



COMMUNITY DEVELOPMENT AGENCY

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July 31, 2018

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Marin County Board of Supervisors
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SUBJECT: Conduct a First Reading of an Ordinance requiring public notifications of short term rentals

Dear Supervisors,

Building and Safety
Environmental Health Services
Planning
Environmental Review
Housing
Sustainability
Code Enforcement
GIS
Federal Grants

www.marincounty.org/cda

RECOMMENDATION:

Adopt an Ordinance requiring that notification of a short term rental be provided to surrounding properties before the owner of the short term rental obtains or renews a business license. The notification may be provided either by an on-site sign or by letters or door hangers to surrounding properties and would need to identify a local contact, a complaint hotline, and other information. The owners of short term rentals would also be required to inform their short term tenants of how to meet certain requirements of the Marin County Code related to noise, parking, vehicular access, and trash. The Ordinance would sunset after two years unless it is extended by the Board.

SUMMARY:

Short term rentals have become increasingly popular in recent years and emerged as an important topic for many communities in the unincorporated areas of Marin County. The largest number of short term rentals is located in Marin's coastal areas, where beaches and national parks draw millions of visitors to Marin annually. Potential regulation of short term rentals first emerged during the County's update of the Local Coastal Program (LCP) which regulates the County's coastal areas pursuant to the California Coastal Act. Among the Coastal Act's highest priorities is providing services, including lodging, to visitors to the coast. Any substantial change to the County's current regulatory framework in the Coastal Zone would require an amendment to the LCP. One of the programs in the County's draft LCP update states:

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

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.”

During the Board of Supervisor’s 2016 series of workshops on policy options for preserving housing affordability and preventing displacement, the impact of short term rentals on the availability of permanent rental housing stock was raised by community members, and the following program was added to the Community Development Agency’s work plan, in part to reflect the related LCP amendment:

“Short-term rental regulations. CDA staff will draft an ordinance regulating short-term rentals (i.e. “vacation rentals”) initially for the Marin County Coastal Zone. The proposed ordinance will be presented to the Planning Commission followed by the Planning Commission recommendation being presented to the Board of Supervisors at a public hearing. If adopted by the Board, the regulations will be filed with the California Coastal Commission (CCC) for review and certification. If certified by the CCC, the regulations will be brought back to the Board to be considered for applicability to the non-coastal area of unincorporated Marin. If adopted by the Board, the regulations will apply to rental housing in the unincorporated county.”

In an effort to begin the research on the feasibility, options for enforcement and estimated cost of this program, County staff worked with Lisa Wise Consulting on a background white paper and regulatory alternatives, including posting signs identifying short term rental properties. This work addressed both the coastal and interior areas of Marin County. On July 18, 2017, the Marin County Board of Supervisors held a hearing to receive a report about short term rentals in the unincorporated areas of Marin and to consider next steps for creating a regulatory framework for short term rentals.

After the July 18th, 2017 hearing, a subcommittee of the Board comprised of Supervisors Rodoni and Sears was formed to meet on an ad hoc basis with staff members from the Marin County Department of Finance, the Community Development Agency, and the County Counsel’s office. These discussions led to a proposal for the full Board to consider a stand-alone Ordinance on posting signs identifying short term rentals, payment of taxes, and business licenses, with the signage requirements to be implemented on a pilot basis for a period of one year.

A proposed Ordinance was considered by the full Board on February 13th and March 13th of 2018. The public was actively engaged in this discussion, and many submitted comments requesting that the Board consider other options to the proposed sign requirements that would provide more flexibility for short term rental owners and local property owner’s associations. The Board opted not to approve the Ordinance in its previous form and instead requested that staff review other alternatives. Additional meetings with the subcommittee and staff were held following the Board’s decision, which resulted in the revised Ordinance currently being presented to your Board.

A number of changes have been made to the Ordinance since your Board reviewed the prior proposal. Among these changes are the following:

1. The revised Ordinance would sunset after two years, rather than one, to give County staff more time to evaluate the effectiveness of the ordinance and ways it can inform the preparation of a more comprehensive regulatory framework governing short term rentals in the future.
2. Additional flexibility has been added to the notification requirements. Under the revised Ordinance, a short term rental owner would have the option to notify neighbors within a 300 foot radius that the property will be rented on a short term basis by a letter or by door hangers if they prefer not to post a sign outside the short term rental. If they choose to post a sign, then the design and materials of that sign would be determined by the owner as long as they meet certain criteria. This feature provides property owners and local property owner's associations greater flexibility to use designs that are more compatible with the character of the community.
3. Marin County will maintain and manage a contract with a vendor to provide a 24/7 staffed short term rental complaint hotline to provide the following services:
 - Accept reports of incidents by phone or email
 - Document all reported incidents
 - Contact the local contact person for problem properties after receiving a complaint
4. The revised Ordinance requires owners to provide a brochure to short term rental tenants that sets forth site specific instructions on how to meet the County's requirements governing noise, parking, vehicular access, and trash.

No discussion of short term rentals is complete without some consideration of regulatory enforcement. A comprehensive Short Term Rental program of the sort encouraged by the LCP and the workplan on preserving housing affordability would need to include an enforcement component paid for by fines, licensing fees, or general fund subsidies. Although the proposed short term rental notification Ordinance includes enforcement provisions, the approach relies to a greater degree on promoting contact between neighbors and owners by requiring that a contact person and phone number be publicly displayed. Such contact between a neighbor experiencing problems with activities at a short term rental and the property owner will hopefully foster better communication and provide owners with a greater incentive to address problems before they become serious.

FISCAL/STAFFING IMPACT:

The fiscal and staffing impacts to CDA related to the proposed Ordinance are uncertain, and likely to impact the Code Compliance program through complaints. There is very little revenue associated with the program to pay for the additional enforcement due to the statutory limit on the amount of fines that can be imposed through a citation. Therefore, the proposed ordinance may affect the workload for the Code Compliance program. Staff will work with the Board subcommittee and the County Administrator to evaluate the appropriateness of offsetting the staffing impacts from the general fund, business license, and/or transient occupancy tax programs.

REVIEWED BY:

<input checked="" type="checkbox"/> Department of Finance	<input type="checkbox"/> N/A
<input checked="" type="checkbox"/> County Counsel	<input type="checkbox"/> N/A
<input type="checkbox"/> Human Resources	<input type="checkbox"/> N/A

SIGNATURES:

Reviewed By:

Jeremy Tejrjian
Planning Manager

Brian C. Crawford
Director

Attachments:

1. An Ordinance on Short Term Rental Notification
2. Draft Administrative Guidelines for Short Term Rental Signs
3. Public Comment

MARIN COUNTY BOARD OF SUPERVISORS

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING CERTAIN REQUIREMENTS FOR SHORT TERM RENTALS BY ADDING CHAPTER 5.41 NOTICE OF SHORT TERM RENTALS TO THE MARIN COUNTY CODE

SECTION I: FINDINGS

1. **WHEREAS**, the Marin County Board of Supervisors finds that the growth of Short Term Rentals may lead to neighborhood conflicts unless appropriate rules are established and understood by property owners, community members, and decision makers.
2. **WHEREAS**, on July 31, 2018, the Marin County Board of Supervisors held a duly noticed first reading of this Ordinance.
3. **WHEREAS**, on August 8, 2018, the Marin County Board of Supervisors held a duly noticed public hearing to take public testimony and consider this Ordinance.
4. **WHEREAS**, the project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines because it would not result in any potential environmental impacts.

SECTION II: ACTION

Chapter 5.41 of the Marin County Code is hereby added, as follows:

5.41 NOTICE OF SHORT TERM RENTALS

5.41.010 RESTRICTION

No Short Term Rental shall take place in unincorporated Marin County except in conformance with the requirements set forth below.

5.41.020 DEFINITIONS

- A. The word "Short Term Rental" is defined herein as a rental of residential property for a lease term of 30 days or less.
- B. The term "Local Contact Person" is defined herein as a person who is available to respond to Short Term Rental complaints.
- C. The term "Enforcement Officer" is defined herein as the Community Development Agency Director or his/her designee.
- D. The term "Hearing Officer" is defined herein as the Community Development Agency Director or his/her designee. However, the CDA Director shall not act as both the Enforcement Officer and Hearing Officer or designate any CDA employee as the

Hearing Officer if that person was the Enforcement Officer, with respect to that particular violation.

5.41.030 BUSINESS LICENSE AND TRANSIENT OCCUPANCY TAX

Owners of Short Term Rentals shall comply with Chapter 5.54 Business License and comply with Chapter 3.05 uniform Transient Occupancy Tax as administered by the Marin County Department of Finance and Marin County Code.

5.41.040 SHORT TERM RENTAL COMPLAINT HOTLINE

Marin County shall maintain and manage a contract with a vendor to provide a Short Term Rental complaint hotline. Hotline staff will accept complaints about Short Term Rentals received by calls and emails and notify the Local Contact Person or property owner about the complaints.

5.41.050 LOCAL CONTACT PERSON RESPONSE

The Local Contact Person shall respond to any complaint received by either Marin County Short Term Rental Hotline staff or an individual regarding the conduct of the Short Term Rental occupants 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.

5.41.060 SIGNAGE

The public shall be notified that a Short Term Rental is available on a particular property using at least one of the following two methods: (1) Exterior signage, or (2) Delivery of written notice to adjacent properties. The mandatory standards for these methods are set forth below.

A. Exterior Signage

- 1) Each Short Term Rental shall be identified with a single exterior sign, issued by the Department of Finance, that includes the name of the Local Contact Person, the phone number and email address for the Local Contact Person, the phone number and the email address of the Marin County Short Term Rental Hotline, and the street address of the Short Term Rental. At the owner's discretion, an alternative design for the sign from that provided by the Department of Finance is allowed provided the size and font of the sign is no smaller than those of the sign provided by the Department of Finance and the sign is made of at least as durable a material. At a minimum, the sign shall be posted while the unit is being used as a Short Term Rental.
- 2) The sign shall be 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.

B. Written notification shall be provided to all properties within a radius of 300 feet of the property with the Short Term Rental using either door handle hangers or letters.

- 1) The notice, whether a door handle hanger or letter, shall indicate that the subject property will be the location of a Short Term Rental and provide the name of the Local Contact Person, the phone number and email address for the Local Contact Person, the phone number and the email address of the Marin County Short Term Rental Hotline, and the street address of the Short Term Rental.
- 2) An affidavit from the owner certifying that the notice has been provided in conformance with this chapter at least 10 days prior to the owner applying for a new business license or renewing an existing business license shall be submitted to the Marin County Department of Finance at the time of application for a business license or business license renewal and the business license/renewal shall not be issued in the absence of such an affidavit.

5.41.070 TENANT NOTIFICATION OF COUNTY RULES

The owner of the Short Term Rental shall post a copy of the “house rules” inside the unit or provide the tenants with a “good neighbor” brochure at the time of their arrival. The house rules or brochure shall include site specific instructions on how to comply with the following County regulations:

- A. Loud and Unnecessary Noises (Marin County Code 6.70.030)
Between 11:00pm and 7:00am:
 - No operation of any noise generating instrument (e.g. television, radio, loudspeaker, musical instrument) that generates noise audible 50 yards from the building.
 - No yelling, shouting, whistling, or singing on public roads.
- B. Parking (Marin County Code 24.04.340)
 - Typically, two off-street parking spaces shall be provided for each residence. However, where on street parking is limited, four off-street parking spaces are required.
- C. Emergency Access (California Fire Code 503.4 referenced)
 - Parking shall not obstruct roadways less than 20 feet wide.
- D. Garbage (Marin County Code 7.00.020)
 - Garbage placed outside shall be in a suitable covered container.

5.41.080 ADMINISTRATIVE CITATION OF PROPERTY OWNER(S) FOR FAILURE TO COMPLY WITH SHORT TERM RENTAL NOTIFICATION REQUIREMENTS

- A. Property owner(s) failing to comply with Section 5.41.060 are subject to an administrative citation issued by the Community Development Agency pursuant to the authority granted to the Board of Supervisors by Government Code Section 53069.4, et seq. Violations will be handled in the following manner:
 1. The penalties assessed for each violation shall not exceed the following amounts:
 - a) \$100.00 for a first violation;
 - b) \$200.00 for a second violation of this Ordinance within one year;
 - c) \$500.00 for each additional violation of this Ordinance within one year; and

- d) The fourth and subsequent violation within one year shall constitute a nuisance and be subject to the nuisance abatement procedures in Marin County Code Chapter 1.05, including payment of civil penalties of up to \$2,500 per violation per day and enforcement and other abatement costs incurred by the County.
2. Payment of the penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action.
- B. Nonpayment of any assessed violation for longer than one year shall constitute a nuisance and be subject to the nuisance abatement procedures in Marin County Code Chapter 1.05, including payment of civil penalties of up to \$2,500 per violation per day and enforcement and other abatement costs incurred by the County.
 - C. The penalties assessed shall be payable to the County of Marin.
 - D. Service of Citation
 1. If the property owner(s) who has violated the Ordinance is present at the scene of the violation, the Enforcement Officer shall attempt to obtain their signature on the administrative citation and shall deliver a copy of the administrative citation to them.
 2. If the Enforcement Officer is unable to serve the property owner(s) on the premises, the administrative citation may be left with the occupant(s) of the property. If left with the occupant(s) of the property, a copy of the administrative citation shall also be mailed to the property owner(s) by certified mail, return receipt requested.
 3. If no one can be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy mailed by certified mail, return receipt requested to the owner(s), occupant(s) or other person who has violated the Ordinance. The citation shall be mailed to the property address and/or the address listed for the owner(s) on the latest County Assessment Roll.
 4. The failure of any interested person to receive the citation shall not affect the validity of the proceedings.
 - E. The remedies provided by this chapter are cumulative and are in addition to any other remedies available at law or in equity, including withholding the issuance of any building and construction permit.
 - F. Whenever evidence of a violation of this chapter is obtained in any part through the participation of a person under the age of eighteen years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

5.41.090 ADMINISTRATIVE REVIEW ON THE IMPOSITION OF ADMINISTRATIVE FINES FOR FAILURE TO COMPLY WITH SHORT TERM RENTAL NOTIFICATION REQUIREMENT; APPEAL

- A. Any person subject to an administrative fine pursuant to this Chapter shall have the right to request an administrative review within forty-five days of the issuance of a citation for an administrative violation of this ordinance pursuant to the authority granted to the Board of Supervisors by Government Code Section 53069.4, et seq. To request such a review, the person requesting the review shall notify the Enforcement Officer in writing within forty-five days of the issuance of the citation.
- B. The Hearing Officer may conduct a hearing on the matter within ninety days of the request for the hearing unless one of the parties requests a continuance for good cause. The Hearing Officer shall render a decision within thirty days of the conclusion of the hearing, or from the receipt of the review request (if no hearing is held).
- C. The person upon whom an administrative fine is imposed pursuant to this Chapter may appeal the decision of the Hearing Officer to the Superior Court. No appeal to the Superior Court can lie unless the party filing the appeal has first properly requested the administrative review under Subsection 5.41.090(A).
- D. The appeal must be filed within twenty days after service of the final decision issued by the Enforcement Officer pursuant to California Government Code Section 53069.4, subdivision (b). The procedures outlined in Government Code 53069.4 shall apply.

5.41.100 SEVERABILITY

The provisions of this chapter are declared to be severable. If any provision, clause, word, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter.

SECTION III: EFFECTIVE DATE AND PUBLICATION

This Ordinance shall be and is hereby declared to be in full force and effect as of thirty days from and after the date of its passage and shall be published once before the expiration of fifteen days after its passage, with the names of the Supervisors voting for and against the same, in the *Marin Independent Journal*, a newspaper of general circulation published in the County of Marin.

This Ordinance shall remain in effect for a period of 24 months from the adoption date, unless extended by the Board of Supervisors.

SECTION IV: VOTE

Introduced at a regular meeting of the Board of Supervisors held on the 31st day of July, 2018, and adopted by the Board of Supervisors of the County of Marin, State of California, on the 7th day of August, 2018, by the following vote to wit:

AYES: SUPERVISORS

NOES:

ABSENT:

DAMON CONNOLLY, PRESIDENT
MARIN COUNTY BOARD OF
SUPERVISORS

ATTEST:

Matthew H. Hymel
Clerk of the Board of Supervisors