



Memorandum

TO: The Honorable Whatcom County Council
The Honorable Satpal Sidhu, County Executive

FROM: Cliff Strong, Senior Planner

THROUGH: Steve Roberge, Asst. Director

DATE: May 10, 2023

SUBJECT: Vacation Rental Regulations (PLN2014-00020)

At its 5/9/23 meeting, Council pulled the introduction of an ordinance that would adopt Title 20 regulations for vacation rentals, as they still had questions about certain aspects of the proposed regulations. This memo is intended to address those questions.

Regarding Exhibit A

1. Councilmember Kershner asked why shouldn't vacation rentals be allowed in duplexes? To address this, Councilmember Galloway suggested amending the proposed definition of "vacation rental unit" as follows:

20.97.445.1 Vacation Rental Unit.

"Vacation Rental Unit" means a single-family, multi-family, dwelling unit or accessory dwelling unit that, for compensation, is rented as a single unit used to lodge individuals or families for a period of less than 30 days and where the owner is not present in the rented unit during the rental period. Individual sleeping rooms shall not be rented individually.

PDS advises against these amendments for several reasons:

The first amendment would allow vacation rentals not only in single-family residential and accessory dwelling units, but in multi-family residential units as well. While the intent of this amendment might be to allow vacation rentals in duplexes, duplexes *are* considered single-family residences under our code, so referencing only single-family would still include duplexes. Multi-family includes triplexes and above:

20.97.264 Multifamily dwelling.

"Multifamily dwelling" means a single building, or portion thereof, designed for or occupied by three or more families living independently of each other in separate dwelling units on one lot of record and, for the purpose of this code, includes triplexes, fourplexes, apartment buildings, and residential condominiums. (current definition)

PDS doesn't think it a good idea to allow vacation rentals in apartment complexes since the density is great enough that impacts to neighbors might be even more intensified, having shared walls and all. Converting long-term rental apartments into short-term vacation rentals would also further reduce the long-term supply of affordable rental housing units. Furthermore, an entire apartment complex could be converted to vacation rentals, wherein the whole complex would operate as more of a hotel. Hotels are regulated differently, and allowed only in commercial, not residential, districts.

Such a use would also compete with our hotel industry, and be able to be located in areas where hotels currently are not allowed.

In addition, “timeshare” multi-family developments (whether in single ownership or condominiums) are not “vacation rental units” under the proposed code but are allowed with a conditional use permit through different zoning code provisions in the Resort Commercial (RC) zone in Birch Bay, Glacier, and Point Roberts. (See WCC 20.164.150.)

The second amendment (striking the last sentence), would allow someone to rent out single bedrooms. Operating a home like this is already addressed in the code, and are considered “bed and breakfast establishments.”

20.97.027 Bed and breakfast establishment.

“Bed and breakfast establishment” means a privately-owned dwelling that is the primary residence~~(s)~~ of the owners and in which, for compensation, one to two rooms are used as sleeping units to house or lodge individuals or families for periods of less than ~~one month~~30 days as transient visitors with or without limited food service. The use of the dwelling unit for the bed and breakfast shall be clearly incidental and subordinate to its use for residential purposes and the purpose of the applicable zoning district. At least one owner shall be present overnight when a guest room is rented. *(Strikeout/underline showing proposed amendments to the existing definition so as to better distinguish between these and vacation rentals, Exhibit A.)*

Lastly, and most importantly, we caution the Council on changing the proposed definition of “vacation rental unit” as doing so would make the Title 20 definition inconsistent with the definition already approved by Council in the Shoreline Management Program Periodic Update now pending approval before Ecology. If Council were to adopt these changes it would require Council to then amend the SMP again and resubmit it for another review cycle by Ecology—meaning the other updates of the SMP already approved by Council would remain in limbo (and not in effect) for additional months.

Regarding Attachment A

2. First off, it’s important to remember that the way the ordinance is structured, only Exhibit A (defining vacation rentals and identifying where they are allowed by zone and permit type) is proposed for public hearing and adoption, as identified in Section 1 of the ordinance. Attachment A (the performance standards and registration requirements) are included in the packet for informational purposes for the Council and public but are not subject to the public hearing or adoption by Council at this time. As described in the staff report, there are many additional tasks PDS has to complete before we can bring the language in Attachment A back to Council for an additional public hearing and adoption. *This means that Council will have plenty of opportunity to further discuss the particular provisions of the performance standards in Attachment A and they do not need to be finalized right now.*

That said, we will still address the couple of issues Council raised.

3. In §20.80.960, subsection (5)(a), Councilmember Galloway has suggested amending it to:

(a) There shall be no more than ~~one~~ two vacation rental units per lot, or as granted by administrative approval.

This would allow by right two vacation rental units per lot, or even more through administrative approval. However, there are several issues with this.

First, allowing two (or more) vacation rental units per lot would only increase potential conflicts with resident neighbors. Council’s original intent was to allow folks to rent out their houses or ADUs as

vacation rentals, but while maintaining a single-family residential neighborhood character by only allowing one vacation rental unit per lot. Allowing multiple units for short-term rentals on the same lot would further decrease the number of units available for long-term rental or ownership and further reduce the supply of affordable housing units.

Furthermore, PDS has fielded many calls over the last few years from folks wanting to set up multiple cabins, tents, teepees, or RVs on their property and rent them out as vacation rental units. However, such set ups are already addressed as “campgrounds” or “RV parks” in our code, which have standards for sewer, water, screening, etc. Allowing such vacation rental unit developments as an accessory use (as proposed in Exhibit A) would mean someone could set up a *de facto* campground without having to ensure health and safety measures are met, as there would be no permitting requirements.

And lastly, adding “or as granted by administrative approval” is meaningless since the proposed regulations would allow vacation rentals as an accessory use in most SFR zones (i.e., no permit review). And in the Lake Whatcom Watershed Overlay District, where a Conditional Use Permit would be required, decisions are made by the Hearing Examiner, not the Director, so it is not an administrative approval.

4. In §20.80.960, subsection (5)(f), Councilmember Galloway has suggested amending it to:

Owners/operators shall abide by any official local, state, or federal emergency orders including not renting during an emergency (e.g., flood, pandemic, etc.);

PDS has no issue with this change.

Recommendation

Planning & Development Services recommends that Council introduce and schedule a hearing on the proposed ordinance, which would adopt Exhibit A (definitions, allowances, and permit types) and requests Planning and Development Services and Finance to work together to engage a vendor to develop and administer a vacation rental registration system, public outreach strategy, and a fee structure for said registry. It further directs staff to present to Council for consideration and adoption an ordinance codifying the language in Attachment A at the time they are considering the fee structure.