

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **June 6, 2023**

TO: Honorable Mayor and City Council

VIA: Matthew Chidester, City Manager

FROM: Jill Ekas, Community Development Director
Ocoee Wilson, Assistant Planner

TITLE: **SHORT-TERM VACATION RENTAL AND HOME OCCUPATION ORDINANCE
(CONTINUED FROM MAY 16, 2023)**

RECOMMENDATION:

Conduct a public hearing, waive first reading, and introduce an ordinance amending portions of Chapter 18 (Zoning) and Chapter 3 (Revenue and Finance) of the Half Moon Bay Municipal Code to establish Short-Term Vacation Rental regulations and update the Home Occupation regulations to conform with the California Coastal Commission's conditional certification.

FISCAL IMPACT:

The proposed Ordinance may reduce the total number of short-term vacation rentals (STRs) operating within the city over time; however, the Coastal Commission's conditional certification of the Ordinance allows continuance for qualifying STRs in good standing that may not have otherwise conformed to provisions of the new Ordinance, and thus this impact is expected to be minor. Staff time to implement the Ordinance will be substantially covered by application fees.

STRATEGIC ELEMENT:

This action supports the *Fiscal Sustainability, Healthy Communities and Public Safety, and Inclusive Governance* Elements of the Strategic Plan.

BACKGROUND:

The Planning Commission initiated a multi-year public review process regarding STRs in March 2018. It was first brought to City Council on August 17, 2021. The City Council then adopted a revised Short-Term Vacation Rental and Home Occupation Ordinance ("Ordinance") on September 21, 2021. Following adoption by City Council, the Ordinance was submitted to the California Coastal Commission as an amendment to the Local Coastal Program (LCP). After continuing the item at its October 2022 hearing, the Coastal Commission conditionally certified the Ordinance on March 8, 2023. The certification included primary residence provisions and a 60-night cap on most unhosted STR operations. The primary residence requirement is the foundation of Half Moon Bay's Ordinance, and thus the Coastal Commission's conditional certification

preserving this key provision was very supportive of City Council's adopted Ordinance which took great care to ensure that housing stock is protected from permanent conversion to STR use.

The Coastal Commission's conditional certification includes several modifications to the City Council's Ordinance. The most notable modifications pertained to minimum lot size, maximum occupancy, parking, and continuance of existing STRs in good standing. These modifications are further described within the Discussion section of this staff report. Due to these modifications, the City must readopt the Ordinance as part of a follow-up process with the Coastal Commission to achieve final certification and the City's ability to begin implementing the Ordinance.

This staff report focuses on the Coastal Commission's modifications. For background on the Short-Term Rental and Home Occupation Ordinance as adopted by City Council in September 2021, the following links provide references to past City Council agendas for this matter:

- August 17, 2021 – City Council Ordinance Introduction (Continued to date certain) ([Agenda Link](#))
- September 7, 2021 – City Council Ordinance Re-Introduction (new 1st Reading) ([Agenda Link](#))
- September 21, 2021 - City Council Ordinance Adoption (2nd Reading) ([Agenda Link](#))

DISCUSSION:

As adopted by City Council in September of 2021, the STR Ordinance relied on a primary residence requirement for most STRs as a foundation for the sake of preserving housing stock. The Ordinance continues to keep primary residency at its core and supports it through implementing additional measures such as maximum number of annual overnight stays for unhosted STRs, maximum occupancy limits, and minimum lot size for STRs in residential zoning areas.

The Coastal Commission's certification carries forward the following provisions as originally adopted by the City Council in 2021:

Home Occupations:

- Eligible Employees: Residents and one non-resident employee may be employed on site.
- Traffic: One visitor vehicle at a time up to a maximum of two per day are allowed.
- Parking: Parking must be provided on site for any employee of the home occupation.
- Business License: The Ordinance continues to require issuance of a Business License.

Short-Term Rentals:

- Application: STR operators will need to submit an application to the City prior to operation. The application covers key provisions including proof of primary residency, proof of rental nights (upon renewal), information on the dwelling being rented, and a registration fee prescribed by City Council resolution.
- Primary Residence: The operator of the STR shall be the primary resident of the residential unit (defined as residing in the unit for the majority of the calendar year) with limited exceptions, including STRs operated out of up to one unit in a mixed-use development located within the Commercial Downtown (C-D), Commercial General (C-G), and Commercial-Visitor Serving (C-VS) zoning districts; as well as other units in the C-VS zoning district which

- emphasizes coastal visitation.
- Transient Occupancy Tax (TOT): Operators must be in compliance with section 3.12 regarding the transient occupancy tax and registration certificate.
 - Maximum Rental Nights: Un-hosted STR use is limited to no more than 60 nights per calendar year other than for special cases of one unit on mixed-use property that is not subject to primary residence requirements. Hosted nights have no limit.
 - Maximum Number of Rentals per Operator: Each operator is limited to one STR, with only one rental agreement operating at any one time.

Coastal Commission Modifications:

The Coastal Commission's review of the City's Short-Term Rental and Home Occupation Ordinance found the Ordinance to be consistent with the Coastal Act and the City of Half Moon Bay's Certified Local Coastal Land Use Plan. The Coastal Commission conditionally approved the Ordinance as an amendment to the City's Local Coastal Program, provided that the City readopt the Ordinance with specified modifications. The Coastal Commission staff report is provided in Attachment 2.¹ The modifications are relatively minor and pertain to several sections as seen below. The ~~strikethrough~~ (deletions) and underline (insertions) format indicate Coastal Commission-approved substantive revisions to the City's Short-Term Rental Ordinance that are being recommended for City Council adoption:

Minimum lot size requirements: The Coastal Commission eliminated minimum lot size requirements in Section 18.06.025(G)(5)(a)(i) as follows:

i. Single-family and residential condominium dwelling unit: One short-term vacation rental may operate as an accessory use to a single-family unit or residential condominium dwelling unit; ~~provided, however that minimum lot sizes for short term vacation rental use on any single family lot developed with a detached single family home is as follows:~~

1. ~~R 1, R 2, R 3, and C-R zoning districts: 4,125 square feet~~

2. ~~PUD zoning district: The lot size established for the site when the coastal development permit was issued for the applicable subdivision in place as of the effective date of this ordinance~~

3. ~~PUD X zoning district: 10,500 square feet~~

Maximum occupancy requirements: The Commission modified the City's maximum occupancy limit of eight (8) persons, but retained a limit of two (2) persons per bedroom in Section 18.06.025(G)(5)(h) as follows:

¹ The Coastal Commission staff recommendation presented in this report includes a 180-night/year cap on unhosted STR operations; however, the Coastal Commission's certification did not incorporate that provision of the staff recommendation. Instead, the Coastal Commission conditionally certified the Ordinance with a 60-night cap on unhosted STR operations per the City Council original Ordinance adoption. The Commission accepted the remaining recommendations presented in the report by Coastal Commission staff.

h. Maximum Overnight Occupancy. Overnight occupancy for short-term vacation rentals shall be limited to a maximum of up to two (2) persons per bedroom, ~~up to a total of eight (8) occupants~~. For a hosted short-term vacation rental, the bedroom(s) occupied by the host shall not be used in determining the maximum overnight occupancy for guests.

Off-street parking requirements: Parking provisions were simplified and scaled to bedroom count/occupancy, in substantial alignment with City Council's original approval in Section 18.06.025(G)(6)(e) as follows:

e. Parking. ~~The maximum number of vehicles allowed overnight at the Parking for short-term vacation rental shall be limited to one (1) vehicle per one bedroom unit, two (2) vehicles per two or three bedroom unit, and one (1) additional vehicle for four or more bedrooms. On-site parking spaces~~users shall be provided ~~for~~at a rate of at least fifty percent~~one~~ off-street parking space per bedroom, which shall be dedicated and available to guests during the period of the maximum allowed number of vehicles (half spaces shall be rounded up)rental. No vehicles shall be used for overnight occupancy. Parking exceptions may be considered by the planning commission subject to Section 18.36.085; provided that the planning commission shall consider whether a prior parking exception was previously granted for the property. In the Commercial-Downtown zoning district, exceptions must also comply with Section 18.07.045.

Continuance of Existing Qualified STRs: Continuance provisions for STRs in good standing that do not currently have a primary resident were established in Section 18.06.025(G)(11) as follows:

1110. Existing Short-Term Vacation Rentals.

a. Short-term vacation rentals in operation for at least three (3) months at the time of the effective date of this Ordinance and ~~in compliance with all previously existing City regulations, including proof of payment of all applicable transient occupancy tax ("Existing STVRs"), taxes,~~ shall have six (6) months from the effective date of this Ordinance to register. For approved unhosted short-term vacation rental operations, the annual calendar during which up to sixty (60) days of unhosted operations may occur commences on the date of registration issuance.

b. ~~Existing STVRs shall have one (1) year from the effective date of this Ordinance~~Short-term vacation rentals are not required to come into compliance with meet the primary residence requirement if all of the following conditions are met:

c. ~~Discontinued use for six (6) or more months for an Existing STVR shall result in disqualification from these provisions.~~

i. ~~The short-term vacation rental does not currently meet the primary residency requirement and was in operation and in good standing with the City (i.e., had obtained a business license and had paid all required TOT) as of October 14, 2022.~~

ii. ~~The short-term vacation rental has paid all applicable transient occupancy tax owed between October 14, 2022 and the date of registration.~~

iii. The short-term vacation rental is within a single-family or residential condominium unit. No accessory dwelling units qualify for this exemption.

This primary residence exemption shall no longer be valid for a property if ownership of the property is transferred, if short-term vacation rental use is discontinued for twelve (12) or more months, or if the short-term vacation rental registration is revoked.

Additional City Staff Recommended Modifications:

Additional clarifications to the ordinance as recommended by City Staff are presented below. For these modifications, the City's revisions are shown in ~~double strikethrough~~ (deletions) and double underline (insertions) format indicate Coastal Commission approved revisions to the City's Short-Term Rental Ordinance that are being recommended for City Council adoption. Staff has confirmed with Coastal Commission staff that these clarifying modifications are within the scope of the Coastal Commission's certification.

The maximum unhosted nights provision in Section 18.06.025 (G)(5)(c) should not apply to STRs in mixed-use developments in the Commercial-Downtown, Commercial-General, or Commercial-Visitor Serving Zoning Districts, or to any STRs in the C-VS Zoning District, as follows:

c. Maximum Number of Rental Nights. An unhosted short-term vacation rental shall be operated no more than sixty (60) nights per calendar year. There are no rental night limitations for hosted short-term vacation rentals.

i. An unhosted short-term vacation rental is defined as a short-term vacation rental use where no resident is present during the course of the rental.

ii. A hosted short-term vacation rental is defined as a short-term vacation rental use where a resident, who is the operator and acting as a host, occupies one or more bedrooms in a dwelling unit while other areas of the unit are rented for the purpose of transient overnight lodging.

iii. Short-term vacation rentals permitted to operate in mixed-use developments in the Commercial-Downtown, Commercial-General, or Commercial-Visitor Serving Zoning Districts and all other short-term vacation rentals permitted to operate in the Commercial-Visitor Serving Zoning District are exempt from the limitation on unhosted rental nights.

The definition of “Short-term vacation rental” in Section 18.02.040 Definitions is clarified to avoid the implication that STRs are not allowed in districts other than residential zoning districts.

“Short-term vacation rental” means a residential or mixed-use property that contains a dwelling unit or habitable portion thereof that is offered for hire for transient occupancy for periods of thirty days or less. In residential zoning districts, short-term vacation rental use that is incidental to the principal residential use of a dwelling unit or property in residential zoning districts. Non-permanent housing such as for seasonal farmworker housing and short-term boarding for researchers and others employed or otherwise affiliated with agricultural uses are not short-term vacation rental facilities.

The updated Ordinance also includes a minor modification to Section 5 of the Ordinance. The

modification would require review by the City of Half Moon Bay to evaluate the number of short-term vacation rentals operating in accordance with the Short-Term Vacation Rental Ordinance at 12 months following acknowledgment of the Ordinance by the California Coastal Commission, as opposed to at 6 months and 12 months. This modification will allow the City time to register the STRs and gather enough data to evaluate the number of STRs.

Environmental Review

The Ordinance is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines sections 15305 (minor alterations to land use limitations) and 15061(b)(3) (common sense exemption). The City currently permits short-term vacation rentals and home occupations to operate in the City. The proposed amendments restrict and regulate short-term vacation rental uses. Consequently, a decrease in short-term vacation rental activity, as well as any related environmental effects, is reasonably anticipated as a result of these amendments. The amendments to the Home Occupation provisions do not involve a change in land use or density.

Conclusion:

These Ordinance provisions support coastal access and economic development while also supporting housing stock and neighborhood compatibility. STRs and Home Occupations will remain as accessory uses to the primary residential use within residential zoning districts.

Next Steps

If City Council introduces the Ordinance incorporating the Coastal Commission modifications, a second reading will be scheduled for Council's next meeting. Once readopted, the Ordinance will be submitted to the Coastal Commission, where the Executive Director will review the City Council's action and make a determination for the Coastal Commission's confirmation. Provided this outcome, the Ordinance will be effectively certified.

ATTACHMENTS:

1. Short-Term Vacation Rental and Home Occupation Ordinance
2. California Coastal Commission Staff Report, March 21, 2023
3. Public Written Comment dated May 12, 2023 from STR Operator in Mixed-Use Commercial Downtown