



DRAFT SHORT TERM RENTAL REGULATIONS PLANNING COMMISSION RECOMMENDATION

INTRODUCTION: Since Fall 2022, County staff have been working to update the STR Ordinance for the unincorporated areas of Marin County. Management of STRs is proposed consistent with policies and programs in both the County's Housing Element (Policies 2.6 and 3.3, and Program 18) and the Local Coastal Program (Policy C-HS-6 and Program C-HS-6.a). The Planning Commission considered the Community Development Agency (CDA) staff recommended regulations and at their hearing on November 13, 2023 made recommendations to the Board of Supervisors for their consideration. This document summarizes the regulations as recommended by the Planning Commission and provides analysis to help inform stakeholders and the Board of Supervisors.

While there are STRs throughout the unincorporated areas of the County, a majority of them are in West Marin, specifically in the County's Coastal Zone. There are many types of lodging in the Coastal Zone, including hotels, motels, bed and breakfast inns, farm stays, campgrounds, and STRs. Of these various types of lodging, the STR Ordinance would only regulate residential units being rented for less than 30 days; none of the other types of lodging listed above would be regulated as an STR, regardless of whether they are advertised on online platforms such as Airbnb or VRBO.

This limited scope is an important aspect of the proposed regulations, because one of the central tenets of the Coastal Act is that the California coastline should be available to all, not just those who own property along the coast as is the case in some other states. All forms of guest accommodations available in the county, including STRs, not only provide lodging opportunities for visitors they also increase employment opportunities for businesses that serve those visitors. However, in recognition of employment needed to provide access to lodging and services to visitors, affordable housing for the local workforce is needed in the Coastal Zone. In 2021, 79.3% of workers in the Coastal Zone reported commuting from areas outside of the community, which is considerably higher than the County's overall average of 63.9%¹. Roughly half (47.7%) of workers in the Coastal Zone earn less than \$40,000 annually.

All land uses, including all forms of visitor serving use, are subject to regulation to ensure that the use operates in a safe manner with minimized impacts on the environment and on surrounding properties. As a form of guest lodging that occurs on residential properties, STRs are typically interspersed with homes in long term residential use, and the intensity of visitor activities in such neighborhoods can lead to neighborhood issues related to emergency preparedness, noise, garbage, and parking. Furthermore, the nightly rental rate of STRs can provide a property owner with revenues that may significantly exceed the return from long term rentals. Coupled with the flexibility of STR use and the ease of rental through online platforms, STR have become an increasingly popular means to occupy homes especially in vacation destinations such as West Marin.

¹ 2021 U.S. Census Longitudinal Employer-Household Dynamics (LEHD). Inflow/Outflow Analysis.

There are approximately 5,263 residentially developed properties in the West Marin area. Over 11% of the residentially developed properties are used as STRs in West Marin, while less than 1% of residentially developed properties are used as STRs in the eastern portion of the County. In addition, only 2,239 of the approximately 5,263 developed lots in the West Marin area receive the Primary Home Tax Exemption, indicating that over half of the developed properties in West Marin may not be in use as full-time homes. While all are not currently operating as STRs, the flexibility and the income generated by STRs, where nightly rates can range up to over \$1,000/night, in comparison to that earned with a long-term rental is likely an incentive for property owners to choose to operate an STR. Therefore, the opportunities for affordable, long-term rental housing are fewer. As previously noted, these conditions have led to growing concerns in West Marin communities about impacts of STRs on the availability of housing for workforce, families, and community members.²

The proposed Ordinance would balance these competing interests by creating a regulatory framework that would include common sense standards to reduce neighborhood impacts. Many “good neighbor” measures have been in place for STRs since the Board of Supervisors first adopted regulations in 2018, but the proposed Ordinance introduces further regulations around water use, wastewater disposal, emergency preparedness and evacuation, and parking capacity. Operations of STRs would be limited to one per owner. Further, the number of STRs would be capped countywide and in individual communities to protect housing opportunities and support community needs.

The Department of Finance currently oversees STR registrations and requires that an STR owner obtain both a Business License and a Transient Occupancy Tax (TOT) Certificate prior to renting their property on a short-term basis. The mechanism proposed to administer and enforce these regulations is a new STR license program, to be managed by CDA. This program would limit operators to one STR apiece and would require anyone wishing to operate an STR to apply for the license, demonstrate that they meet the required standards, and renew their license on a periodic basis. Those currently operating legally registered STRs would get the first opportunity to obtain licenses and would be eligible for relief from certain proposed new standards, although new standards related to health and safety will apply to all STR operations. Those without currently registered STRs would have to wait until all the current operators have had a chance to obtain licenses and would be subject to all the standards in the Ordinance. If your Board adopts a cap lower than the existing number of registered STRs, the number of licenses available would gradually decline as individual STR licenses are not renewed, reducing the number of STRs in West Marin over the long term.

A project review including additional background, policy analysis, a public outreach summary, and analysis of proposed regulations is provided in the October 23, 2023 Planning Commission Staff Report (Attachment 3). Subsequent supplemental memoranda that build on the original Planning Commission staff report from October, and respond to Planning Commission questions, are also included in the Attachments (Attachment 4).

Please note that consistent with typical Board of Supervisor protocols, the Board will receive a Board Packet for this item prior to their hearing scheduled for January 11, 2024, which will include a Board Letter that will contain an analysis of both the original staff recommendations and the Planning Commission’s recommendations for the regulations (including alternatives for the Board’s consideration within the range of the two recommendations).

² 2023-2031 Marin County certified Housing Element

DISCUSSION:

Planning Commission Hearings

The Planning Commission held three public hearings to discuss STR policies and regulations on June 12, 2023, October 23, 2023, and November 13, 2023 when they approved the proposed STR policies and regulations (in a 4-1 vote) modifying a number of provisions that had been recommended by staff, including the following:

- Exclude Dillon Beach and the Seadrift area of Stinson Beach from caps in both the townships and countywide caps
- Reduce the ultimate township and countywide caps to the number of STRs that were in place when the first STR Ordinance was adopted in August 2018
- The definition of “change of ownership” should be modified to ensure that the spouse or child of a STR licensee may inherit the STR license without triggering a change of ownership.
- Existing STRs in multi-family units (properties with three or more units on site) and condos will be allowed to receive one two-year license, but the STR license cannot be renewed.
- Provide parking consistent with the standards of the Department of Public Works.

The Planning Commission also recommended that the Board direct the Planning Division staff to provide a briefing on the status of the STR program within two years after the amended Ordinance goes into effect.

STR Caps

Staff initially proposed a limit on the number of STRs, referred to as “STR caps” that would reduce the number of STRs in certain communities to the number that was in place prior to public notification of the STR moratorium (i.e., those that were registered to legally operate prior to May 1, 2022) because there was an increase in STR registrations from the date the moratorium was announced to the date the moratorium was adopted. Staff also presented the option to the Planning Commission to place a countywide cap at 923, the number of STRs registered with the Marin County Department of Finance at the end of October 2023.

Based on extensive community feedback and discussion, the Planning Commission recommended that the countywide cap and township caps be lowered to the number of STRs that were legally registered to operate when the first STR Ordinance was adopted by the Board in August 2018.

As noted above, one key difference between staff’s initial proposal to the Planning Commission, and the Planning Commission’s recommendation, is that under the Planning Commission’s recommendation both Dillon Beach and the Seadrift subdivision in Stinson Beach. These communities have historically held a high concentration of vacation homes. For example, according to Assessor records, only 16% of the residentially developed properties in Dillon Beach receive a homeowners’ property tax exemption, which reduces the assessed value of a property that is used as the owner’s principal place of residence. Six percent of residentially developed properties in Seadrift receive a homeowners’ property tax exemption. Note, the average homeowners’ exemption percentage for coastal communities is approximately 33%,

while some communities like Point Reyes (52%) and Muir Beach (61%) have much higher percentages.

In addition to the fact that Dillon Beach was developed as a second home community, the Planning Commission found that the community was far from job centers and lacked crucial services (like a grocery store), making it less likely to be a place where long-term, affordable housing would be realistic.

Further, the Planning Commission found that homes in the Seadrift subdivision are more expensive than those in other places in Stinson Beach. A search of recent property sales in Stinson Beach show that houses in Seadrift typically sell for two to three times more than the cost of homes outside of the subdivision, including those on the hillside, where more long-term residents live year-round. As a result, these two communities would be excluded from both the countywide and township caps, meaning that there could be an unlimited number of STRs in these two communities.

Excluding these two communities, the ultimate countywide cap would be set at 217 STRs, 706 STRs below the ultimate countywide cap of 923 originally proposed by Planning staff. A comparison between staff proposed caps and the Planning Commission’s recommendation is provided in the table below.

Township	Initial Number of Short Term Rentals	Proposed STR Caps (Registered STRs as of May 1, 2022)	Planning Commission Recommended STR Caps (Registered STRs as of August 2018)
Bolinas	63	54	23
Dillon Beach	125	110	No Cap
Fallon	3	3	1
Forest Knolls	8	8	0
Inverness	93	86	46
Lagunitas	6	4	2
Marshall	28	27	12
Muir Beach	20	19	7
Nicasio	11	8	4
Olema	3	3	3
Petaluma	2	2	0
Point Reyes Station	32	26	22
San Geronimo	10	7	2
Stinson Beach	192	174	56
Seadrift	72	N/A*	No Cap

Other	120	N/A*	56
Tomales	12	11	3
Valley Ford	1	1	0
Woodacre	12	8	0
Total	621	551	181
*Data provided by DOF does not distinguish between Stinson Beach and Seadrift. Instead, it notes that 18 properties in Stinson Beach were registered between May 1 and May 24, 2022.			

The Planning Commission recommended that existing STRs in multi-family properties be allowed to obtain a two-year initial license but would not be permitted to renew the license. This affects 69 properties (32 of which are located in the Coastal Zone) that are currently registered to operate at least one STR.

As noted above, with the limited housing stock in West Marin, the impacts of STRs on the housing market are significant. The 2023-2031 Housing Element includes a program to address preservation of housing for permanent residential uses rather than conversion to commercial uses, and based on community outreach specifically recommended prohibiting short-term rentals in all multi-unit dwellings as an important tool in preserving limited rental housing stock.

Hosted v. Unhosted STRs

Staff’s initial proposal excluded Hosted STRs from counting towards the caps. As defined in the proposal, a Hosted STR would have the owner or primary resident of the property on the premise each night the STR is rented.

Community feedback reflected concerns that the proposal would allow for an increase in the total number of STRs since existing Hosted STRs would effectively be “subtracted” from caps that reflect the existing number of STRs, creating opportunities for additional Unhosted STRs. The Planning Commission recommended that both Unhosted and Hosted STRs should be aggregated and included in the overall caps. Therefore, the proposed regulations do not distinguish between Hosted and Unhosted STRs.

However, it should be noted that bed and breakfast inns are not capped or otherwise regulated by the STR ordinance, regardless of whether they are advertised on STR platforms. A B&B is essentially the original form of a Hosted STR and allows a homeowner to rent rooms in their home, subject to certain standards. For example, B&Bs are not allowed in every zoning district and may not have a separate/additional food preparation area for guests. No permit is required for a homeowner to rent a room as a B&B in their home provided they meet the zoning standards.

Administration and Enforcement

The administration of the STR program will require staff time and resources to develop and implement. Administration of the program includes drafting and publishing the administrative procedures for licensure and regulation, reviewing and issuing STR licenses, monitoring compliance of the licensees, enforcing the regulations, and evaluating and reporting on the success of the new program.

Additional funding, staff, and resources will be needed to build the capacity for creating and sustaining a STR license program and for initiating and pursuing enforcement of the proposed regulatory framework, as discussed more below under fiscal impacts.

EQUITY IMPACT: The equity considerations at play when considering new STR regulations are multi-faceted. Housing availability and cost impact residential segregation. When housing is segregated and inaccessible, lower income individuals face challenges in access to jobs and services. In West Marin, half of households earn a low-income or below, higher than the County average (38%)³. Approximately a quarter of West Marin renters are severely housing cost-burdened and spending in excess of 50% of their income towards housing. The proportion of severely housing cost-burdened renters in West Marin increased from 2010 to 2022, from representing about 19% of the community to 23%. The lack of affordable housing inventory contributes to conditions of overcrowding and substandard housing.

Affirmatively furthering fair housing includes taking meaningful actions that address significant disparities in housing needs and access to opportunity and addressing these patterns of segregation. Over the last decade, minimal new housing has been developed in West Marin while STRs have become increasingly available. While not every property registered as an STR was previously used for long term housing, any conversion of a property from long term tenancy to a STR can constitute a reduction in housing supply.

As a result, and especially in small communities where housing supply is already limited, it is increasingly challenging for those who work in West Marin to find adequate permanent housing. As illustrated by an analysis of STR impacts in Bolinas conducted by the Bolinas Community Land Trust (included in Attachment 5), “Of the 49 vacation rentals currently listed on Airbnb and VRBO in Bolinas, 43 are entire home listings. At least 10 of these 43 houses can be verified as a previously long-term rental or full-time residence in the last 10 years.” Furthermore, community land trusts in West Marin report that it is increasingly challenging to obtain properties to add to their inventory of deed-restricted affordable housing, since the revenue potential of STRs mean that the sale price of homes exceeds the capacity of nonprofit organizations. Because of these factors, it is expected that establishing caps for the number of STRs countywide and in particular areas would support equity by helping to protect housing opportunities for permanent residents in West Marin.

Regulations and caps on STR must consider equity beyond housing supply and affordability, because while STRs do potentially affect the availability and cost of housing, they also provide important opportunities. Tourism and visitor services are primary drivers of the West Marin economy and integral to the community. While not solely related to overnight visitors, according to the National Park Service, 2.3 million park visitors spent an estimated \$117 million in local gateway regions while visiting Point Reyes National Seashore in 2022. Tourism also is a primary employment sector in West Marin, in turn supporting communities and providing secondary support job opportunities as well. Significant reduction in STRs would both expand

³ 2020 Comprehensive Affordability Strategy Data. U.S. Department of Housing and Urban Development (HUD).

housing opportunities and reduce employment opportunities, making the equity impact of limits on STRs multidimensional.

The Planning Commission recommended that STR licenses be transferable to the spouse or child of a license holder. This provision would reinforce patterns of wealth and home ownership by further increasing the value of inherited property. It would also reduce the likelihood of decreases in the number of STRs over time. Goal 4 of the 2023-2031 Housing Element, “Lift barriers that restrict access in order to foster inclusive communities and achieve racial equity, fair housing choice, and opportunity for all local workers and current and future residents of Marin,” serves as the basis for reconsidering and addressing patterns of inheritance in housing policy.

As outlined in the Local Coastal Program, “Assuring housing choices at prices within reach is also important indirectly in carrying out Coastal Act resource protection goals.” Equity is a fundamental tenet in the Coastal Act’s protection of visitor serving uses to enable people from everywhere to visit the coast. In light of the many equity-related considerations for STR, staff’s assessment is that a managed and balanced approach to regulating the number and operation of STRs would support your Board’s commitment to equity.

ATTACHMENTS:

1. Draft Short Term Rental Ordinance (which includes the draft STR regulations)
2. Draft Local Coastal Program Amendment Resolution
3. October 23, 2023 Planning Commission Staff Report, Supplemental Memo, and Additional Public Comments
4. November 13, 2023 Planning Commission Supplemental Memos, and Additional Public Comments
5. Public Comments