 2023 would expect to find a working landline in

a rental (and if the phone rings, most visitors will not answer). VOIP services and NOAA radios may be comparatively less expensive, but will still impose recurring costs. And, most guests would not think or know how to use these services in an emergency.

3. In sum, this Draft Regulation would impose costs that are not required of any other form of residential use, nor of long-term rentals (despite there being an arguably greater need for such measures in long-term rentals), nor commercial forms of overnight visitor accommodation such as hotels, motels and campgrounds. The County should not single out STRs in this manner.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D)(4) continued)***

*xii. Documentation of a vehicular evacuation route from the short term rental property to an area of safety in case of an emergency, including proof that the evacuation route is posted near the door of the short term rental.*

**Commentary:**

1. Providing emergency evacuation information is sensible, however, the County has not indicated what it would deem sufficient “documentation” or whether it would require STR operators to create such evacuation routes. If so, this will be another significant cost to operators. If, on the other hand, the County is willing to provide maps, it can be relatively simple to provide these to guests, so long as the map is appropriate for the location of the property and does not contain confusing or superfluous information (such as the location of “paper streets”). However, there is no need for the County to micro-manage where within a property such route information is posted, as it may not make sense to post the information near the main entry door.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D)(4) continued)***

*xiii. All short term rental applicants shall provide a self-certified building safety inspection upon permit application or renewal.*

*xiv. All short term rental applicants shall provide a self-certified fire-life safety inspection upon permit application or renewal.*

*xv. All short term rental applicants shall provide a self-certified defensible space inspection, conducted within the preceding twelve months, upon permit application or renewal.*

**Commentary:**

1. Encouraging building safety, fire safety, and defensible spaces is not objectionable. (Indeed, the County would be wise to promote this for all residential uses.) However, some defensible space standards, if rigorously applied, would invalidate STRs in forested areas of Marin. The County should thus specify and indicate what each of these self-certifications would entail, to ensure that the checklists contain objective, ascertainable standards, and do not bake in unobtainable standards that are not justified by valid safety concerns or would make the operation of an STR prohibitively expensive relative to other forms of use.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D)(4) continued)***

*xvi. All short term rental applicants with properties served by a local water provider must provide water use bills. If the water use documentation demonstrates short term rental water use exceeding an average of 250 gallons per day, or a lower limit established by the local water provider, the short term rental license renewal application shall include strategies to reduce water use to below an average of 250 gallons per day during the next year. If water use is not reduced as required, the license shall not be renewed.*

**Commentary:**

1. The County has presented no data concerning water use by STRs. Despite this lack of data, under this draft provision, the County or local water providers could impose stricter water-use requirements than would apply to any other residential use, long-term rental, or form of overnight accommodation (hotels, motels, etc.). This would be particularly unfair for properties that serve as an STR part-time and are used by the owners part-time.

2. If a local water provider were to set a lower water use cap, owners of STRs could be put to the choice of giving up their STR license or not being able to enjoy their own properties on an equal footing to other community members. The power to curtail water rights to STRs would act as a second, “stealth cap” on STRs by community. Current and former board members of local water companies such as BCPUD and IPUD have gone on record to oppose STRs, so the concern for unequal treatment is not merely hypothetical.

**Summary of Commentary of Draft Section 5.41.040(D)(4) Application Requirements:**

1. The detailed requirements of Section 5.41.040(D)(4) of the Draft Regulations would force STR applicants to comply with sixteen detailed requirements and various sub-requirements merely to *apply* for an STR license. Conservatively, we estimate that the minimum costs of compliance for each two-year period would range from \$1500 to \$5000 and require between 20

and 40 hours of preparation time. And there would be no guarantee that these costs would lead to a permit being issued. For certain requirements, such as bringing septic systems to current standards, compliance costs can amount to tens of thousands of dollars. The prospect that the CDA would impose additional procedural requirements or non-objective criteria could increase these requirements as well. It is thus inevitable that the Draft Regulations will dramatically increase compliance costs, drive many STRs from the market, and deter applicants from seeking to operate an STR in the first place. The STRs that remain will likely raise costs due to the lack of supply and due to the need to recoup the substantial costs imposed by the Draft Regulations. The County has not provided data justifying these new requirements, nor any estimates regarding compliance costs or the effects of implementing these regulations on the availability or price of visitor accommodations. The County thus has no basis to estimate what impact these Draft Regulations will have on visitor access to West Marin.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D) continued)***

***5. Public Notification.*** *Within five days after issuance of a short term rental license, the Community Development Agency will provide written notification to all properties within a radius of three hundred feet of the property with the short term rental.*

*The notice shall indicate that the subject property will be the location of a short term rental and provide the name of the local contact person or host, the phone number and email address for the local contact person or host, and the street address of the short term rental.*

**Commentary:**

1. We do not object to notifying neighbors of STR usage. In fact, the Regulations enacted in 2018 and 2020 provide for such notice. The County has not explained why it believes existing procedures are insufficient. Indeed, in our experience, notifying and speaking to neighbors about intended STR usage performs a salutary function, as it encourages neighbors to discuss any concerns in an up-front manner and promotes the resolution of any issues before a problem arises. The County has not explained why it would make sense for the CDA to take over this function and cut homeowners out of the process. At a minimum, this would mean increased costs for County personnel to handle this function, which costs would be passed onto homeowners. This is not a good policy.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D) continued)***

***6. Tenant notification of County Rules.*** *The owner or operator of the short term rental shall post a County-prepared information sheet inside the unit and provide the tenants with a "good neighbor" brochure, developed by the County, at the time of their arrival.*

**Commentary:**

1. We do not oppose notifying guests of basic information and “good neighbor” policies; in fact virtually all STR operators already do so as part of their “House Rules” on STR platforms. However, requiring that information be “posted” on a given wall or door can create an eyesore. Private homes are not the same as workplaces and lunchrooms regulated by OSHA. Further, this would be yet another discriminatory provision as there is no requirement that long-term rentals or commercial accommodations hand out “good neighbor brochures” (or any other government-prepared literature with a catchy and Orwellian name). Absent documented problems—of which the County has presented no evidence—it should be sufficient for STR operators to make relevant information available to review in a house manual (physical or online) or other location likely to be reviewed by guests without plastering it to walls and doors.

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D) continued)***

***7. Exterior Signage.*** *Each short term rental shall be identified with a single exterior sign that includes the name of the local contact person, the phone number and email address for the local contact person, and the street address of the short term rental. At a minimum, the sign shall be posted while the unit is being used as a short term rental. The sign shall be made of durable materials and securely placed in the front of the property or unit (where there are multiple units on the property), at a height of three to five feet as measured from the top of the sign to grade, in such a way that it is readily visible to the public.*

**Commentary:**

1. The County has, once more, not explained or presented data showing that fixed exterior signage is necessary. This provision would, at a minimum, impose additional compliance costs and create an eyesore.

2. The unintended consequences of this Draft Regulation will invite property damage, create security issues, and negatively impact our neighborhoods. When not occupied by the homeowner or rented as an STR, these homes are empty. Once identified as an STR home beyond the immediate neighbors, the larger public will know when the home is empty. A sign, or in this case, the temporary absence of a sign when guests are not on-site, will notify the public

that the home is likely empty, which will invite vandalism and theft. As a consequence of the County's action, property will be exposed to vandalism and squatting. Is the County prepared to take responsibility for the property damage due to the Board's action? Is the Sheriff's Department prepared for more calls to their office and more property inspections?

3. In addition, streetside signage will visually harm the neighborhood aesthetic of our rural community. A sign, visible from the street, changes the look and feel of a community. There is a reason that the Board of Supervisors did not support this effort in early 2018 when considering prior STR regulations. Communities reject the visual degradations of the landscape. Why is the County trying once again to lower the aesthetic quality of our neighborhoods in West Marin?

4. Under County Ordinance No. 3695, STR hosts are required to notify their neighbors of the permit, and to provide personal contact information and hotline information. The Draft Regulations likewise provide for written notification to all neighbors. Why is the county requiring so much redundancy and in a manner that will have a negative impact on property and the neighborhood?

**Draft text:**

***5.41.040 Short Term Rental Licenses (subpart (D) continued)***

***8. Requirements for Advertisements.*** *All permitted short term rentals shall include the following information in any online or printed advertisement:*

*i. Valid Marin County short term rental license number.*

*ii. All permitted parking locations and the quantity of vehicles that fit on said locations.*

*iii. Further information where applicable as specified in the administrative procedures, such as water use restrictions.*

**Commentary:**

1. The County has not provided a reason or data to support the need for minutely specifying the contents of STR advertisements. Posting one's STR license number to all online forums could invite phishing and data and identity theft. There is likewise no reason to require that all listings include parking locations and number of vehicles. Indeed, posting a property diagram and the precise location of the property and parking spaces *prior* to booking creates a security risk for vandalism and break-ins. A bad actor could peruse listings, identify all STR properties in a neighborhood, and then if any of the designated parking spaces are empty, identify an STR home as unoccupied and a prime target for vandalism, break-ins, or squatting.

This is why STR platforms do not provide exact address information until after booking. This Draft Regulation would undermine this essential security feature.

2. Finally, the “catch-all” provision requiring the inclusion of any information specified in yet-to-be-drafted “administrative procedures” invites further micromanagement from the CDA with no democratic review or accountability and no due process. Failure to post any of the existing or yet-to-be-released required pieces of information (even those announced after an STR license was issued) could lead to immediate suspension or revocation of the STR license with no recourse for the homeowner.

**Draft text:**

***5.41.040 Short Term Rental Licenses***

***E. License for Hosted Short Term Rental.*** *The host of a hosted short term rental can be either the property owner or a long term tenant of the property. The property must be the primary residence of the host. To prove that the hosted short term rental is the primary residence of the host, the host must provide at least three of the following five types of documents at the time of initial application and renewal application: motor vehicle registration; driver’s license; voter registration; a utility bill sent to the subject property; tax documents showing the property as the property owner’s primary residence for the purposes of a homeowner’s tax exemption; a lease showing that a host other than the property owner is renting a unit on the property on a long term basis.*

**Commentary:**

1. The County has not presented any explanation as to why it now seeks to restrict “hosted” STRs to a host’s primary residence. A host may have a primary residence elsewhere for valid reasons but still wish to occasionally rent out a portion of their home when they are present. Conversely, someone may have a primary residence in West Marin but not have all of the documentation the County demands to prove it (for instance, because mail service in rural areas requires renting a P.O. Box). Requiring burdensome documentation to qualify as a “hosted” STR will further reduce the number of lodging options for visitors.

**Draft text:**

***5.41.040 Short Term Rental Licenses***

***F. License for Unhosted Short Term Rental.*** *A license for a unhosted short term rental shall be issued with no requirement for an onsite host, but a local contact person meeting the requirements specified in the administrative procedures shall be identified.*

**Commentary:**

1. Requiring a local contact person is not objectionable, and the current regulations already provide for this. The County has not specified what “requirements” it intends to impose in further administrative procedures, and whether these would differ in any regard from current requirements. As noted above, we are concerned by the County’s effort to delegate so many of the details that may be determinative of whether an STR can continue operating to the non-democratically accountable discretion of the CDA.

**Draft text:**

***5.41.040 Short Term Rental Licenses***

***G. License Issuance.*** *A Short Term Rental license will be issued on a ministerial basis by the Community Development Agency based on a review of whether the Short Term Rental would satisfy all the applicable requirements. Licenses can be issued with conditions ensuring compliance with the applicable requirements.*

**Commentary:**

1. As noted above, the criteria and standards for STR licenses are not sufficiently objective. The prospect of further administrative regulations only exacerbates this. This will not allow for ministerial review of applications and issuance of STR licenses on a predictable basis, and thus will deter individuals from applying in the first place.

**Draft text:**

***5.41.040 Short Term Rental Licenses***

***H. License Term and Renewal.***

*1. A short term rental license issued under this Chapter shall expire immediately and automatically two years from the date of license issuance, unless revoked earlier. The license authorizes the property owner to conduct only such services as is described in this Chapter and in accordance with the terms and conditions of the license.*

*2. A short term rental license renewal application for an existing short term rental license must be submitted at least sixty days prior to the expiration date of the license. Upon timely submittal of a renewal application, the license will remain effective until such time the license renewal application is approved or denied.*

*3. Failure to submit a timely application for a renewal of an existing short term rental license shall result in that license not being renewed. In locations where there is a cap on the number of unhosted short term rentals, an unrenewed license will not be reinstated*



*to the property owner unless there are available licenses within the cap. A property owner who fails to renew a license may join the wait list for the next available license under the cap.*

*4. Once a license expires, a new license is required to operate the short term rental. Renewals can only be issued for an existing license, and in compliance with this section. Conversion from a hosted to an unhosted short term rental shall require a new license. The administrative procedures issued by the Community Development Agency pursuant to this chapter may describe modifications to short term rental operations that are eligible for consideration within a license renewal.*

*5. A short term rental license renewal application shall be denied if there have been more than two verified substantial violations of this Chapter or of the administrative procedures related to the short term rental during the previous two year license period. Substantial violations are violations for which a complaint has been received and a code enforcement case opened with an investigation verifying the existence of the violation.*

#### **Commentary:**

1. As discussed above, a provision causing for the automatic and immediate expiration of STR licenses after two years is a fundamental change in land-use law and contrary to the Local Coastal Program and its policies. In allowing the CDA to specify additional “terms and conditions” of a license on pain of non-renewal, this provision also allows the CDA to further constrain STR operations in a manner that would not pass muster by the Coastal Commission, evading the requirements of the Coastal Act.

2. Further, requiring renewal applications to be submitted at least 60 days *prior to* expiration creates a trap for the unwary that will lead to unwitting forfeiture of STR licenses, and will require that any delayed application go to the back of the line for purposes of waitlists and complete an entirely new application (with the costs and delays this entails). Further, if the renewal application is submitted 60 days prior to expiry but immediately denied, under the wording of this draft Regulation, the STR license would terminate prematurely. These are all highly unfair outcomes.

3. Furthermore, this Draft Regulation allows for the CDA to implement additional regulations limiting what can be done in the context of a permit renewal, all without democratic accountability.

4. Finally, the Draft Regulation states that the County “shall” deny a renewal application if there are “more than two” violations. This is ambiguous—is it two strikes and you’re out, or is it three? Further, while the Draft Regulation uses the term “substantial,” this term is defined to mean *anything* for which a complaint is received and a code compliance case opened with an investigation finding the existence of a violation. Thus, any technicality could lead to a strike, such as lettering on a sign being too small or trash cans left out for an extra day after pick-up.

There is no provision allowing for administrative review or appeal of these findings, which is a step backward from the current STR regulations that do provide such due process rights.

**Draft text:**

***5.41.040 Short Term Rental Licenses***

***I. License Fee.***

*i. Each short term rental license or renewal application shall be accompanied by the applicable short term rental license fee.*

*ii. The fee schedule shall be established by resolution of the Board of Supervisors following a public hearing. Said fee schedule may be adjusted by resolution of the Board following a public hearing. Permits and fees required are non-refundable and are in addition to any license, permit, certificate or fee required by any other chapter of the Marin County Code or other applicable law.*

**Commentary:**

1. The County has not specified or estimated what fee schedule would be required to cover the administration and enforcement of the September 2023 Draft Regulations. Currently the fee is \$20. County Staff has indicated that the new fee structure would have to be *substantial* to cover all the new requirements. This is obvious from the scope of the new Draft Regulations. The County should be asked what its estimated costs of administration would be, and how many employees would need to be hired in order to fully implement the Draft Regulations and the planned administrative procedures.

2. Furthermore, the fact that these fees would be required over and above the substantial compliance costs noted above, and would be non-refundable even if an application is rejected, will serve as yet another deterrent to individuals applying for or renewing their STR licenses. The costs of application and compliance will inevitably be baked into STR rates, driving up costs for visitors and thus shutting out guests of less fortunate socioeconomic status. The County should provide estimates as to how many STRs will cease operating due to these substantial burdens and costs, and how costs will rise for those that do remain.

3. Finally, STRs already remit 14% transient occupancy tax. The vast majority of the tax revenues (a base occupancy tax of 10%) flow directly to the County's general fund, amounting to millions of dollars per year. Because the County already receives substantial revenues from STRs, it is deeply unfair to impose *additional*, substantial fees on top of this simply to pay for the punitive framework in the Draft Regulations to administer the continued licensure and operation of STRs.

## 5. Chapter 5.41.050 – Short Term Rental Property Standards

### Draft text:

#### **5.41.050 Short Term Rental Property Standards**

**A. Undeveloped Properties.** *A property where there is no existing legal residential unit is not eligible for a short term rental license.*

**B. Restricted Structures.** *A short term rental is not allowed in any of the following:*

- 1. A structure subject to a recorded governmental restriction, including covenants or agreements for an affordable housing unit, agricultural employee unit, farmworker housing.*
- 2. An accessory dwelling unit or junior accessory dwelling unit.*
- 3. A multi-family dwelling or condominium unit.*
- 4. Non-residential areas within buildings, such as storage areas, and living/sleeping quarters added in garages.*
- 5. Recreation vehicles (RVs), including non-motorized travel trailers.*
- 6. Other structures without permanent foundations, including but not limited to tipis/teepees, yurts, tents, and treehouses.*

### Commentary:

1. Visitors like variety. Stays that may be suitable or even sought out for short-term stays may not be suitable as long-term housing, such as treehouses, “glamping,” stays in yurts, etc. These unconventional options can be some of the most memorable, fun and cost-effective ways to visit a region. Why is the County proposing to eliminate these when these eclectic options and structures would not be used for long-term or permanent housing? Won’t eliminating these vacation housing options put more pressure on other housing throughout the county?

2. In addition to not being suitable as long-term housing, options that include RV, tent, or “glamping” experiences are the most affordable short term rental opportunities for tourists. The restriction of such STR opportunities thus appears to be directly targeted at reducing the opportunities for lower-income people to enjoy the public coast. There is a severe limitation of available campsites in the many parks in West Marin. Over time, the availability of such low-cost options has *decreased* due to limits imposed at popular visitor destinations like Lawson’s Landing and the closure of the campground at Tomales Bay State Park. And, throughout this time, the regional, state and national populations have grown. By banning STR hosts from

providing campsites, RVs sites and yurts for travelers, lower-income travelers will be unable to access public park recreation in the numbers that currently enjoy them. Moreover, such a ban may have the unintended consequence of dramatically increasing the incidence of car camping in roadside pullouts or encampments on public lands and right of way in the environmentally sensitive areas impacted by the regulations—an activity which would actually worsen the sanitary and refuse issues the Draft Regulations claim to address.

3. The County has shown no data or health and safety basis for this punitive proposal. And, doing this would clearly remove options from the STR market that indisputably do not conflict with long-term housing goals. Restrictions based on governmental rules, restrictive covenants and the like make sense, but by quashing any and all creative and non-conventional options, the County would be throwing out the baby with the bathwater and reducing economical visitor accommodations.

**Draft text:**

***5.41.050 Short Term Rental Property Standards (continued)***

***C. One Short Term Rental Per Property.*** *Only one short term rental is allowed per property. If a property contains both a main dwelling and an accessory dwelling unit, only the main dwelling unit may be rented on a short-term basis.*

**Commentary:**

1. The Draft Regulation does not define “property,” in this provision or in the definitions. Does it refer to a parcel? Any structure with one or more dwelling units? Any home and set of structures adjoining one another, even if spanning multiple parcels? Depending on what definition is applied, the results could be drastically different.

2. More perniciously, this Draft Regulation would outlaw traditional STRs that have operated for decades in the form of guest cottages, in-law units and the like. It would especially target homeowners, including many senior residents, who count on the income these units bring in to allow them to stay in their homes. By forcing these residents to rent their main home or nothing at all on the STR market, this Draft Regulation would undermine one’s sense of home and economic security.

3. Legally, the Draft Regulation is contrary to policy C-HS-6 of the LUP, which provides for the ongoing “Short-Term Rental of **Primary or Second Units.**” Nothing in the LCP or LUP permits the County to *eliminate* second units as a source of STRs and only permit them in primary units. This Draft Regulation will thus be voided by the Coastal Commission and/or challenged via litigation.

4. Furthermore, visitors rely on guest cottages and in-law units as some of the more economical STR options. Forcing visitors to only rent a main house that is larger than they need will exclude visitors of more modest means, harming the diversity of visitors to the region.

5. It appears that the County's intent with this provision is, once again, not to promote health and safety or "good neighbor" policies, but instead to force owners of in-law units to convert these into long-term rentals. But individuals should not be conscripted into becoming long-term renters against their will (especially given the County's just-cause eviction laws). Further, many individuals host family members and friends in their guest accommodations during part of the year and have STR guests at other times. Having a long-term tenant would make it impossible to host friends and family in this manner.

**Draft text:**

***5.41.050 Short Term Rental Property Standards (continued)***

***D. Short Term Rental Parking Requirements.*** *Parking spaces must be provided for properties with short term rentals as follows:*

*1. Two onsite parking spaces must be provided while the property is in use as a short term rental, with at least one of the parking spaces reserved for guests of a hosted short term rental and two reserved for guests of an unhosted short term rental.*

*2. Parking for short term rentals shall comply with Marin County Code Section 24.04.380 (Dimensional Standards), as verified by the Department of Public Works.*

**Commentary:**

1. With this provision, the County has proposed yet another solution in search of a problem. As discussed above, the County has presented no data concerning parking conflicts in need of fixing or dedicated "onsite" parking and would be enacting a far more stringent requirement than applied anywhere else in the region. The County also has not explained the need for a minimum of two dedicated parking spots for any unhosted STR, no matter if it only accommodates 1 or 2 guests, and no matter if there is ample on-street parking that does not impede emergency access. Requiring compliance with "Dimensional Standards" and verification from the Department of Public Works will create more make-work and costs for STRs, the vast majority of whom have never had any parking-related conflicts.

**Draft text:**

***5.41.050 Short Term Rental Property Standards (continued)***

***E. Noise.*** *The property owner is responsible for ensuring any and all guests of a short term rental comply with the standards of Section 6.70.030 (Loud and Unnecessary Noises).*

**Commentary:**

1. While we agree that STRs should be good neighbors, the County has not presented data showing that the current noise and good neighbor provisions are inadequate. Further, it is not clear what is intended with the statement that a “property owner is responsible” for ensuring compliance, especially when the property is managed by a local designee. Does this mean the County intends to impose vicarious liability, and cite and fine owners of properties if there is a single noise violation by an STR guest? Is this the enforcement that would be executed if the complaint is from noise created by a permanent resident or a long-term rental? Why target STR owners?

**Draft text:**

***5.41.050 Short Term Rental Property Standards (continued)***

***F. Solid Waste.***

*1. With the exception of waste properly deposited in and fully contained within collection containers with secure lids, accumulation of solid waste outside of the short term rental at any time is prohibited. No collection container other than those consistent with Chapter 7.00 (Solid Waste, Collection, Diversion and Disposal) shall be placed or kept in or on any public street, sidewalk, footpath, or any public place whatsoever, but shall be maintained on the property, except as may be provided for removing and emptying by the authorized collector on the day and in the location designated for collection.*

*2. The property owner is responsible for ensuring that short term renters comply with Chapter 7.00 (Solid Waste Collection, Diversion, and Disposal).*

*3. A minimum service level per short term rental per week must be maintained for unhosted short term rentals. If the Agency Director determines the minimum service level is insufficient to accommodate all waste (including garbage, recyclable materials, and organic materials) generated by the short term rental, the property owner shall arrange for a higher level of service which will accommodate all waste generated by the short term rental.*

**Commentary:**

1. The County has presented no data that STRs have created garbage problems in need of addressing through this draft provision. And, it is a long-standing pattern for West Marin homeowners to leave their garbage can on the street for a day or two before and after collection day. Now, however, the County apparently is singling out STR operators for scrutiny if their cans are streetside on any other day of the week. If minutely regulating trash can placement, or prohibiting placement of any trash near a home, is necessary to preserving community aesthetics, why not require it of all residential uses?

2. Further, as noted above, it is unclear what the County intends with the statement that the “property owner is responsible for” ensuring compliance. Imposing vicarious liability for a single misplaced trash can is unfair.

3. Finally, there has been no showing that the CDA Director actually needs to supervise and dictate the service level subscribed to by unhosted STRs. This is yet another instance of the County seeking to micro-manage and raise the costs of STR operations without a valid basis.

**Draft text:**

***5.41.050 Short Term Rental Property Standards (continued)***

***G. Municipal Services.*** *The short term rental property shall have adequate water and sewer connections and shall be served by local utility agencies for water and sewer service wherever such utilities are provided.*

*1. In the event that the short term rental is served by a private water supply (well or spring), the property owner will need to possess a domestic water supply permit from the Marin Community Development Agency Environmental Health Services Division or other appropriate public agency and prove potability with a current bacteriological test.*

*2. In the event that the short term rental is served by a private sewage disposal system, then that system must be documented as legal with the Community Development Agency Environmental Health Services Division or other appropriate public agency, shall be inspected for proper operation by an approved licensed professional, and shall be sized appropriately for the short term rental and any other combined use.*

**Commentary:**

1. This Draft Regulation provides no objective criteria for what it means to have “adequate water and sewer connections.” This appears to be another instance in which the CDA

will have unfettered discretion to reject a property based on unstated grounds and non-objective criteria.

2. Further, the County has not shown why it makes sense to mandate that STRs connect to municipal water and sewer service where available. If an STR is currently on a self-sufficient septic system or well water system, why require it to connect to municipal services and provide greater strain on limited resources?

3. Above, we discuss the burdens of compliance with other water and sewer requirements. In short, these would impose tens of thousands of dollars in costs on properties that were legal when constructed and pose no current health and safety risks. The County has shown no data justifying the imposition of these additional costs and burdens on STRs alone. The effect will be to drive STRs off the market and reduce visitor access.

**Draft text:**

***5.41.050 Short Term Rental Property Standards (continued)***

***H. Emergency Preparedness.***

***1. Visible Address.*** Each short term rental shall have an address identification. The address identification must be maintained and shall be legible, measuring no less than 4 inches in height with a 3/8 inch stroke, and placed in a position that is visible from the street or road fronting the property. Whenever the address on the short term rental will not be clearly visible from the street or access road fronting the property, the address shall also be placed at the public street or access road in a manner which is clearly visible from both directions of travel on the frontage road or street.

***2. Smoke Alarms.*** Smoke alarms, in good working order, shall be installed in accordance with the California Building Code and at a minimum shall be installed in each bedroom, and at least one alarm on every level of the short term rental, including basements and habitable attics.

***3. Carbon Monoxide Alarms.*** Carbon monoxide alarms, in good working order, shall be installed in accordance with the California Building Code and at a minimum shall be installed outside each bedroom, on every level of the rental unit, including basements and habitable attics, and bedrooms or attached bathrooms with a fuelburning appliance, and shall be installed in accordance with the manufacturer's installation instructions.

***4. Fire Extinguisher.*** Each short term rental shall be equipped with one five-pound fire extinguisher, type 3-A:40-B:C, installed at a readily available location near the kitchen. If the short term rental has more than one level, an extinguisher must be mounted within each level. Fire extinguishers shall be inspected annually by a certified professional to ensure the extinguishers are in good working order.



**5. Emergency Communications.** *Each short term rental shall contain at least one working landline phone, Voice Over Internet Protocol (VOIP), or a National Oceanic and Atmospheric Administration (NOAA) radio as a means of receiving emergency communications. Locations with a working landline and/or VOIP should have the direct phone number and address listed near the device. If NOAA radios are employed, a set of direction for use of the radio shall be accessible.*

**6. Evacuation Routes.** *The short term rental owner or operator must provide vehicular evacuation route maps, provided by Fire Safe Marin or the County of Marin, for the rental area. Evacuation routes must be posted near the front door, with a QR code or link to the County's online evacuation map, of the short term rental. Further, a vehicular evacuation routes map must be provided as a handout so guests can take the map with them in the case of an emergency.*

**Commentary:**

We agree that protecting the safety of guests is paramount. Aside from this being the right thing to do, guests expect safety equipment and procedures to be in place, and insurance companies often require it. Yet the County's Draft Regulations go far beyond common-sense measures. Concerns include:

1. The County has presented no data or analysis showing that STRs are in need of the minute and redundant provisions set forth above, including landlines or VOIP services that are not found even in many commercial establishments. By dictating standards down to the size and positioning of address signs, the County is harming the aesthetic value of the neighborhood and arrogating control in a manner that will increase burden and cost without a demonstrable nexus to safety. Enforcing such regulations will also take substantial County resources. Will an employee of the CDA visit every STR with a ruler to measure the height and stroke of street signage?

2. The mandates for precise placements and annual inspections of multiple fire extinguishers "by a certified professional," will raise costs and create more compliance traps that can lead to the suspension or loss of an STR license. Will local fire departments visit each STR to certify the location and working order of fire extinguishers each year? Why the one-size-fits-all requirement which is untethered from heat or ignition sources? And why require fire extinguishers on floors that only contain a bedroom and no appliances? Why is the County seeking to impose fire standards that are far higher than state-wide standards? Why is this proposal being directed at STRs but no other form of residential use (including long-term rentals, where tenants occupy the premises year-round) or commercial lodgings? By singling out STRs, the County once again reflects a discriminatory animus behind these Draft Regulations.

3. Dictating the placement of evacuation maps is unnecessary and potentially counterproductive. If there is a more logical place and means to alert guests to such routes and procedures, the County would now bar STR operators from doing so.

**Draft text:**

***5.41.050 Short Term Rental Property Standards (continued)***

***I. Construction Requiring a Building Permit.*** *Short term rentals shall not be rented while the building they are in is undergoing any form of construction that requires a building permit.*

***J. Code Enforcement Cases.*** *Short term rentals shall not be rented while a code enforcement case is open on the property.*

***K. Special Events.*** *Weddings, corporate events, commercial functions, and any other similar events shall not be held on a property with a short term rental license.*

**Commentary:**

1. The County has presented no justification for these three draft provisions. Where construction or repairs are ongoing that will affect the habitability of an STR, it makes sense for no rentals to take place—indeed, most owners would never book an STR rental during such periods. However, the Draft Regulation above goes far further and precludes any rentals if any part of a larger building is undergoing any work involving a permit. In the instance of a main house with an attached ADU, minor construction (*e.g.*, a bathroom renovation) may be going on in a part of the structure that is completely separated from the ADU and have no bearing on the safety or habitability of that unit. The County has no justification for banning STR usage elsewhere on the property. Indeed, this appears to be another punitive rule designed to limit STR operations. It is especially backward as it will disincentive homeowners to make repairs to their properties (or to avoid seeking permits for repairs). Were the County to propose a rule that no *long-term* rentals could take place while any building permit was active anywhere in the building, one would expect vociferous protests from housing advocates about how retrograde such a policy would be. It is no less so for having been proposed for STRs.

2. Separately, that a “code enforcement case” is open is not grounds to suspend STR usage absent a clear, documented threat to the health and safety of guests or the neighborhood. If this rule were to go into effect, a code enforcement case could be opened for the most picayune matter—a one-time noise complaint, a garbage can raided by raccoons, street signage less than 4” in height, or even nothing at all if a vindictive neighbor calls in a baseless complaint—and immediately cut off STR rights until the County closes the case. This “guilty until proven innocent” approach makes no sense and would deprive homeowners of any semblance of due process rights.

3. Finally, by proposing to bar any kind of use of the entire “property with a short term rental license” for any “weddings, corporate events, commercial functions, and any other similar events,” the County would unduly restrict the use of entire properties (and not just the STR unit).

Some properties have multiple facilities onsite and are well-equipped to host such events and STRs at the same time or at different times without any adverse impact on the neighborhood. Requiring such properties to forfeit an STR license in order to host any such events is punitive and unfair. Further, the language “any other similar events” is vague and would give the County arbitrary power to decide that, for instance, a family reunion or birthday party ran afoul of this provision and should lead to the forfeiture of an STR license.

**Draft text:**

***5.41.050 Short Term Rental Property Standards (continued)***

***L. Local Contact Person Responsibilities.*** *A short term rental licensee must identify a local contact person for every unhosted short term rental. The local contact person shall respond to any complaint received regarding the conduct of the short term rental guests or the condition or operation of the short term rental and take any necessary remedial action to resolve violations of Marin County Code requirements in a timely manner. The short term rental licensee is responsible for the local contact person’s compliance with all provisions of this Chapter.*

***M. Host Responsibilities.*** *A short term rental licensee must identify a host for every short term rental that is not an unhosted short term rental. A host shall be on the premises between the hours of 10 PM and 5 AM every night when the short term rental is rented. The host shall respond to any complaint received regarding the conduct of the short term rental guests or the condition or operation of the short term rental and take any necessary remedial action to resolve violations of Marin County Code requirements in a timely manner. The short term rental licensee is responsible for the host’s compliance with all provisions of this Chapter.*

**Commentary:**

1. The County has not explained or presented data showing that current local contact person standards are inadequate. And, it is unclear what is intended with the provision that the licensee is “responsible for” the contact person’s compliance. Does the County intend to hold licensees strictly and vicariously liable for any action or inaction by the local contact person? Thus, once more, the County has proposed a Draft Regulation that is unnecessary and would inject further uncertainty into the operation of STRs.

2. The County’s proposed “house arrest” Regulation for hosts is especially baffling, unnecessary and, frankly, creepy. The essence of a hosted STR, even under the County’s proposed definition, is that a host shares a part of their own living space with a guest. Doing so makes efficient use of the space without having a living unit being solely dedicated to STR usage. There is no reason why a host should also have to be present during the STR rental, much less onsite overnight for specified hours any and every time a guest is present. The host is not a chaperone or a butler, and most guests would prefer to have the feeling of privacy that comes

with *less* interaction with a host, not more. The rule is thus bizarre and unnecessary at a minimum, and likely unenforceable absent extraordinary measure, thus making it of questionable constitutionality. Will the CDA's administrative regulations next require hosts to wear an ankle tracker to verify that they were home at the specified hours?

3. The same comments above regarding the vagueness of assigning the licensee host "responsibility" for host compliance apply here as well. Is the County intending that the licensee will monitor the host's nightly activities, and make the licensee vicariously liable for any actions by the host?

**6. Chapter 5.41.060 – Caps on the Number of Unhosted Short Term Rental Licenses**

**Draft text:**

***5.41.060 Caps on the Number of Unhosted Short Term Rental Licenses***

*The number of short term rental licenses for unhosted short term rentals shall be capped at the limits indicated below. Limits are based on the geographic areas in Marin County’s unincorporated jurisdiction shown on that certain map entitled “Townships of the County of Marin” kept on file by the Marin County Community Development Agency.*

**Table 1 – Short Term Rental Caps**

| <b>Township</b>            | <b>Initial Number of Unhosted Short Term Rentals</b> | <b>Ultimate Number of Unhosted Short Term Rentals</b> | <b>Reduction in Rentals / Percentage<sup>31</sup></b> |
|----------------------------|--|---|---|
| Bolinas                    | 63   | 54  | 9 units / 14%   |
| Dillon Beach               | 125  | 110   | 15 units / 12%  |
| Forest Knolls              | 8  | 8   | 0 units / 0%  |
| Inverness                  | 93   | 86  | 7 units / 7.5%  |
| Lagunitas                  | 6  | 4   | 2 units / 33%   |
| Marshall                   | 28   | 27  | 1 unit / 3.6%   |
| Muir Beach                 | 20   | 19  | 1 unit / 5%   |
| Nicasio                    | 11   | 8   | 3 units / 27%   |
| Olema                      | 3  | 3   | 0 units / 0%  |
| Petaluma                   | 6  | 6   | 0 units / 0%  |
| Point Reyes Station        | 32   | 26  | 6 units / 19%   |
| San Geronimo               | 10   | 7   | 3 units / 30%   |
| Stinson Beach              | 192  | 174   | 18 units / 9.4%                                       |
| Tomales                    | 12   | 11  | 1 unit / 8.3%   |
| Woodacre                   | 12   | 8   | 4 units / 33%   |
| <b>TOTALS<sup>32</sup></b> | <b>621</b>   | <b>551</b>  | <b>70 units / 11.3%</b>                               |

*The “Initial Number of Unhosted Short Term Rentals” referenced above in Table 1 establishes the number of licenses available for issuance for the valid applications submitted before July 1, 2025 (first round licenses).*

*First round licenses may be renewed. However, subsequent to these first round licenses being issued, the number of new licenses being issued shall decrease to the “Ultimate Number of Unhosted Short Term Rentals” established in Table 1. The cap on the*

<sup>31</sup> This column added by WMAC for purposes of analysis.

<sup>32</sup> This row added by WMAC for purposes of analysis.

*ultimate number of short term rental licenses in each township shall be eventually achieved as license applications or renewals decline over time.*

**Commentary:**

1. With this Draft Regulation, the County’s overt purpose in reducing visitor access to the Coast is on full display. The County has presented no data or analysis to support either the village-level proposed reductions or the aggregate proposed reduction of 70 units in West Marin. The County has presented no data concerning the impacts of this Draft Regulations on visitors, the local economy, or resources. The County has presented no data or analysis showing that the reductions in STRs shown above will have any impact whatsoever on the availability or affordability of long-term housing. The County has no justification whatsoever for the proposals above.

2. Contrary to the provisions of the LCP and LUP, which require the County to “[p]rotect and retain existing lower cost visitor and recreational facilities,” and expressly “[p]rohibit conversion of an existing lower-cost overnight facility unless replaced in kind” (C-PK-7 of the LUP), the caps would mandate the removal of one in every 11 STRs in unincorporated West Marin. Indeed, the greatest reductions in STRs are proposed for the Coastal Zone (58 out of 70 eliminated STRs, or 83% of the overall reduction). The proposed reductions would directly target some of the most sought-after communities among visitors (Bollinas, Dillon Beach, Inverness, Pt. Reyes Station, Stinson Beach) without providing any equivalent replacement options in kind, as mandated by the LUP. Stripping away economical visitor options from the Coastal Zone and popular visitor destinations adjacent to these communities is backward and illegal. This would represent the single greatest loss in public access to the Coast in the history of Marin County, if not the entire state of California.

3. Moreover, if adopted, the Draft Regulations would treat similarly situated communities in an unequal fashion. Some of the most popular communities among visitors, such as Dillon Beach and Stinson Beach, are slated for significant reductions in visitor access, while others are slated for a comparatively smaller reduction (Inverness, Marshall) or no changes at all (Olema). Adjacent communities will see disparate impacts. For instance, three of the four communities in the San Geronimo Valley (Lagunitas, San Geronimo, Woodacre) would each see reductions of 30% or more, whereas Forest Knolls would see no change at all. This is a bizarre and non-sensical result.

4. Furthermore, by comparing the caps to the parcel numbers provided in a prior County Staff Report<sup>33</sup>, one can see that the percentages of parcels in various communities that can be used as STRs will vary wildly. Under the proposed caps, some communities would see STRs as a percentage of parcels with developed living units in the low or mid-single digits:

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<sup>33</sup> Staff Report to the Marin County Planning Commission for June 12, 2023 Hearing, available at: [https://marin.granicus.com/MetaViewer.php?view\\_id=3&clip\\_id=11854&meta\\_id=1268019](https://marin.granicus.com/MetaViewer.php?view_id=3&clip_id=11854&meta_id=1268019).

Lagunitas: 4 / 282 parcels, or **1.4%**  
Woodacre: 8 / 578 parcels, or **1.4%**  
Pt. Reyes Station: 26 / 350 parcels, or **7.4%**  
Bolinas: 54 / 624 parcels, or **8.7%**

On the other hand, other communities would see dramatically different percentages of parcels with living units permitted to operate as STRs:

Dillon Beach: 110 / 408 parcels, or **27%**  
Stinson Beach: 174 / 704 parcels, or **25%**  
Marshall: 27 / 110 parcels, or **25%**

These disparate results are not the result of any kind of community input or deliberative process. They do not take into account any public health and safety factors or environmental concerns, nor patterns of visitors in each community. They instead simply reflect the status quo of how many parcels happened to be registered as STRs prior to the County's announcement of a potential moratorium. In other words, the County has done no data-driven analysis of visitor or resident needs in any of the communities in question. The County is instead proposing to turn back the clock and lock in STR limits based on the happenstance of how many TOT licenses were in place by community at a discrete point in the past. And, the caps forbid the elimination of an STR in one community (*e.g.*, Olema) being replaced by a new STR in an adjacent community (*e.g.*, Pt. Reyes Station). The absurdity of this approach is on display with the proposal to permanently lock in ten to fifteen-fold disparities from community to community. This is arbitrary, unfair and exclusionary.

5. The Community boundaries are unclear. We have been unable to locate online the map referenced in this Draft Regulation, titled *Townships of the County of Marin*. We thus cannot review whether the line-drawing between unincorporated townships is clear enough to delineate parcels or tracks communities' traditional boundaries. Requiring potential applicants to visit the CDA in person simply to know which "township" and set of caps their property would fall under adds further to the compliance burden of the Draft Regulations. Some owners might be surprised to learn that their property is classified in a township other than the one they feel most closely connected to.

6. More troublingly, it appears that by proposing a framework with strict caps and reductions over time, the County is trying to turn back the clock to, and permanently enshrine, the number of STRs in place prior to the County's announcement of a moratorium in early 2022. This does not represent a reasoned basis on which to project visitor needs going forward; it instead pretends that visitor needs and demands are static for all times. It creates a permanent moratorium, exactly what the County said the Coastal Commission would not permit by overt means. This will exclude visitors, especially those of lower economic means and those from diverse communities.

7. Studies have estimated that every \$65,000 spent on STRs creates a local job through direct and indirect economic activity.<sup>34</sup> By this estimate, STRs in West Marin support well over 100 local jobs. The County's proposed reduced caps will lead to anywhere from ten to dozens of lost jobs in the very communities the County claims it is trying to help.

8. Similarly, a loss of STRs will reduce TOT revenues for the County, and Measure W revenues that are dedicated to affordable housing and fire safety. If the County is permitted to reduce the number of STRs by 11.3% as proposed, we conservatively estimate that this would lead to the loss in the following five years of nearly \$3 million in TOT funding, and nearly \$1 million in Measure W funding. The County has no plan to replace this lost revenue. This will indisputably make it harder to achieve housing and fire safety goals. The County's actions reflect a mindset that it needs to destroy the community in order to save the community.

## 7. Chapter 5.41.070 – Violations

### Draft text:

#### **5.41.070 Violations**

*Any violation of the provisions in this Chapter shall be enforced through any legal remedies available to correct and/or abate a nuisance or violation of the Marin County Code, as provided in Marin County Code Chapters 1.05 (Nuisance Abatement), 1.06 (Recordation of Notice of Violation), and 1.07 (Imposition of Administrative Fines for Ordinance Violations) as they pertain to violations related to real property.*

*Short term rental licenses may be suspended or revoked if the licensee fails to meet the standards set forth in this Chapter and/or the requirements of the license. Short term rental licenses shall not be renewed if there have been more than two verified violations of the standards or administrative procedures during the previous two-year licensing period.*

### Commentary:

1. As discussed at several points above, the Draft Regulations provide no modicum of due process, no right to an independent hearing officer, and no right to appeal. By allowing the CDA to revoke property rights without notice or an opportunity to be heard, the County would be subjecting itself to due process claims and takings-related litigation.

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<sup>34</sup> Milken Institute, *Staying Power: The Effects of Short-Term Rentals on California's Tourism Economy and Housing Affordability*, available at: [https://milkeninstitute.org/sites/default/files/2022-05/Short\\_Term\\_Rentals\\_California.pdf](https://milkeninstitute.org/sites/default/files/2022-05/Short_Term_Rentals_California.pdf).



2. Furthermore, the Draft Regulation requiring revocation or non-renewal for “more than two verified violations of the standards or administrative procedures during the previous two-year licensing period” makes no sense. First of all, the standard is vague—does it require two or three violations? Second, there is no distinction between a minor and a major violation. Shutting down rentals over foot faults and trivial but fixable areas of non-compliance is punitive and unfair. Third, by referring to yet-to-be-drafted “administrative procedures,” the CDA would be giving itself power to cause licenses to be forfeited based on standards that do not exist currently. Finally, if an STR encounters a handful of issues at the beginning of a two-year period, but then fixes them all and sees no more violations for the duration of the period, the CDA would nevertheless be *required* to deny a renewal permit. Giving STR operators no opportunity or incentive to improve their performance simply makes no sense as a matter of policy.

## 8. Chapter 5.41.080 – Definitions

### Draft text:

#### ***5.41.080 Definitions***

*Terms used in this Chapter are defined below, or when undefined below are subject to the definitions in Marin County Code Titles 20 and 22.*

**Commentary:** Title 20 is an interim portion of the code, and there are two versions of Title 22. The Draft Regulations should specify which Titles the definitions will be adopted from. Further, in omitting the Local Coastal Program and its various policies and definitions, the Draft Regulations would seemingly omit numerous relevant definitions and policies that apply to properties in the Coastal Zone. At a minimum, this creates the potential for ambiguous and conflicting regulatory standards.

*Agency Director: The Marin County Community Development Agency Director or their designee.*

**Commentary:** By allowing the CDA to appoint a delegee to administer the Draft Regulations, the County would be further shielding administration from democratic accountability.

*Change of ownership: A change in ownership of the property as defined in California Revenue and Taxation Code section 60 et seq., or its successor.*

**Commentary:** See comments above about the unfair consequences for allowing any change in ownership or “the beneficial use thereof” (Cal. Rev. & Taxation Code § 60) to cause the immediate loss of an STR license, potentially causing a surviving spouse to lose their home, or many other entirely foreseeable hardships that further no rational policy goal.

*Guest or Guests: The individual(s) occupying the short term rental for the purpose of overnight lodging, including any individual(s) invited to a short term rental by those occupying the unit for the purposed of overnight lodging.*

**Commentary:** This definition, as written, would encompass not only paying guests but also family members and non-paying invitees. It would give the County the ability to regulate any use of an STR property, even when used solely for personal purposes by the owner.

*Host: A host is a person identified by a short term rental licensee to reside at the property at which a short term rental is located.*

**Commentary:** By requiring a host to reside “at the property” during specified hours of an STR stay via the “house arrest” rule, the Draft Regulations would create burdensome and unnecessary requirements that will make for a worse visitor experience, all with no policy justification.

*Hosted Short Term Rental: A short term rental that is the primary residence of a host, or that is located on the same property as the short term rental to which the host’s role relates.*

**Commentary:** This definition states a test in the disjunctive, making vague what the County would consider to be a bona fide hosted STR. The phrase “to which the host’s role relates” is also unclear. Finally, this definition appears to be in tension with the “house arrest” requirement discussed above (§5.41.050(M)), suggesting that hosts must be physically present overnight when guests are present. If a “hosted” rental is simply one that occurs in the space that the owner typically occupies as his full-time residence, why also require the owner to be on-site during the STR rental period? Doing so will mean less guest space and privacy, leading to a less enjoyable experience and reduced visitor access. Such a requirement will also make it impossible for the owner of a primary residence to rent it as an STR during any period when the owner may be away for 1 or more nights. This makes no sense as a matter of economics or policy.

*Local Contact Person: The person or business designated by the short term rental owner to receive and respond to communications regarding a short term rental.*

**Commentary:** None.

*Long Term Tenant: A property lessee who occupies a unit as a primary residence for a period exceeding 30 days.*

**Commentary:** None.

*Natural Person: A human being as distinguished from a person (as a corporation) created by operation of law.*

**Commentary:** The term “natural person” does not appear in the Draft Regulations, but instead appears only in the separate definition for “property owner.” As discussed above, there is no evidence of corporate ownership of STRs, making such regulations distinguishing between natural and other persons unnecessary, in addition to raising questions of enforceability and constitutionality.

*Primary Residence: The dwelling in which a person lives for at least six months each year. A person must demonstrate a property is their primary residence by claiming a homeowner’s exemption on the property for the purpose of property tax assessment, or by providing document sufficient to establish, as determined by the Agency Director, the required residency, such as motor vehicle registration, driver’s license, voter registration, a utility bill, and lease.*

**Commentary:** This Draft Definition raises significant privacy concerns, as it would require the submission of substantial amounts of personal information to the CDA Director (or their designee). Further, it fails to provide an objective standard, as it allows the Director (or their designee) to subjectively determine what documentation is sufficient or not.

*Property owner: The owner(s) of record of the real property on which the short term rental is operated, and to the extent any such owner is a legal entity, any and all natural persons with an interest in such legal entity.*

**Commentary:** This Draft Definition raises further privacy concerns, as it would require information about any person with an interest in a property. Many properties are owned among multiple family members of different generations; requiring records for each of these individuals to be submitted is unnecessary and invasive.

*Short Term Rental (STR): A rental of a residential unit, or a portion of a residential unit, for a time period of less than 30 consecutive nights. Short term rentals are a residential use of property.*

**Commentary:** We appreciate the County’s acknowledgment that STRs constitute a residential use of a property, consistent with the discussion of their proper treatment as a principal permitted use under the Local Coastal Program. This confirms that Draft Regulations that unfairly single out STRs versus other residential uses are discriminatory and improper.

*Unhosted Short Term Rental: Short-term rental occupancy of a residential unit on a property that does not provide a primary residence for the property owner or a long term tenant.*

**Commentary:** With this Draft Regulation, the County apparently intends to ban any residential unit that serves as a “primary residence” from being offered as an unhosted STR. This makes no sense. Many homeowners offer whole-house rentals of their primary residence precisely when they will be away (on vacation, work travel, visiting family, etc.). This is the quintessential use

of home-sharing in a manner that does not risk taking away a long-term housing option from any other residents. By forcing the homeowner to offer their “primary residence” only as a less-desirable *hosted* STR (again, subject to the bizarre “house arrest” rule), the County would be taking away the most logical and lucrative option for the use of primary residences as occasional STRs. Doing so would harm many homeowners’ ability to defray mortgage and carrying costs via unhosted rentals, jeopardizing their ability to remain in their community. This further demonstrates that the County does not understand the industry it seeks to regulate and how frequently an owner rents their home for STR purposes. The County needs to do their homework before drafting regulations impacting residents.

## **VI. Suggested Questions**

Below, we provide suggested questions by topic for County Staff concerning the September 2023 Draft Regulations, and the County's process for drafting and evaluating the Draft Regulations.

### **A. Access to the Coast**

1. Why is the County targeting short-term lodging in the County's coastal communities and the villages adjacent to the largest percentage of the County's public land?
2. Has the County assessed how the Draft Regulations will impact visitors from diverse communities and their stay in coastal communities?
3. Has the County assessed how the prices and availability of lodging, especially lower-cost options, will be impacted by these Draft Regulations?
4. Has the County modeled the effect of losing 70 unhosted STRs upon Coastal Access, especially given that 58 of the STRs slated for elimination will be in the Coastal Zone?
5. Has the County studied visitor patterns for each of the coastal villages, and made an assessment as to how each community will be able to accommodate visitors going forward, especially in light of the proposed reductions?
6. Has the County modeled the effect of the loss of 70 STRs, and other rules such as the ban on second units being used as STRs, on diverse visitors and low- and middle-income visitors?
7. Has the County assessed how many currently operating STRs would meet the County's proposed definitions and restrictions to qualify as a "hosted" rental?
8. Given that the County has acknowledged that it does not have reliable data concerning the numbers of unhosted vs. hosted STRs currently offered in West Marin, does the County have a basis for disputing that the proposed reduction in STRs, largely concentrated in the Coastal Zone, will reduce visitor access to the Coast?
9. What is the rationale for obligating hosts to remain overnight any time a guest is on the premises? Won't doing so make the STR less desirable for guests and leave less space for guests, thereby further reducing access? Does any data suggest that this measure is necessary?
10. Is the County aware of any regulations approved by the Coastal Commission that cap and reduce visitor accommodations for the vast majority of a whole County, in this case, nearly 500 square miles of land directly adjacent to the Coast?

## **B. Economic Impacts**

1. Has the County modeled the loss in Transient Occupancy Taxes and Measure W revenues likely to result were the September 2023 Draft Regulations to be enacted? Does the County dispute that the proposed reduced caps would reduce TOT revenues by approximately \$3 million over five years, and Measure W revenues by an additional \$1 million over five years?
2. Has the County assessed what the loss of these revenues would mean for achieving affordable housing and fire and safety goals?
3. Has the County assessed the impact on West Marin residents who rely, directly or indirectly, on income from STRs for their livelihood?
4. Has the County identified any alternative sources of revenue for lost Transient Occupancy Taxes and Measure W revenues?
5. Why has the County not calculated occupancy rates or revenues for STRs based on the monthly TOT forms submitted for each STR in unincorporated Marin County?
6. Has the County estimated the likely job losses from the proposed reduction in STRs?
7. Has the County estimated the impact on related hospitality industries in the region—*e.g.*, impact on restaurants, stores, etc.?
8. Has the County assessed which communities would likely be most impacted by the loss in economic activity and jobs attendant with the proposed reduction in STRs—*i.e.*, the impacts on low- and middle-income workers who clean and maintain STRs or hold many jobs in the visitor-facing service industry?

## **C. Housing**

1. Why is the County proposing to hold STRs to different and far higher and more stringent standards than other residential uses, including long-term tenancies?
2. Has the County attempted to quantify how many STRs previously were used as long-term residences versus summer or part-time homes?
3. Has the County analyzed the use of STRs by guests, versus times in which STRs are used by homeowners, versus the number of homes that sit empty?
4. Has the County done any analysis concerning what impact the loss or reduction in STR operations (*e.g.*, due to banning second units) will have on homeowners' ability to remain in their homes?
5. Has the County done any analysis concerning these impacts on vulnerable communities or individuals on limited or fixed incomes (*e.g.*, retired persons)?

6. What data or analysis, if any, did the County consider before proposing to ban STRs in non-conventional structures (glamping, yurts, treehouses, etc.) that cannot be legally used as long-term housing?
7. Has the County collected any data or performed any analysis concerning the impacts of the current moratorium on long-term housing options?
8. Does the County have any data or analysis showing that reducing the number of STRs will improve the availability or affordability of long-term housing?
9. Has the County compiled data concerning housing insecurity in West Marin, as previously requested by the Planning Commission?
10. Why has the County not presented data supporting its assertion that STR operations conflict with housing goals for low- and moderate-income residents?
11. Given the lack of evidence showing that STRs reduce long-term housing in West Marin, why has the County uncritically repeated the talking points of anti-STR voices who have made this assertion?

#### **D. Health & Safety**

1. How many complaints has the County received in the past 2 years relating to STRs and (i) parking, (ii) trash, (iii) fire safety, (iv) water usage, (v) septic issues, and (vi) any other health and safety issues? How many of these complaints has the County verified as being well-founded?
2. Has the County considered whether enforcement of current regulations against STRs that have received complaints would sufficiently address the complaints that have been documented?
3. Why has the County exempted hotels, inns, campgrounds and other commercial operations from the proposed Draft Regulations?
4. How will the CDA Director determine what service levels of trash pickup are “sufficient” for unhosted STRs? Will this be a case-by-case assessment or will all STRs be required to pay for a particular service level?
5. Why is the County re-proposing signage requirements of the kind rejected by the Board of Supervisors in 2018? Has the County assessed potential security risks from requiring exterior signage announcing STRs and online advertisements disclosing STR license numbers and parking diagrams?
6. What is the rationale for obligating STRs that are currently self-sufficient and serviced by well water or a septic system to connect to municipal water or sewage systems? Won’t this *increase* the impacts of STRs on local resources? Does the County intend to ultimately require this of all other forms of residential use?
7. Why is the County holding STRs to different, and far higher and more stringent health and safety standards than any other form of residential use?

8. Why is the County holding STRs to different, and far higher and more stringent health and safety standards than actual commercial operations often owned by large corporations and intended to be operated 365 days of the year and exclusively catering to visitors?

**E. Enforcement & Legal Matters**

1. Has the County estimated or modeled the costs to homeowners of applying for STRs under the Draft Regulations and the range of compliance costs to homeowners?
2. Has the County estimated or modeled how many current STRs would no longer be able to legally operate under the new Draft Regulations, for instance due to the proposed parking requirements, the proposed septic requirements, or the proposed ban on the use of second units as STRs?
3. Has the County estimated the costs to the Community Development Agency for administering and enforcing the Draft Regulations? Has the County estimated how many individuals would need to be hired to administer and enforce the Draft Regulations county-wide?
4. Has the County modeled the likely range of application fees it would have to charge to cover the costs of administration and compliance?
5. Has the County considered paying for the costs of administration and compliance out of the 10% Transient Occupancy Taxes already remitted by STRs (thus, without affecting Measure W revenues)?
6. Why is the County proposing to treat residential property uses differently for the first time when the law and Local Coastal Program support treating both short- and long-term rentals the same?
7. Has the County coordinated with the California Coastal Commission about the September 2023 Draft Regulations?
8. Has the Coastal Commission expressed views concerning the proposed 11.3% reduction in STRs in unincorporated West Marin, or the fact that 58 out of the 70 proposed reductions would be concentrated in the Coastal Zone?
9. Has the Coastal Commission been informed that the Draft Regulations will increase costs and reduce the availability of economically priced visitor accommodations in an area adjacent to the Coast covering nearly 500 square miles?
10. Has the County asked County Counsel to review the Draft Regulations for their consistency with the Local Coastal Program or LUP? If so, what was County Counsel's response?
11. How does the County intend to reconcile the September 2023 Draft Regulations with the currently existing STR regulations under Chapter 5.41 of the Marin County Code? Would the existing regulations be maintained in whole or in part?



12. Does the County intend to remove provisions from current Chapter 5.41 concerning due process rights and the right to a neutral administrative hearing and appeal?
13. Will STR operators have any recourse or the right to a neutral hearing officer and appeal to Superior Court if their license is suspended or revoked for any reason?
14. Will STR operators be subject to suspension or revocation for any violations of the Draft Regulations or forthcoming administrative provisions, or will only specified violations subject the license to suspension and revocation?
15. Has the County begun drafting the proposed administrative procedures? When does it intend to release a draft of the procedures?
16. What is the basis for promulgating administrative procedures beyond those specified in the Draft Regulations?

**F. Follow-up Questions From June 12, 2023 Hearing Before Marin County Planning Commission**

1. How many workshops or focus groups has the County held since the June 12 Hearing? How is the County ensuring that all voices are heard and considered?
2. Why has the County taken a one-size-fits-all approach for the Draft Regulations, with only unhosted STR caps varying by community?
3. Has the County collected ownership data to assess the extent to which there is any evidence of non-resident corporate entities acquiring and operating STRs in West Marin?
4. Why is the County proposing detailed parking requirements when this is no longer a component of state law? Has the County considered the impacts of such requirements on visitors who do not have access to a car (*e.g.*, potentially eliminating STRs in village cores serviced by the West Marin Stagecoach)?
5. Has the County assessed the extent to which the proposed health and safety requirements will prove cost-prohibitive for a significant number of owners?
6. Has the County received input from the Coastal Commission concerning the effect of reducing STR licenses in the Coastal Zone?
7. Given the County's stated intent of enacting the moratorium to "stabilize" housing, what has the County done to measure the efficacy of this policy since its enactment?
8. Why, given County Staff's acknowledgment of the difficulties of policing a "natural person" requirement, is the County nevertheless proposing such a policy here? Has County Counsel opined as to the enforceability of such a limitation?
9. Has the County collected data concerning the intensity of uses of STRs, *i.e.*, how many STRs see occasional versus full-time occupancy as STRs?
10. Has the County taken any steps since the June 12 hearing, such as working with the Department of Finance, to improve the accuracy of data collected about STRs?

11. Why has the County seemingly rejected the idea that there should be flexibility in allowing second units and guest cottages to be operated as STRs—why mandate that only a main unit on a property be operated as an STR? Has County Counsel opined on whether this proposed rule is consistent with the policies of the Local Coastal Program?
12. Has the County made any effort since the June 12 hearing to obtain current or historical data concerning what percentage of housing units in West Marin are used as long-term rentals?
13. Has the County made any effort to calculate the number of living units affected by the Draft Regulations, as opposed to parcels with one or more living units? Won't counting parcels as opposed to living units undercount the total number of living units in West Marin, and thereby overstate the proportion of STRs to total living units?
14. Has the County gathered data on housing insecurity in West Marin?
15. What data or analysis indicates that the Draft Regulations would further the County's affordable housing goals, as opposed to undermining them by significantly reducing Measure W funds and destroying tens to dozens of local jobs in the service industry?

## **VII. Conclusion and Recommendation**

The September 2023 Draft Regulations represent the most backward and anti-visitor proposal to be put forward in the County in decades, if not generations. If enacted, they would cause the immediate loss of visitor access, with most of the reductions concentrated in the Coastal Zone of Marin, and the most likely losses concentrated among economical overnight accommodations. The Draft Regulations would cause this loss by hyper-regulating every aspect of applying for and operating an STR, driving up costs directly and indirectly. The County's approach would also deprive owners of due process, to the point that many operators will be driven out of the market due to the costs and burdens far outweighing the modest benefits of operating an STR.

The Draft regulations will also overtly limit access to the Coast by phasing out 70 unhosted STRs—the most popular form of rental, and the only form appropriate for groups—with the vast majority of the reduction concentrated in the Coastal Zone and near popular visitor destinations.

The Draft Regulations, if enacted, would harm the local economy, destroying dozens of local jobs depended on by low- and middle-income workers, and depriving the County of TOT and Measure W revenues. The Regulations would destabilize and harm the very communities it purports to protect. The only individuals who would benefit from enactment of the Draft Regulations are those relatively few individuals who are seeking to make their communities more exclusive, and who are already fortunate enough to own property independent of any support from the local tourist and visitor economy.

The County has presented no data or analysis that the onerous Draft Regulations are necessary or proper to address present-day problems. The County has presented no data or analysis that the Regulations that have been in place for the last several years are not serving their purpose. The County has presented no data or analysis that the Draft Regulations will improve the decades-long challenge of creating affordable housing in the area. It is clear that the manifest negative consequences that would flow from the Draft Regulations greatly outweigh any hypothetical benefits the County suggests could be achieved.

For these reasons, we respectfully recommend that the Planning Commission vote to reject the September 2023 Draft Regulations.

Respectfully,

West Marin Access Coalition

(Individual signatories listed on pages 2-5 above)