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 DEPARTMENT OF PLANNING AND BUILDING
 

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TO: PLANNING COMMISSION

FROM: JOHN BUSSELLE, SENIOR PLANNER

VIA: MATT JANSSEN, DIVISION MANAGER, COMMUNITY RELATIONS DIVISION

DATE: AUGUST 25, 2011

SUBJECT: LRP 2009-00005 - AMENDMENTS TO THE COASTAL ZONE LAND USE ORDINANCE REGARDING RESIDENTIAL VACATION RENTALS

Your Commission continued this item from the July 14, 2011 meeting to August 25, 2011. Your Commission requested information on the current approach to unpermitted vacation rental units and vacation rental owners that have permits but are not using them.

#### Unpermitted Residential Vacation Rentals

Unpermitted vacation rentals are subject to Coastal Zone Land Use Ordinance (CZLUO) Sections 23.10.020 and 23.08.165n. These sections allows the County Code Enforcement Officer to pursue violations of County building and zoning codes and specifically vacation rental violations. When evidence is presented that a vacation rental use is occurring without a permit, code enforcement can pursue the violation. In past cases, this evidence has typically been in the form of complaints by neighbors, complaints by property managers and advertisements on the "Vacation Rental By Owner" website.

#### Existing Residential Vacation Rentals (permitted)

There are situations where a property owner has obtained a vacation rental license and has not rented the unit, or rented it very infrequently. Our current policy is that as long as the business license remains active, the land use authorization continues. This is typical of other situations where a land use authorization and business license is required.

Some of the existing vacation rentals in Cambria and Cayucos are non-conforming to the current distance standard because they received their land use authorization pursuant to CZLUO Section 23.08.165m. and have maintained their business license. These properties are considered non-conforming to current requirements. Section 23.09.020c. of the CZLUO states that if a non-conforming use of land is discontinued for 12 months or more, any subsequent use must be in conformity with Title 23.

Attached are revisions to the ordinance based on your direction from the last meeting.

They include:

1. Modifying the tenancy to four individual tenancies per calendar month in both the introductory paragraph and in subsection d.
2. Adding "is required" in subsection b.
3. Separating Cambria/Los Osos, Cayucos and Avila Beach into three separate sections and modifying the measurement to reflect Planning Commission direction.
4. Modify the notification radius to 200 feet in subsection k.(1)
5. Clarify language in subsection m. to specify that when a Business License expires, a new Zoning Clearance is required.

Please bring your copy of the staff report from the April 14, 2011 and July 14, 2011 full agenda packets.

Exhibit B

LRP 2009-00005

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 23 OF THE SAN LUIS OBISPO COUNTY CODE, THE COASTAL ZONE LAND USE ORDINANCE, SECTION 23.08.165 RELATING TO RESIDENTIAL VACATION RENTALS

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 23.08.165 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

**23.08.165 - Residential Vacation Rentals:** A Residential Vacation Rental is the use of an existing residence, or a new residential structure that has been constructed in conformance with all standards applicable to residential development, as a rental for transient use. This definition does not include the rental of the entire residence for periods of thirty days or longer. The development of a new structure intended for use as a Residential Vacation Rental shall comply with all standards applicable to the construction of a residence within the land use category that the Residential Vacation Rental is proposed. Rental of a residence shall not exceed four individual tenancies per calendar month as defined in Subsection d. Rental shall not exceed one individual tenancy within seven consecutive calendar days. The use of residential property as a vacation rental within the Cambria, Cayucos, Avila Beach and Los Osos urban reserve lines shall comply with the following standards:

- a. **Purpose.** The purpose of this section is to establish a set of regulations applicable to residential vacation rentals. These regulations are in addition to all other provisions of this Title. In the adoption of these standards the Board of Supervisors find that residential vacation rentals have the potential to be incompatible with surrounding residential uses, especially when several are concentrated in the same area, thereby having the potential for a deleterious effect on the adjacent full time residents. Special regulation of these uses is necessary to ensure that they will be compatible with surrounding residential uses and will not act to harm and alter the neighborhoods they are located within.
- b. **Permit requirements.** Zoning Clearance, Business License and Transient Occupancy Tax Registration is required for each residential vacation rental. Where water or sewage disposal is provided by a community system, evidence shall be submitted with the application for a Zoning Clearance to show that the service provider(s) has been informed of the proposed use of the property as a vacation rental, and has confirmed that there is adequate service capacity available to accommodate this use.

## c. Location.

- (1) **Cambria and Los Osos.** Within all residential land use categories, no residential vacation rental shall be located within: (1) 200 linear feet of a parcel on the same block and on the same side of the street as the vacation rental; (2) 200 linear feet of the parcel on the opposite side of the street from the vacation rental; and (3) 150 foot radius from the parcel and located behind the vacation rental. These same distances apply to ~~and which is located any residential vacation rental or other types~~ of visitor-serving accommodation (i.e. Bed and Breakfast or Homestay) that is ~~outside of the Commercial land use category.~~ Distances ~~are~~ shall be measured from the closest property line of the existing residential vacation rental unit, and/or other visitor serving accommodation, to the closest property line of the property containing the proposed residential vacation rental unit. This location standard can be modified through Minor Use Permit approval when a Development Plan is not otherwise required.
- (2) **Cayucos.** Within all residential land use categories, no residential vacation rental shall be located within: (1) 100 linear feet of a parcel and on the same side of the street as the vacation rental; (2) 100 linear feet of the parcel on the opposite side of the street from the vacation rental; and (3) 50 foot radius from the parcel and located behind the vacation rental. These same distances apply to other types of visitor-serving accommodation (i.e. Bed and Breakfast or Homestay). Distances shall be measured from the closest property line of the property containing the residential vacation rental unit and/or other visitor serving accommodation, to the closest property line of the proposed residential vacation rental unit. This location standard can be modified through Minor Use Permit approval when a Development Plan is not otherwise required.
- (3) **Avila Beach.** In all Residential and Recreation land use categories, no parcel shall be approved for a residential vacation rental if it is within 50 feet of another parcel with a residential vacation rental and/or other visitor serving accommodation. Distances shall be measured from the closest property line of the property containing the vacation rental and/or other visitor serving accommodation to the closest property line of the proposed residential vacation rental unit. In the case of condominium units, the property line shall be the wall of the individual unit. This location standard may be modified through a Minor Use Permit approval when a Development Plan is not otherwise required.

- d. **Vacation rental tenancy.** Rental of a residence shall not exceed four one individual tenancy tenancies per calendar month ~~within seven consecutive calendar days.~~ ~~For example, if a person or group rents the unit on a Friday, the next individual or group cannot rent the same unit until the following Friday.~~ No additional occupancy of the residence (with the exception of the property owner and private non-paying guests) shall occur ~~within that seven day period.~~ A residential vacation rental shall only be used for the purposes of occupancy as a vacation rental or as a full time occupied unit. No other use (i.e.: home occupation, temporary event, homestay) shall be allowed on the site.
- e. **Number of occupants allowed.** The maximum number of occupants allowed in an individual residential vacation rental shall not exceed the number of occupants that can be accommodated consistent with the on-site parking requirement set forth in subsection i hereof, and shall not exceed two persons per bedroom plus two additional persons. The Zoning Clearance shall specify the maximum number of occupants allowed in each individual vacation rental.
- f. **Appearance, visibility and location.** The residential vacation rental is shall not to change the

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residential character of the outside appearance of the building, either by the use of colors, materials, lighting, or by the construction of accessory structures or garages visible from off-site and not of the same architectural character as the residence; or by the emission of noise, glare, flashing lights, vibrations or odors not commonly experienced in residential areas.

- g. Signs.** Availability of the rental unit to the public shall not be advertised on site.
- h. Traffic.** Vehicles used and traffic generated by the residential vacation rental shall not exceed the type of vehicles or traffic volume normally generated by a home occupied by a full time resident in a residential neighborhood. For purposes of this section, normal residential traffic volume means up to 10 trips per day.
- i. On-site parking required.** All parking associated with a Residential Vacation Rental shall be entirely on-site, in the garage, driveway or otherwise out of the roadway, in accordance with subsection e., above. Tenants of Residential Vacation Rentals shall not use on-street parking at any time.
- j. Noise.** All residential vacation rentals shall comply with the standards of Section 23.06.040 et seq. (Noise Standards). No residential vacation rental is to involve on-site use of equipment requiring more than standard household electrical current at 110 or 220 volts or that produces noise, dust, odor or vibration detrimental to occupants of adjoining dwellings. In addition, property owners and/or property managers shall insure that the occupants of the residential vacation rental do not willfully create loud or unreasonable noise that disturbs others and is not in keeping with the character of the surrounding neighborhood. Loud and unreasonable noise shall be evaluated through field observations by a County Sheriff, County Code Enforcement or other official personnel, based upon a threshold of noise disturbance related to the residential vacation rental use that is audible from a distance of 50 feet from the property lines of the rental property.
- k. Local contact person.** *All* residential vacation rentals shall designate a local property manager. The local property manager shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. Where a property owner lives within the same ~~community~~ urban or village area as the residential vacation rental, the property owner may designate themselves as the local contact person. All the requirements enumerated in this section shall continue to apply.

  - (1) A notice the name, address and telephone number(s) of the local contact person shall be submitted to the Department of Planning and Building, the local Sheriff Substation, the main county Sheriff's Office and the local fire agency and supplied to the property owners within a 300 200 foot radius of the proposed residential vacation rental site. Distances shall be measured as a radius from the exterior property lines of the property containing the residential vacation rental unit. This notice shall state the property owner's intention to establish a residential vacation rental and shall include the name, address and phone number of the local contact person and the standards for noise, parking and maximum number of occupants. A copy of the notice, a form certifying that the notice has been sent and a list of the property owners notified shall be supplied to the Planning and Building Department at the time of application for the Zoning Clearance, Business License and Transient Occupancy Tax Certificate for the residential vacation rental.

The name, address and telephone number(s) of the local contact person shall be permanently posted in the rental unit in a prominent location(s). Any change in the local contact person's address or telephone number shall be promptly furnished to the agencies and neighboring property owners as specified in this subsection. In addition, the standards

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for parking, maximum occupancy and noise shall be posted inside the residential vacation rental unit and shall be incorporated as an addendum to the vacation rental contracts.

~~(2) If the local contact person is unavailable or fails to respond, the complaining party may contact the Sheriff's Office. The Sheriff will attempt to reach the local contact person. In cases where the Sheriff was unable to reach the local contact person, the penalties as set forth in Subsection n shall apply.~~

**l. Transient Occupancy Tax.** Each residential vacation rental unit shall meet the regulations and standards set forth in Chapter 3.08 of the County Code, including any required payment of transient occupancy tax for each residential vacation rental unit.

**m. Effect on existing residential vacation rentals.** ~~Each individual vacation rental in existence on the effective date of this section September 10, 2003 shall be subject to a Zoning Clearance, Business License, Transient Occupancy Tax Registration, and all standards set forth in this Section except Subsection c. regarding location, provided evidence that the vacation rental unit was in existence prior to April 11, 2003. Zoning Clearance, Business License, and Transient Occupancy Tax Registration, shall be requested from the county within 120 days of the effective date specified above. If the Zoning Clearance, Business License, and Transient Occupancy Tax Registration, have not been requested within the time frames set forth in this section, the penalties of Chapter 23.10 (Enforcement) of this Title shall apply. If a Business License issued for a residential vacation rental, expires pursuant to Title 6 of the County Code, a new Zoning Clearance and Business License shall be required and shall be subject to all standards as set forth in this Section.~~

**n. Violation - vacation rental.** It is unlawful for any person to use or allow the use of property in violation of the provisions of this section. The penalties ~~(including fines)~~ and process for ~~addressing a~~ violation of this section are set forth in Chapter 23.10 of this Title (Enforcement). Additional penalties for violation of this section may include revocation of the Zoning Clearance and Business License. Violations that will cause the processing of Zoning Clearance revocation include:

(1) Failure to notify County staff when the contact person changes.

(2) Violation of the residential vacation rental tenancy standards as set forth in Subsection d.

(3) Violation of the residential vacation rental maximum occupancy, parking and noise requirements as set forth in Subsections e, i and j.

(4) The inability of County staff or the Sheriff to reach a contact person.

Three documented violations of Subsection n, as determined by a County Planning and Building staff person or a Sheriff's deputy, within any consecutive six month period shall be grounds for revocation of the Zoning Clearance. Documentation shall consist of a written report which describes the violation, when it occurred and how it came to the attention of County officials.

Revocation of the Zoning Clearance shall follow the same procedure used for land use permit revocation as set forth in Section 23.10.160 of the Coastal Zone Land Use Ordinance. The Director of Planning and Building will hold the initial revocation hearing.

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~~If a local contact person is not able to be reached by the Sheriff more than three times in any consecutive six month period, this shall be grounds for revocation of the Business License consistent with Title 6 of the County Code.~~

- o.** **Complaints.** Complaints about violation of these standards should be directed to the local contact person. If the local contact person is unavailable or fails to respond, the complaining party should contact the County Sheriff's Department (Dispatch). Sheriff Dispatch will attempt to reach the local contact person. If Sheriff Dispatch is unable to reach the local contact person because the contact person is not available or because current contact information has not been provided to the Sheriff's Department (required by Subsection k, paragraph 2), the penalties set forth in Subsection n shall apply.

During normal business hours, complaints may also be submitted to County Code Enforcement staff. County staff will attempt to reach the contact person or will visit the property as appropriate. If County staff is unable to reach contact person because the contact person is not available or because current contact information has not been provided, the penalties set forth in Subsection n shall apply.

SECTION 2. This project is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment (Government Code 15061(b)(3)). It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment because no new development is authorized, no increase in density will occur, no change in allowed uses is proposed or authorized and no physical change to the environment will occur. Therefore the activity is not subject to CEQA.

SECTION 3.<sup>1</sup> If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4. This ordinance shall become operative only upon approval by the California Coastal Commission and upon acknowledgment by the San Luis Obispo County Board of Supervisors of receipt of the Commission's resolution of certification.

SECTION 5: Before the expiration of 15 days after the adoption of this ordinance by the San Luis Obispo County Board of Supervisors, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

\_\_\_\_\_  
Chairman of the Board of Supervisors,  
County of San Luis Obispo,  
State of California

ATTEST:

\_\_\_\_\_  
County Clerk and Ex-Officio Clerk  
of the Board of Supervisors  
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED  
AS TO FORM AND CODIFICATION:

WARREN R. JENSEN  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

Dated: \_\_\_\_\_