# Staff Report

Meeting Date: September 5, 2023

To: Siskiyou County Board of Supervisors

From: Hailey Lang, Planning Director

Subject: Presentation and Discussion on Identified Policy Recommendations

## Discussion

At the July 11, 2023, Board of Supervisors meeting, staff presented a refined menu of vacation rental policy recommendations based on direction from the Board. Staff also presented a draft outline of what would be included in the updated zoning ordinance. The following topics were discussed along with Board direction:

* Zoning districts that would allow for vacation rental activity.
	+ *All of the residential, commercial, and agricultural zoning districts will allow for vacation rentals.*
* Snow storage and maintenance requirements for McCloud and South County regions.
	+ *Snow storage and maintenance requirements are not necessary. The property owner should handle snow storage and maintenance. The County could add disclaimer language pertaining to snow storage during the winter months, particularly for south County neighborhoods. If a property owner is not handling snow storage adequately, this would be handled in the complaint process.*
* Potentially prohibition of vacation rental activity in certain neighborhoods.
	+ *The County will not be prohibiting vacation rental activity in any neighborhoods, as long as the zoning allows for vacation rentals.*
* Public hearing noticing.
	+ *The public needs to be noticed for this use.*
* The approval authority of the activity permit.
	+ *The administrative permit would be reviewed by staff and approved by the Planning Director and/or Community Development Director unless, after surrounding properties are noticed and protests are received, the permit application would be considered by the Planning Commission and any permit would be issued as a conditional use permit.*
* Workflow process of approving a vacation rental permit.
	+ *The vacation rental permit will be an administrative (i.e., “over the counter” permit) unless, after surrounding properties are noticed and protests are received, the permit application would be considered by the Planning Commission and any permit would be issued as a conditional use permit.*
* Allowance of vacation rentals on private roads and/or public roads.
	+ *Vacation rentals will be allowed on all roads. The County can add disclaimer language related to concerns driving on private roads such as snow removal.*
* Consideration of Williamson Act lands being able to operate a vacation rental.
	+ *Staff has been directed to update the Williamson Act Guidelines to allow for vacation rental usage.*
* Enforcement process of vacation rentals, should this be included in the regulation?
	+ *This is not necessary.*

Based on comments from the Board relating to the McCloud region, staff is proposing to reintroduce the 2.5 acre minimum and remove the cap on permits.

The regions and their updated personalized policy recommendations are as follows:

|  |
| --- |
| **Policy Matrix: Vacation Rental Policy Recommendations** |
|  |
| *Region* | *2.5-acre minimum* | *CUP or Activity Permit* | *Inspection* | *~~Must live in home for 2 years~~* | *Cap on Permits\** |  |
| McCloud | Yes | Activity Permit \*\* | Every 3 years | ~~Yes~~ | No |  |
| South County: Dunsmuir/Mount Shasta, Weed/Lake Shastina | Yes | Activity Permit \*\* | Every 3 years | ~~Yes~~ | 5% |  |
| North County: Yreka, Happy Camp/Seiad Valley Klamath River/North Yreka, Scott Valley, Butte Valley | No | Activity Permit\*\* | Every 3 years | ~~Yes~~ | No |  |

\*Vacancy rate caps will be reviewed every 5 years

\*\* An “activity permit” is an administratively issued permit by staff if the proposed property meets objective requirements for use as a vacation rental.

**Proposed Permit Workflow**

When an applicant would like to obtain an administrative permit to operate a vacation rental, staff has created two potential pathways to obtain such permit. Below are potential workflows of obtaining a vacation rental permit:

**Option 1**

1. Owner applies for an administrative permit to operate a vacation rental.
2. Staff accepts application submittal and sends out notice of a potential vacation rental to neighboring properties within 300 feet.
3. If 50% or more of the noticed residents submit a protest letter (i.e., a letter of opposition), the application is elevated to the Board of Supervisors for a hearing for approval.
4. Application is then heard at the Board of Supervisors and either approved or denied.

**Option 2**

1. Owner applies for an administrative permit to operate a vacation rental.
2. Staff reviews application and either approves or denies the application.
3. If approved, staff sends out notice of the newly approved vacation rental to neighboring properties within 300 feet. \*

\* If, during the first year of the vacation rental operation, staff receives five or more complaints regarding the vacation rental, a hearing would be set before the Board of Supervisors for possible revocation. The applicant is not allowed to apply for a vacation rental until the following calendar year.

Both options described provide noticing the public of a vacation rental in any given neighborhood.

**Additional Topics for Discussion**

Staff requests further discussion and direction on the following topics:

* ~~Requirement to live in the home for 2 years.~~
	+ *~~Should this requirement be met via the Homeowner Exemption form, or signing under penalty of perjury confirming you’ve lived in the home for two years, or provide documentation related to home sale purchase?~~ See County Counsel comment below.*
* Cap on permits.
	+ *Due to the removal on a permit cap for the McCloud region, is it the wish of the Board to keep the 5% cap on permits for the South County region?*
* Use Permits of previously approved vacation rentals.
	+ *Is it the wish of the Board to allow the previous use permits associated with operating vacation rentals to continue? Or is it the wish of the Board to require the vacation rentals operating under a use permit to come into compliance with the new vacation rental regulations?*
	+ *Below are the currently approved Use Permits for vacation rentals:*

|  |  |
| --- | --- |
| **Region** | **Currently Approved Use Permits (as of March 2023)** |
| 1: McCloud | 61 |
| 2: North County | 11 |
| 3: South County | 68 |

**County Counsel Comment on Two-Year Residency Requirement:**

The proposal to limit the issuance of vacation rental permits to homeowners who have resided upon the property for two years presents a potential constitutional issue. In the very recent decision of *South Lake Tahoe Property Owners Group v. City of Lake Tahoe* (2023) 92 Cal.App.4th 735, the City of South Lake Tahoe enacted an ordinance by initiative (“Measure T”) that required the City to cease issuing new or additional permits for vacation rentals. However, Measure T allowed an exception for vacation rental permits to be issued to permanent residents.[[1]](#footnote-1) The court held that the residency exception represented discrimination against non-residents and was unconstitutional on the grounds it violated the interstate commerce clause because Measure T was discriminatory. The court stated that “the mere fact of non-residence unlawfully forecloses out-of-state owners from accessing the residential vacation rental market in South Lake Tahoe and directly competing against City residents who let their homes as vacation rentals.”

## Public Comment

Since the July 11, 2023, meeting, no additional public comment has been received.

## Attachments

1. Draft Layout of Zoning Ordinance
1. Initiative T defined a “permanent resident” as a person who lives in his or her home a majority of the year and claims a homeowner’s property tax exemption. [↑](#footnote-ref-1)