



**Staff Report**

**Date:** July 14, 2016  
**To:** Mayor Hoertkorn and Council Members  
**From:** Heidi Scoble, Planning Manager  
**Subject:** Short-Term Residential Rentals

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**Recommendation**

Council consider whether to regulate short-term residential rentals and provide policy guidance to staff on what actions should be taken, if any.

**Background**

On April 14, 2016, the Town Council requested staff to bring back to Council as a future agenda item a discussion on short term rentals. This discussion would follow-up on the discussion that was presented to the Town Council on February 12, 2015 (see attached staff report dated January 22, 2015 and an excerpt of the meeting minutes dated February 12, 2015). The information presented to the Council at the February 12, 2015 meeting included research on regulatory approaches taken by various California jurisdictions and a summary of regulatory options for the Town Council's consideration. At the time, the Council concluded that there did not seem to be many short-term rentals, or problems associated with rentals, to warrant Town regulation at this time.

**Discussion**

Since the Council's last discussion regarding short-term rentals, the popularity of hosting platform websites such as Airbnb, VRBO, and Homeaway continues to grow. There are currently 14 short-term rental listings (1.4% of the parcels in Ross) that can be seen on some or all of the above listed platforms. The short term rental listings range from the renting of a bed room, similar to a bed and breakfast model, or the rental of the entire residence.

As stated in the January 22, 2015, the Ross Municipal Code is ambiguous whether short-term residential rentals are a residential use because there is no definition of "residential use" in the zoning regulations. The Town's zoning regulations defines "family" and "dwelling" (see Sections

18.12.100 and 18.12.120 of the Ross Municipal Code), but where a home or a room within the home is occasionally rented to a single family or person, the use could be deemed a residential use, an accessory use, or possibly even a home occupation (see Section 18.16.030 of the Ross Municipal Code). However, if a property is rented out on a regular basis, the high-volume commercial use would arguably exceed residential use, and therefore be prohibited.

Short term rentals would provide both opportunities and challenges for the Town of Ross. Short term rentals could attract and host tourist to support the local businesses, and the Town could collect additional permitting and administrative fees, as well as potentially being able to collect a transient occupancy tax upon voter approval. The challenges associated with short term rentals is that without establishing proper regulatory mechanisms, such as advertising, building inspection, host residency requirements, permit caps, calendar-year caps, maximum occupancy caps, noise regulations, parking, neighbor notice, reporting, etc., the short-term rentals could adversely impact the Ross community and neighborhood character.

### ***Key Policy Questions for Consideration***

Similar to the questions presented to the Council at the February 12, 2015 meeting, staff is seeking direction regarding the below questions:

1. Based on the existing zoning regulations, would the Council provide policy direction on whether short-term vacation rentals should be considered an accessory use or home occupation for residential properties (single-family, multifamily) or would be rentals be considered a commercial use and therefore prohibited in residential zoning districts per Section 18.16.030 of the Ross Municipal Code?
2. Should the zoning regulations be amended to regulate short term rentals (approve, approve subject to a permit, or prohibit)? If the direction is to allow short term rentals, provide direction to staff on what level of review should be required (discretionary use permit or an administrative permit; registration and or business license)?
3. What level of control and monitoring does the Town desire to have over short-term residential rentals?
4. Does the Town wish to set forth a ballot measure to collect transient occupancy tax from such uses?
5. What are the key regulatory concerns with short-term vacation rentals?

By answering the above questions, staff would be able to determine whether code amendments to the Municipal Code would be warranted. If code amendments are warranted, staff would work with the General Government Committee and the Town Attorney to craft regulations to address how short term regulations

### ***Update on other Marin jurisdictions regulating short term rentals***

Attached is a summary of Marin jurisdictions relative to their position on short term rentals. Out of the 12 local jurisdictions, the City of Mill Valley is the only municipality that is legally permitting short term rentals subject to registration, a business license, and payment of a transient occupancy tax. Even though San Anselmo allows short terms rentals provided no breakfast is

served, there are no specific short term rental regulations. Sausalito, Tiburon, Belvedere, and Larkspur prohibit short term regulations based on existing regulations and/or policy determinations. For example, the Larkspur City Council made a policy determination whereby the Council determined short-term rentals in residential neighbors were considered a commercial use and therefore prohibited based on its existing zoning regulations. Another example would be Belvedere's position that because the zoning regulations do not identify short term rentals as a land use, then based on the rules of permissive zoning, the use if therefore not allowed. The remaining jurisdiction in Marin are taking a "wait and see" approach as to whether to regulate short-term rentals.

***Update on Pending Legislation***

Although the "Thriving Communities and Sharing Economy Act" (SB 593) was introduced by Senator McGuire on February 27, 2015, the bill did not pass at committee and officially died on February 1, 2016. The bill would have authorized a city, county, or city and county to adopt an ordinance that would require a transient residential hosting platform, as defined, to report specified information quarterly to the city, county, or city and county, and to establish, by ordinance, a fine or penalty on a transient residential hosting platform for failure to provide the report. The bill would have also authorized a city, county, or city and county to require a transient residential hosting platform to collect and remit applicable transient occupancy tax and would have prohibited a transient residential hosting platform from facilitating occupancy of a residential unit offered for tourist or transient use in violation of any ordinance, regulation, or law of the city, county, or city and county, and would authorize a city, county, or city and county, by ordinance, to establish a civil fine or penalty on an operator of a transient residential hosting platform for a knowing violation of this provision.

**Fiscal, resource and timeline impacts**

Staff and attorney time to prepare an ordinance.

**Alternative actions**

None recommended.

**Environmental review (if applicable)**

N/A

**Attachments**

1. Staff Report dated January 22, 2015
2. Town Council Minute Excerpt from February 12, 2015
3. Summary of Short Term Rental Regulations in Marin
4. Short Term Vacation Rental Regulatory Mechanism Examples

# ATTACHMENT 1



**Agenda Item No. 13.**

**Staff Report**

**Date:** January 22, 2015

**To:** Mayor Elizabeth Brekhus and Councilmembers

**C:** Rob Braulik, Town Manager

**From:** Greg Stepanicich, Town Attorney  
Amanda Charne, Asslstant Town Attorney

**Subject:** Short-Term Residential Rentals

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**Recommendation**

Council consider whether to regulate short-term residential rentals and provide policy guidance to staff and the Town Attorney on what actions should be taken, if any.

**Background**

At its meeting on December 8, 2014, the Finance Committee requested information be presented to the Town Council on how the Town might address short term (i.e., less than 30 days) residential rentals. Finance Committee members noted several rentals located in Ross are listed on hosting platform websites, such as Airbnb. The Town Manager requested the Town Attorney research the regulatory approaches taken by various California jurisdictions and to prepare a summary of regulatory options for the Town Council's consideration. The goal of this report is to obtain Council consensus on whether or not to regulate short-term residential rentals and, if so, what methods should be used. With this policy guidance, staff and the Town Attorney will prepare the desired Municipal Code amendments for Town Council review and approval.

**Discussion**

As the popularity of hosting platform websites grows, cities across the country are attempting to address the issues associated with short-term vacation rentals in residential neighborhoods. We are unaware of any pending state legislation to regulate short-term residential rentals. Perhaps as a sign of things to come, however, the Sacramento Bee recently reported that Airbnb has retained a prominent California lobbying firm.

In many California cities, short-term residential rentals are illegal by default because such uses are not expressly allowed by or do not fall within the residential use permitted by the local zoning code. The Ross Municipal Code is ambiguous whether short-term residential rentals are a residential use.

This results because there is no definition of “residential use” but only of “family” and “dwelling.” See Ross Muni. Code §§ 18.12.100; 18.12.120; 18.16.030. Where a home or a room within the home is occasionally rented to a single family or person, the use could be deemed a residential use, an accessory use, or possibly even a home occupation. Ross Muni. Code §§ 18.12.030; 18.12.180. On the other hand, if a vacant property is rented out on a regular basis, the high-volume commercial use would arguably exceed residential use. Ross Muni. Code § 18.16.030.

Some cities have elected to allow short-term residential rentals subject to some type of business regulatory permit. The permits are often referred to as a “vacation rental permit,” or “short term residential rental permit.” Other jurisdictions opt to regulate vacation rentals through a use permit (e.g., Sonoma County, Laguna Beach). San Francisco takes a slightly different approach by requiring residents to register with the Planning Department. Violations of the San Francisco ordinance are enforced through administrative penalties, and if there are multiple violations, the Department removes the unit from the registry for one year.

Most of the ordinances also require the hosts to pay the same transit occupancy taxes that hotels do. San Francisco requires, and San Jose allows, the hosting platforms, such as Airbnb, to collect and remit transient occupancy taxes. The hosting platform, HomeAway, recently filed a lawsuit challenging San Francisco’s requirement that the hosting platform collect hotel taxes, claiming that this requirement is burdensome for out-of-state companies and forces them to conform to a specific business model approved by the ordinance. The Ross Municipal Code does not contain a transient occupancy or hotel tax. At this time, it would require majority voter approval to adopt such a tax.

Below is a list of the various regulatory mechanisms that have been adopted by or are under consideration by various California cities and counties. This list is by no means exclusive. Please consider these as possibilities to be tailored to fit the unique community and circumstances of the Town of Ross. While we present this list of regulatory mechanisms for your consideration, the legality of each will depend on how they are tailored for and implemented in Ross.

- 1. Advertising.** To aid in enforcement, many cities require that any advertisement for the vacation rental must include the permit number (e.g., Petaluma, Ventura, San Francisco).
- 2. Building Inspection.** Most jurisdictions have not required building code compliance in order to receive a vacation rental permit. Petaluma is considering a requirement that all short-term vacation rentals provide smoke detectors, carbon monoxide detectors, heating, and satisfy all applicable requirements of the California Building Standards Code. However, it is more common for jurisdictions to require plans showing that the parking and bedrooms listed are consistent with official records (see e.g., Napa, Santa Cruz County, El Dorado County).
- 3. Business License.** In addition to a vacation rental permit, some jurisdictions also require the host to obtain a city business license or business registration certificate. Other jurisdictions, such as Solana Beach and El Dorado County, allow the short-term vacation rental permit to serve as the business certificate for rental activity.
- 4. Complaint Process and Dispute Resolution.** Some jurisdictions have required a local contact person be available to handle complaints and problems. As a further step, some cities require that the permittee or contact person must respond within 1-2 hours of complaint and correct issues within 24 hours.

At least one city is considering voluntary mediation where there are three or more complaints in a calendar year (Petaluma). Santa Cruz County requires agreement to dispute resolution as a condition of a vacation rental permit through a county mediation center.

**5. Duration and Renewal of Permit.** Most of the regulatory permits are issued for 1-2 years. (Where utilized, use permits typically run with the land.) Petaluma is considering a provision that would allow the Director of Planning to deny renewal if he or she determines that the permittee has failed to timely remit transit occupancy taxes, there have been more than three violations of the ordinance, the applicant has provided false information, or there are health or safety violations.

**6. Host Residency Requirements and Limits on Number of Rental Days.** To discourage hosts from taking their properties out of the affordable housing rental stock needed for local residents or to preserve neighborhood character and stability, some cities impose limits on the number of nights that a property may be rented. Petaluma is considering a limit of 90 days to the number of days a non-hosted house can be rented per calendar year. San Jose imposes an annual limit of 90 days per year that a dwelling may be offered for transient occupancy, regardless of whether or not the host is present.

In San Francisco, resident hosts must demonstrate that they actually live in the unit for no less than three-quarters of the year. Some hosting platforms are geared toward vacation rentals and second homes whose owners do not reside in their properties. HomeAway has recently sued San Francisco in federal court arguing that the local residency requirement unconstitutionally discriminates against non-residents that own property in San Francisco. As noted above, HomeAway's lawsuit also challenges the requirement that the hosting platform collect hotel taxes. Decoupling the annual limit on rental days from a residency requirement, as in Petaluma and San Jose, may avoid the discrimination alleged by HomeAway.

**7. Insurance.** San Francisco requires hosts to carry liability insurance of not less than \$500,000 that covers the short-term residential rental use, or to conduct the rental transaction through a hosting platform that provides equal or greater coverage. There is confusion among hosts and the insurance industry whether short-term residential rentals are covered under standard homeowners' insurance policies. See New York Times, "The Insurance Market Mystifies an Airbnb Host," dated December 19, 2014, available online at: <http://www.nytimes.com/2014/12/20/your-money/the-insurance-market-mystifies-an-Airbnb-host.html>.

**8. Noise.** Some jurisdictions simply rely on their general plan noise standards (e.g., Sonoma County). Others include a standard that occupants may not create unreasonable noise or disturbances, disorderly conduct or violations of state law regarding overcrowding, alcohol or drugs (e.g., Solana Beach, El Dorado County).

**9. Notice to Neighbors.** Some cities require posting of the permit on the rental property (e.g., Solana Beach). Petaluma is considering a requirement to mail notice to all neighbors within 100 feet. Ventura requires notice of the approved permit and a nuisance response plan be provided to neighbors within 300 feet and posted on city website.

**10. Occupancy Limits.** Most jurisdictions have included limitations on the maximum number of occupants, which is usually two occupants per bedroom, plus one or two persons that presumably sleep in common areas (El Dorado County allows four additional persons). San Jose limits transient occupancy depending on the type of dwelling (single family, multiple family dwelling) and whether or not the host is present. Some ordinances exclude children from the occupancy limit. Some jurisdictions also limit the

maximum number of guests to twice the nighttime capacity. To distinguish from bed and breakfasts, some ordinances limit the number of bedrooms which may be furnished for compensation (Sonoma County, proposed Petaluma).

**11. Parking.** Some jurisdictions require the permittee to demonstrate compliance with applicable residential parking requirements. Other jurisdictions limit parking to the number of on-site spaces plus 1-2 on street (e.g., Santa Cruz County, El Dorado County).

**12. Permit Revocation and Penalties.** Many jurisdictions include a provision allowing revocation of the permit, and include administrative citations for owners as well as occupants.

**13. Posting of Rules and Guest Manual.** Some jurisdictions require hosts to post the permit conditions conspicuously within the residence, or include them as part of the rental agreement (e.g. El Dorado County/City of South Lake Tahoe, Sonoma County). Petaluma is considering a requirement that the host provide a written manual to guests that includes the local manager's contact information, local performance standards, parking limitations and other helpful information to minimize conflict with the neighborhood.

**14. Rent Control Laws.** San Francisco has extensive rent control laws and requires hosts to comply with all such laws.

**15. Rental Day Minimum.** Solana Beach prohibits rental for less than seven consecutive calendar days in duration within all residential zoning districts. Ventura requires rentals to be a minimum of seven consecutive days during the summer season, and two consecutive days for the remainder of the year.

**16. Reporting.** San Francisco requires hosts to report the duration of short-term stays annually. Other jurisdictions simply require guest registration records be maintained for two or three years (e.g., South Lake Tahoe, San Jose).

**17. Signs.** Petaluma is considering a requirement that would prohibit on-site signage. Other jurisdictions require an exterior sign identifying the structure as a permitted vacation rental with local contact information (e.g., Santa Cruz County).

**18. Special Events.** Some ordinances require special events to be permitted in accordance with existing special events permit regulations. Others flatly prohibit weddings, auctions, commercial functions, or other similar events that are inconsistent with the use of the property for transient occupancy in a residential neighborhood.

**19. Surety Bonds.** Ventura requires a surety bond to accompany an application for a short-term vacation rental permit conditioned on the payment of any civil penalty assessed for a violation of the short-term vacation rental ordinance or use of a short-term rental in a manner that otherwise violates the city's municipal code.

We have attached a vacation rental ordinance summary. This summary was prepared by staff from the City of Petaluma and presented to the Petaluma Planning Commission on November 18, 2014. Our firm was not involved in preparing this summary. We are providing it here for the Council's reference in comparing the various approaches taken by different cities.



**Key Policy Questions for Council:**

1. Should short-term vacation rentals be prohibited as a matter of zoning?
2. Should short-term vacation rentals be treated as an accessory use or home occupation for residential properties (single-family, multifamily)?
3. What are the key regulatory concerns with short-term vacation rentals?
4. If allowed, should the Town regulate short-term vacation rentals as a land use (i.e., a use permit) or as a business regulation? What level of control and monitoring does the Town desire to have over short-term residential rentals?
5. Does the Town wish to set forth a ballot measure to collect transient occupancy tax from such uses?

Please let us know if we can provide any additional information or assistance.

**Fiscal, resource and timeline impacts**

Staff and attorney time to prepare an ordinance.

**Alternative actions**

None recommended.

**Environmental review (if applicable)**

N/A

**Attachments**

- Attachment B from Report to City of Petaluma Planning Commission, dated November 18, 2014  
- Summary of Vacation Rental Ordinances

ATTACHMENT B  
Vacation Rental Ordinance Summary

Jurisdiction	Permit Process / Cost	Notice to Neighbors	Inspection
<b>Solana Beach</b>	Issued with business certificate / Same as business certificate	No	No
<b>Santa Cruz</b>	Vacation Rental Permit, TOT registration	Yes, notice provided and complaints handled by planning director – can be referred to planning commission	No – plans showing lot, parking, structure and rooms required.
<b>Lake Tahoe Basin</b>	Vacation home rental permit. Business license and TOT certificate required. Initial and renewal fee established by board to cover costs.	No- post a copy of the permit and conditions in home and exterior of home.	No – unless plans showing lot, parking, square footage, # of bedrooms required are not consistent with records.
<b>San Buenaventura</b>	Vacation rental permit requires nuisance response plan and surety bond valued at \$1,500	Permit # to be included in advertisements. Notice of approved permit and response plan provided to neighbors w/in 300 feet. Also, response plans are posted on City website.	No
<b>Sonoma County</b>	Zoning permit – runs with owner; Use permit runs with land. Both can be revoked for non-compliance.	24 hour contact person (w/in 1 hour drive time) given to neighbors within 100 feet and to PRMD.	No
<b>Encinitas</b>	Short-term rental permit; Runs with owner. City manager can approve operational variances based on hardship.	Must respond within 2 hours of complaint and correct issues within 24 hours.	No

Jurisdiction	Management Requirements	Occupancy Limits	Parking
<b>Solana Beach</b>	24 hour contact info must be on display outside of unit		
<b>Santa Cruz</b>	Local contact person within 30 miles required. Contact info displayed on unit and given to neighbors within 300 feet and given to City and law enforcement.	2/bedroom +2 (children under 12 don't count). Twice max occupancy for gatherings between 8am and 10pm.	Not to exceed # of onsite spaces plus 2 on street.
<b>Lake Tahoe Basin</b>	Owner or manager within 1 hour of unit.	Not to exceed 2 per bedroom plus 4	Not to exceed # of onsite spaces plus 1 in front of home.
<b>San Buenaventura</b>	Someone available by phone within 45 minutes. Must remedy condition within 30 minutes of complaint.	2 per bedroom plus 2. Any increased occupancy requires notice and then approved or not administratively.	
<b>Sonoma County</b>		Maximum guest rooms – 5; occupancy up to 2 per bedroom plus 2 (maximum of 12). Visitor occupancy shall not exceed overnight occupancy plus 6 or a total of 18. Larger or more guests require a Use Permit.	
<b>Enclinitas</b>	Interior display of rules. Exterior display of contact information. Contact info also provided to adjacent property owners.	2 persons per bedroom plus 1.	

Jurisdiction	Noise	Permit Revocation / Penalties
<b>Solana Beach</b>	Occupants cannot create unreasonable noise or disturbances, engage in disorderly conduct or violate provisions of state law regarding noise, overcrowding, alcohol or drugs.	\$500 1 <sup>st</sup> violation. \$1,000 2 <sup>nd</sup> + Annual permit denied if out of compliance with rule including 2 or more complaints or stays less than 7 days
<b>Santa Cruz</b>		Conflict resolution acceptance is required. Handled by County mediation center.
<b>Lake Tahoe Basin</b>	Occupants cannot create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of code or state law. No outdoor amplification of live or recorded music without special use permit.	Violations 1 <sup>st</sup> :warning 2 <sup>nd</sup> :\$250 3 <sup>rd</sup> :\$1,000 4 <sup>th</sup> loss of permit. Handled by code compliance hearing
<b>San Buenaventura</b>		Tenancies no less than 7 consecutive days from June through August. No more than one rental within any seven-day period and not less than 2 consecutive days Sept-May.
<b>Sonoma County</b>	General Plan Noise standards apply. No amplified sounds unless allowed by Use Permit.	Handled by code enforcement. Permit can be revoked at hearing.
<b>Encinitas</b>	Occupants cannot create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of code or state law.	Violations 1 <sup>st</sup> :250 2 <sup>nd</sup> :\$500 3 <sup>rd</sup> :\$750 4 <sup>th</sup> :\$1,000 City Manager presides over hearings.

# ATTACHMENT 2

**Meeting Minute Excerpt**  
**February 12, 2016**

- 13. Informational only. Town Council consideration on whether to regulate short-term residential rentals and provide policy guidance to staff and the Town Attorney on what actions should be taken, if any.**

Town Attorney Greg Stepanicich summarized the staff report and recommended the Council consider whether to regulate short-term residential rentals and provide policy guidance to staff and the Town Attorney on what actions should be taken, if any.

Mayor Brekhus said unless they are having problems, why are they considering regulating. The idea of reporting notice to all neighbors and police, she felt is creating problems and adding an expense.

Mayor Pro Tempore Hoertkorn wanted to be informed as to whether her neighbor is renting out their home. Council Member Small noted that they had a situation in the past, which was addressed, where someone rented out their home and it ended up being rented out to individuals that had rave parties, which clearly violated zoning. They may have other individuals who rent out their homes that are not a problem, but is it a problem if they enforce some residents and not others. She asked if the inconsistency is a problem. Town Attorney Stepanicich explained if someone is regularly using their property as a wedding and recreation site, then that is a commercial corporation. Anything that starts to become a commercial type of use they should be consistent on treating all those the same way.

Council Member Robbins recommended investigating how many houses are actually rented out, and if it is a problem, then they need to understand how extensive and further discuss.

Mayor Brekhus understands if they start to receive complaints they should revisit this issue. Mayor Pro Tempore Hoertkorn did not believe it is about complaints, but using a home as a hotel is a concern. Council Member Kuhl felt drawing a line is going to be very difficult.

Mayor Brekhus opened the public hearing on this item.

Norman Hardie, Winding Way resident, believed if residents rent out their house for a few months during the summer, he did not see a problem. He would object if he had a neighbor continually rent out their home. In his view, he did not see this as a problem at the moment.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion.

As the popularity of hosting platform websites (such as Airbnb) grows, cities across the country are attempting to address the issues associated with short-term vacation rentals in residential neighborhoods. At the request of the Finance Committee, the Town Attorney prepared a

summary of regulatory options for the Council's consideration. The goal of the report was to obtain Council consensus on whether or not to regulate short-term residential rentals and, if so, what methods should be used.

In many California cities, short-term rentals are illegal by default because such uses are expressly allowed by or do not fall within the residential use permitted by the local zoning code. Some cities have elected to allow short-term residential rentals subject to some type of business regulatory permit. The permits are often referred to as a "vacation rental permit," or "short term residential rental permit." Other jurisdictions opt to regulate vacation rentals through a use permit (e.g., Sonoma County, Laguna Beach). San Francisco takes a slightly different approach by requiring residents to register with the Planning Department. Violations of the San Francisco ordinance are enforced through administrative penalties, and if there are multiple violations, the Department removes the unit from the registry for one year.

Most of the ordinances reviewed also require the hosts to pay the same transit occupancy taxes that hotels do. San Francisco requires, and San Jose allows, the hosting platforms, such as Airbnb, to collect and remit transient occupancy taxes. The Ross Municipal Code does not contain a transient occupancy or hotel tax. It would require majority voter approval to adopt such a tax. The key policy questions the Council considered were:

- Should short-term vacation rentals be prohibited as a matter of zoning?
- Should short-term vacation rentals be treated as an accessory use or home occupation for residential properties (single-family, multifamily)?
- What are the key regulatory concerns with short-term vacation rentals?
- If allowed, should the Town regulate short-term vacation rentals as a land use or as a business regulation? What level of control and monitoring does the Town desire to have over short-term rentals?

After discussion, the Council determined there did not seem to be many short-term rentals, or problems associated with rentals, to warrant Town regulation at this time.

# ATTACHMENT 3



## SHORT TERM RENTAL SUMMARY

City of Sausalito	<ul style="list-style-type: none"> <li>• Prohibits Short Term Rentals based on existing regulations</li> <li>• Active Code Enforcement</li> </ul>
Town of Tiburon	<ul style="list-style-type: none"> <li>• Prohibits Short Term Rentals</li> <li>• Complaint Driven Code Enforcement</li> </ul>
City of Belvedere	<ul style="list-style-type: none"> <li>• Prohibits Short Term Rentals under the permissive zoning</li> </ul>
City of Mill Valley	<ul style="list-style-type: none"> <li>• Permits Short Term Rentals through a registration program</li> <li>• Requires Business License and monthly payment of transient occupancy tax</li> </ul>
City of Corte Madera	<ul style="list-style-type: none"> <li>• No Short Term Rental regulations</li> <li>• Existing regulations do not specifically preclude Short Term Rentals</li> <li>• No active code enforcement</li> <li>• “Wait and See” approach to determine if future regulations and best practices should be created.</li> </ul>
City of Larkspur	<ul style="list-style-type: none"> <li>• Prohibits short-term rentals in residential zoning districts- Policy determination by Council in October 2015</li> <li>• Complaint driven code enforcement</li> <li>• “Wait and See” approach to determine if future regulations and best practices should be created.</li> </ul>
Town of Ross	<ul style="list-style-type: none"> <li>• No Short Term Rental regulations</li> <li>• Existing regulations do not specifically preclude Short Term Rentals</li> <li>• No active code enforcement</li> <li>• Discussion with Town Council scheduled for July 14, 2016 to determine if future regulations and best practices should be created.</li> </ul>
Town of San Anselmo	<ul style="list-style-type: none"> <li>• No Short Term Rental regulations</li> <li>• Short Term Rentals allowed as an accessory use if no breakfast is served</li> <li>• Code enforcement only related to illegal construction</li> <li>• “Wait and See” approach to determine if future regulations and best practices should be created.</li> </ul>

Town of Fairfax	<ul style="list-style-type: none"> <li>• No Short Term Rental regulations</li> <li>• Future discussion with Council to determine if regulations and best practices should be created.</li> </ul>
City of San Rafael	<ul style="list-style-type: none"> <li>• Does not currently regulate Short Term Rentals</li> <li>• “Wait and See” approach to determine if future regulations and best practices should be created.</li> <li>• Contracted with “Host Compliance” to inventory Short Term Rental activity</li> </ul>
City of Novato	<ul style="list-style-type: none"> <li>• Does not currently regulate Short Term Rentals</li> <li>• “Wait and See” approach to determine if future regulations and best practices should be created.</li> </ul>
County of Marin	<ul style="list-style-type: none"> <li>• Does not currently regulate Short Term Rentals</li> <li>• Future workshops to discuss issue with Board of Supervisors approach to determine if regulations and best practices should be created.</li> </ul>

# ATTACHMENT 4

## **SHORT TERM VACATION RENTAL REGULATORY MECHANISM EXAMPLES**

Below is a list of the various regulatory mechanisms that have been adopted by or are under consideration by various California cities and counties. This list is by no means exclusive. Please consider these as possibilities to be tailored to fit the unique community and circumstances of the Town of Ross. While we present this list of regulatory mechanisms for your consideration, the legality of each will depend on how they are tailored for and implemented in Ross.

**1. Advertising.** To aid in enforcement, many cities require that any advertisement for the vacation rental must include the permit number (e.g., Petaluma, Ventura, San Francisco).

**2. Building Inspection.** Most jurisdictions have not required building code compliance in order to receive a vacation rental permit. Petaluma is considering a requirement that all short-term vacation rentals provide smoke detectors, carbon monoxide detectors, heating, and satisfy all applicable requirements of the California Building Standards Code. However, it is more common for jurisdictions to require plans showing that the parking and bedrooms listed are consistent with official records (see e.g., Napa, Santa Cruz County, El Dorado County).

**3. Business License.** In addition to a vacation rental permit, some jurisdictions also require the host to obtain a city business license or business registration certificate. Other jurisdictions, such as Solana Beach and El Dorado County, allow the short-term vacation rental permit to serve as the business certificate for rental activity.

**4. Complaint Process and Dispute Resolution.** Some jurisdictions have required a local contact person be available to handle complaints and problems. As a further step, some cities require that the permittee or contact person must respond within 1-2 hours of complaint and correct issues within 24 hours.

At least one city is considering voluntary mediation where there are three or more complaints in a calendar year (Petaluma). Santa Cruz County requires agreement to dispute resolution as a condition of a vacation rental permit through a county mediation center.

**5. Duration and Renewal of Permit.** Most of the regulatory permits are issued for 1-2 years. (Where utilized, use permits typically run with the land.) Petaluma is considering a provision that would allow the Director of Planning to deny renewal if he or she determines that the permittee has failed to timely remit transit occupancy taxes, there have been more than three violations of the ordinance, the applicant has provided false information, or there are health or safety violations.

**6. Host Residency Requirements and Limits on Number of Rental Days.** To discourage hosts from taking their properties out of the affordable housing rental stock needed for local residents or to preserve neighborhood character and stability, some cities impose limits on the number of nights that a property may be rented. Petaluma is considering a limit of 90 days to the number of days a non-hosted house can be rented per calendar year. San Jose imposes an annual limit of

90 days per year that a dwelling may be offered for transient occupancy, regardless of whether or not the host is present.

In San Francisco, resident hosts must demonstrate that they actually live in the unit for no less than three-quarters of the year. Some hosting platforms are geared toward vacation rentals and second homes whose owners do not reside in their properties. HomeAway has recently sued San Francisco in federal court arguing that the local residency requirement unconstitutionally discriminates against non-residents that own property in San Francisco. As noted above, HomeAway's lawsuit also challenges the requirement that the hosting platform collect hotel taxes. Decoupling the annual limit on rental days from a residency requirement, as in Petaluma and San Jose, may avoid the discrimination alleged by HomeAway.

**7. Insurance.** San Francisco requires hosts to carry liability insurance of not less than \$500,000 that covers the short-term residential rental use, or to conduct the rental transaction through a hosting platform that provides equal or greater coverage. There is confusion among hosts and the insurance industry whether short-term residential rentals are covered under standard homeowners' insurance policies. See New York Times, "The Insurance Market Mystifies an Airbnb Host," dated December 19, 2014, available online at: <http://www.nytimes.com/2014/12/20/your-money/the-insurance-market-mystifies-an-Airbnb-host.html>.

**8. Noise.** Some jurisdictions simply rely on their general plan noise standards (e.g., Sonoma County). Others include a standard that occupants may not create unreasonable noise or disturbances, disorderly conduct or violations of state law regarding overcrowding, alcohol or drugs (e.g., Solana Beach, El Dorado County).

**9. Notice to Neighbors.** Some cities require posting of the permit on the rental property (e.g., Solana Beach). Petaluma is considering a requirement to mail notice to all neighbors within 100 feet. Ventura requires notice of the approved permit and a nuisance response plan be provided to neighbors within 300 feet and posted on city website.

**10. Occupancy Limits.** Most jurisdictions have included limitations on the maximum number of occupants, which is usually two occupants per bedroom, plus one or two persons that presumably sleep in common areas (El Dorado County allows four additional persons). San Jose limits transient occupancy depending on the type of dwelling (single family, multiple family dwelling) and whether or not the host is present. Some ordinances exclude children from the occupancy limit. Some jurisdictions also limit the maximum number of guests to twice the nighttime capacity. To distinguish from bed and breakfasts, some ordinances limit the number of bedrooms which may be furnished for compensation (Sonoma County, proposed Petaluma).

**11. Parking.** Some jurisdictions require the permittee to demonstrate compliance with applicable residential parking requirements. Other jurisdictions limit parking to the number of on-site spaces plus 1-2 on street (e.g., Santa Cruz County, El Dorado County).

**12. Permit Revocation and Penalties.** Many jurisdictions include a provision allowing revocation of the permit, and include administrative citations for owners as well as occupants.

**13. Posting of Rules and Guest Manual.** Some jurisdictions require hosts to post the permit conditions conspicuously within the residence, or include them as part of the rental agreement (e.g. El Dorado County/City of South Lake Tahoe, Sonoma County). Petaluma is considering a requirement that the host provide a written manual to guests that includes the local manager's contact information, local performance standards, parking limitations and other helpful information to minimize conflict with the neighborhood.

**14. Rent Control Laws.** San Francisco has extensive rent control laws and requires hosts to comply with all such laws.

**15. Rental Day Minimum.** Solana Beach prohibits rental for less than seven consecutive calendar days in duration within all residential zoning districts. Ventura requires rentals to be a minimum of seven consecutive days during the summer season, and two consecutive days for the remainder of the year.

**16. Reporting.** San Francisco requires hosts to report the duration of short-term stays annually. Other jurisdictions simply require guest registration records be maintained for two or three years (e.g., South Lake Tahoe, San Jose).

**17. Signs.** Petaluma is considering a requirement that would prohibit on-site signage. Other jurisdictions require an exterior sign identifying the structure as a permitted vacation rental with local contact information (e.g., Santa Cruz County).

**18. Special Events.** Some ordinances require special events to be permitted in accordance with existing special events permit regulations. Others flatly prohibit weddings, auctions, commercial functions, or other similar events that are inconsistent with the use of the property for transient occupancy in a residential neighborhood.

**19. Surety Bonds.** Ventura requires a surety bond to accompany an application for a short-term vacation rental permit conditioned on the payment of any civil penalty assessed for a violation of the short-term vacation rental ordinance or use of a short-term rental in a manner that otherwise violates the city's municipal code.

**20. Permit Cap.** Some jurisdictions have placed a cap on the maximum number of short-term rental permits that may be issued within a neighborhood or the entire community.