

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 4/17/2012	(3) CONTACT/PHONE John Busselle, Senior Planner / 805-781-5154	
(4) SUBJECT Continued hearing to consider amendments to Coastal Zone Land Use Ordinance Section 23.08.165, Residential Vacation Rentals, regarding definition, location, tenancy, noise, notice, existing residential vacation rentals, Transient Occupancy Tax, violations and complaints.			
(5) RECOMMENDED ACTION That the Board of Supervisors: 1. Hold the public hearing on the amendments recommended for approval by the Planning Commission as set forth in the attached Exhibits. 2. Take final action on the amendments heard today by adopting and instructing the Chairperson to sign the attached ordinance.			
(6) FUNDING SOURCE(S) Department Budget	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation (Time Est. _____) <input checked="" type="checkbox"/> Hearing (Time Est. __120 min__) <input type="checkbox"/> Board Business			
(11) EXECUTED DOCUMENTS <input type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Ordinances <input type="checkbox"/> N/A		(12) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5th's Vote Required <input checked="" type="checkbox"/> N/A	
(13) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) N/A		(14) W-9 <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	
(15) LOCATION MAP N/A	(16) BUSINESS IMPACT STATEMENT? Yes	(17) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date __2-7-12_____	
(18) ADMINISTRATIVE OFFICE REVIEW Reviewed by Leslie Brown			
(19) SUPERVISOR DISTRICT(S) District 2, 3 & 4			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / John Busselle, Senior Planner

VIA: Kami Griffin, Assistant Director

DATE: 4/17/2012

SUBJECT: Continued hearing to consider amendments to Coastal Zone Land Use Ordinance Section 23.08.165, Residential Vacation Rentals, regarding definition, location, tenancy, noise, notice, existing residential vacation rentals, Transient Occupancy Tax, violations and complaints.

RECOMMENDATION

That the Board of Supervisors:

1. Hold the public hearing on the amendments recommended for approval by the Planning Commission as set forth in the attached Exhibits.
2. Take final action on the amendments heard today by adopting and instructing the Chairperson to sign the attached ordinance.

DISCUSSION

At today's meeting, your Board will hold a public hearing on the following amendment recommended for approval by the Planning Commission and take final action through adoption of an ordinance.

Hearing to consider amendments to Coastal Zone Land Use Ordinance Section 23.08.165 (Residential Vacation Rentals) regarding definition, location, tenancy, noise, notice, existing residential vacation rentals, Transient Occupancy Tax, violations and complaints.

County File Number: LRP2009-00005

Assessor Parcel Number: Various

Supervisory District: 2, 3 & 4

Date Authorized: July 21, 2009

Background

Your Board held a public hearing on February 7, 2012, and directed staff to provide additional information on several issues as follows:

1. Can we determine the number of unlicensed vacation rentals and how do we address this?

It's difficult to determine the number of short term rentals operating without a license. Many property owners advertise on websites, but don't list the addresses of their units. Without addresses, we cannot determine the license status. For example, a recent check of one of these sites showed 48 listings for Cayucos and 94 for Cambria. We don't know how many of these have licenses. If we discover through an outside inquiry that a property owner is advertising and does not have a license, we write a letter informing them of the requirements for a license and the penalties for operating without a license. These include penalties set forth in Chapter 10 (Enforcement) of the Coastal Zone Land Use Ordinance.

2. A number of property owners have licenses, but don't use them. This often deprives others, who want to rent their residences, from getting licenses. Can this be addressed by revoking licenses for not paying Transient Occupancy Tax (TOT)? How much TOT do they need to pay to keep the license?

If someone with a vacation rental license rents their unit and does not pay TOT, they are in violation of Title 3 of the San Luis Obispo County code and would be subject to penalties set forth therein. This could include revoking the business license. If someone has an active license but does not rent the unit, they do not need to pay the TOT. There is no penalty for not paying TOT in this instance. At this time, there is no mechanism for requiring a minimum TOT payment to keep the business license. Business licenses remain active as long as they pay the annual business license fee. Under the TOT ordinance, the tax is actually the responsibility of the renter. The owner/operator receives the TOT from the renter and then holds the tax to submit it to the Tax Collector. We have been advised by Counsel that, under current law, your Board cannot set a minimum TOT amount for vacation rentals.

3. Should a vacation rental permit have a time limit?

The Residential Vacation Rental Ordinance that was approved by the County Board of Supervisors and California Coastal Commission in 2003, included provisions for existing vacation rentals to be "grandfathered" based on providing evidence that the vacation rental unit was in existence prior to April 11, 2003 (23.08.165m). Those property owners were given a window of time to apply for a license without having to meet the distance standard established by the ordinance. This resulted in "clusters" of vacation rental units in several areas and prevented many property owners, who did not apply during the window, from getting a license.

Residential Vacation Rentals require a Zoning Clearance in Cambria and Cayucos. A Zoning Clearance is not a land use permit and not subject to the permit time limits established by Section 23.02.040 of the Coastal Zone Land Use Ordinance. Vacation rentals also require a business license issued by the Tax Collector. These are valid for one year and can be renewed each year for a small fee. Our current policy is that as long as the business license for the vacation rental is active, the entitlement established by the original Zoning Clearance remains. Similar to a land use permit, the entitlement can be transferred to a new owner as long as the business license is still active. The time limit comes into play when the business license is completely expired under Title 6 of the County Code. The property must then qualify for a new Zoning Clearance and must meet the established distance standards, as well as all other standards in the ordinance.

When the draft ordinance was first presented to the Advisory Councils, staff included a provision for permit time limits for new vacation rentals. Issues were raised regarding how this would be administered. For example, if a property was given a license with an expiration date could the property ever get another license? Would there be a waiting period even if the property still qualified under the distance standard. What would the waiting period be? How would the waiting period be established? Would the County maintain a waiting list for these spots? In the end, the Advisory Councils voted against this approach. Due to the issues raised by the Advisory Councils and the potential significant staff time necessary for tracking, staff also recommends that no time limit be established. We can continue to rely on the yearly renewal of a Business License, with expiration triggering full implementation of the ordinance.

4. Look at establishing a separate distance standard for multi-family zoned properties in Cayucos.

The multi-family land use category in Cayucos is developed with a mixture of attached apartment and condominium developments interspersed with single family dwellings. The Cayucos Advisory Council voted to lift the density standard for multi-family dwelling and condominiums. This would mean changing the distance standard to allow more vacation rentals in the multi-family land use category. At the February 7th hearing, your Board directed staff to develop a separate distance standard for the multi-family land use category taking into consideration attached and detached units.

Since the single family (detached units) are interspersed with the attached multi-family units and the individual sites are small, having separate standards based on unit type doesn't work very well. For example, if we eliminate the standard for attached multi-family units, but establish a 50 foot standard for single family (detached) units and there was a duplex on a lot next to a single family residence and the single family residence got a license, can the duplex also get a license since it has no distance standard? Or, if the duplex got the license first, would this eliminate the single family residence from getting one since it has a higher standard. This could be confusing to administer. After looking at different situations, staff recommends that the distance standard be lowered to 50 feet in all directions for the multi-family category in Cayucos, similar to the Avila Beach standard. This would allow for some separation between vacation rentals while still allowing for more Residential Vacation Rentals in the community than is currently allowed and having less impacts to permanent residents than eliminating the distance standard altogether.

If an entire development was interested in allowing for all units within that development to be used a Residential Vacation Rentals, this could be authorized through a single Minor Use Permit at the request of the owners of that development.

5. Remove Los Osos from the list of communities where the standards of the ordinance apply.

Los Osos has been removed from the proposed ordinance.

6. Develop a user's guide to the Residential Vacation Rental Ordinance.

The draft user's guide is attached as Attachment "B". The language was based on the current ordinance and will need to be modified slightly when the proposed ordinance is completed.

OTHER AGENCY INVOLVEMENT/IMPACT

The amendments were referred to all applicable responsible agencies and were reviewed and recommended for approval by the Planning Commission. County Counsel has **approved** the Ordinance as to form and content.

BUSINESS IMPACT STATEMENT

The proposed ordinance may result in some economic benefit to the businesses located in Cayucos and Avila Beach. The ordinance, as proposed, would make vacation rentals easier to get and less expensive in the community of Avila Beach by allowing for Zoning Clearance approval in place of a Minor Use Permit. It may also allow for a few more vacation rentals on the ocean front in Cayucos, which is a desirable area for vacationers. The change in the distance standard for the multi-family category in Cayucos would result in more properties qualifying for vacation rentals in those areas. The amendment may also impact the Uniquely San Luis Obispo cluster identified in the San Luis Obispo County Clusters of Opportunity Economic Strategy (November 2010) by providing opportunities for increased tourism.

FINANCIAL CONSIDERATIONS

The proposed Ordinance is covered by the Planning and Building Department budget as a County initiated amendment.

RESULTS

Final approval of the request will allow the amendment the Land Use Ordinance and Local Coastal Plan to be submitted to the California Coastal Commission.

ATTACHMENTS

1. Attachment A - Recommended Ordinance
2. Attachment B - Draft "Users Guide" for the Residential Vacation Rental Ordinance
3. Attachment C - Ordinance for Final Adoption