



Whatcom County Planning & Development Services Staff Report (Revised)

Short-Term/Vacation Rentals Title 20 Zoning Code Amendments

I. Application Information

File #s PLN2014-00020 (Title 20 Zoning Code Amendments)

File Name: Vacation Rentals – Zoning Code Amendments

Applicant: Whatcom County Planning and Development Services (PDS)

Summary of Request: Amend Whatcom County Code Title 20 (Zoning) to define and regulate short-term rentals of residential units (a.k.a., “vacation rentals”).

Location: Countywide.

Staff Recommendation: Planning and Development Services recommends that the Council adopt the draft ordinance with Exhibit A (definitions, allowances, and permit types) now. The ordinance additionally 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 Exhibit B at the time they are considering the fee structure.

II. Background

In late 2014, after having received complaints from citizens neighboring vacation rental units, the Council started a process to adopt regulations pertaining to vacation rentals (a.k.a., short-term rentals or STRs). Thus, staff assisted Council in developing regulations for vacation rentals to help minimize impacts to surrounding residents.

Existing Code

Zoning Code

Whatcom County Code (WCC Title 20, Zoning) currently does not address the rental of single-family dwellings, either short- or long-term, and Planning and Development Services has interpreted the code as allowing vacation rentals wherever single-family dwellings are allowed.

Whatcom County’s zoning code does not list vacation rentals as a distinctive land use that is either permitted or prohibited. It does, however, define and regulate transient room rentals for bed and breakfasts, rooming houses, and hotels as shown in Table 1:

Table 1. Current Zoning Regulation of Transient Room Rentals

<i>Use</i>	<i>Number of Persons</i>	<i>Number of Rooms</i>	<i>Owner Occupied</i>	<i>Permitted Use in:</i>	<i>Accessory Use in:</i>	<i>Conditional Use in:</i>
B&B Establishment WCC 20.97.027		1 or 2	Yes	RC in Pt. Roberts,	UR, URM, URMX, RR, RRI, TZ, RC, STC, AG, R	RF
B&B Inn WCC 20.97.028		3 to 5	Yes	RC in Pt. Roberts	RC, STC	UR, URM, URMX, RR, RRI, TZ, AG, R
Rooming House WCC 20.97.355	3 or more	No minimum or maximum		RC (except Maple Beach in Pt. Roberts) 3-8 persons		URM
Motel WCC 20.97.260		No minimum or maximum		RC (16 or fewer rooms), AO, TC, GI, GC, STC		RGC, Pt. Roberts Special District
Hotel WCC 20.97.185		6 or more		RC (16 or fewer rooms), AO, TC, GI, GC, STC		RGC, Pt. Roberts Special District

“Rooming house” is a permitted use only in the RC zone (except the Maple Beach section of Point Roberts) and a conditional use in URM. A “hotel” or “motel” is a permitted use only in commercial zones, including RC. A “bed and breakfast establishment” (an accessory use in residential and rural zones) allows for renting 1 or 2 rooms, while a “bed and breakfast inn” (a conditional use in residential and rural zones) allows for renting 3 to 5 rooms. Both types of bed and breakfast establishments must be owner-occupied.

In September 2014, staff compiled potential options for regulating vacation rentals and discussed them with the Council’s Planning & Development Committee. Committee discussion focused on permitting vacation rentals as accessory uses, but making them a conditional use in the Lake Whatcom Watershed and adding a series of performance standards intended to protect the safety of guests and prevent negative impacts to nearby residents.

After a series of discussions¹ and a recommendation from the Planning Commission², the Council’s last direction (4-3 vote) was for staff to develop a schema that:

- Adds a definition of “vacation rental unit” to Title 20 and amends the definitions of “bed and breakfast establishment” and “bed and breakfast inn” so as to better distinguish these three uses;
- Adds vacation rentals as an accessory use in UR, URM, URMX, RR, RRI, TZ, RC, STC, AG, and R, and as a conditional use in the Lake Whatcom Watershed Overlay District;
- Adopts performance standards addressing parking, maximum numbers of guests, signage, health and safety measures, parking, noise, adequate septic systems, etc.;
- Requires those on septic to provide a current satisfactory Report of System Status upon registration (and thereafter every three years); and,
- Requires owners to annually register with Planning and Development Services.

However, staff also informed the Council that engaging a vendor and developing the registration system, a fee structure (for Council to review and approve), and a public outreach program would take some

¹The Council has discussed this issue in committee 19 times, from 9/16/2014 through 2/7/23.

²The Planning Commission also held several workshops on the Title 20 amendments, and a public hearing on 1/8/2015.

time, so we have structured the adoption of their desired regulations in two phases, as described in Section III of this report. The proposed amendments shown in Exhibits A & B are based on the Council's latest direction, with clarifying changes proposed by staff.

Relationship to the Shoreline Management Program

So as to maintain consistency between zoning (Title 20) and the Shoreline Management Program (SMP), amendments were also proposed to Title 23 (Exhibit B). These amendments:

- Amended several definitions and added a definition of "vacation rental unit."
- Included vacation rental units and bed and breakfast establishments as part of a single-family residential use (rather than a commercial use) for purposes of determining permitted uses in various shoreline designations;
- Removed bed and breakfasts as a conditional use in the Urban Conservancy and Conservancy shoreline designations; and,

Both sets of draft amendments were reviewed by the Planning Commission, who recommended approval. In 2016, the Council held a hearing on the SMP amendments and passed Resolution 2016-039, forwarding the SMP amendments to the Department of Ecology (DOE) for its review (which approved them). However, Council has not yet adopted an ordinance effecting them, and so these amendments have been included in the SMP Periodic Update that Council has approved, though are not yet adopted into code as we're awaiting Department of Ecology approval prior to final adoption.

III. PROPOSED AMENDMENTS

Working from the previous draft amendments, Council's direction, and the logistics of setting up a registration system, Planning & Development Services recommends the Council adopt these regulations in two phases. Please refer to Exhibits A & B, where the proposed code amendments are shown.

Phase I: Exhibit A contains the definition of vacation rental and amendments to the definitions of bed and breakfast establishment and bed and breakfast inn, so as to better distinguish them. The definition uses 30 days as the vacation rental threshold, which is consistent with the County's transient occupancy definition (WCC Chapter 3.36 Transient Occupancy Tax) and with the definitions of bed and breakfast establishments and inns. The definition also specifies no food service, to distinguish them from the bed and breakfast uses.

Exhibit A also adds vacation rentals as an accessory use in UR, URM, URMX, RR, RRI, TZ, RC, STC, AG, and R,³ but as a conditional use in the Lake Whatcom Watershed Overlay district. (Note that the Conditional Use Permit (CUP) requirement would only apply to *new* vacation rentals in this district: The prosecuting attorney has opined that existing vacation rentals would be considered legal nonconforming uses and would not have to obtain a CUP, though the annual registration requirement would still apply when/if adopted as phase II.)

Section 1 of the ordinance would adopt these regulations now, which would become effective 10 days after adoption and the County Executive signs the ordinance, per standard protocol.

Phase II: Exhibit B contains the registration requirement and the performance standards. Because it will take some time for staff to retain a vendor⁴ to develop a registration system, prepare fee structure

³ These are the zones where "bed and breakfast establishments" are currently permitted as an accessory use (see Table 1, above).

⁴ Including obtaining budget authority; develop a consultant scope of work; issue an RFP/RFQ; and interview, select, and contract with a vendor. With Granicus, the annual cost for the four modules PDS recommends would be about \$110,602 annually. However, if we set our annual registration fee at their recommended two times the

alternatives for Council to review and approve⁵, and conduct outreach to vacation rental owners/operators prior to implementation, staff recommends that Council postpone adopting Exhibit B since, until we have a registration system, it will be impossible to know to whom to apply the performance standards. Adopting the performance standards before we have a registration system also has the potential to create hundreds of, if not more than a thousand, potential code enforcement cases.

Section 2 of the ordinance requests PDS 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 Exhibit B to Council for adoption at the same time Council considers the fee structure.

IV. COMPREHENSIVE PLAN EVALUATION

The proposed zoning code amendments are consistent with the following policies of the Whatcom County Comprehensive Plan:

Goal 2A: Ensure provision of sufficient land and densities to accommodate the growth needs of Whatcom County and protect the qualities that make the county a desirable place to live.

Policy 2A-13 Allow for adequate economic development to provide economic sustainability, adequate employment opportunities, and services in and for the rural areas.

Goal 2DD: Retain the character and lifestyle of rural Whatcom County.

Policy 2DD-2: Protect the character of the rural area through the County’s development regulations ...

Goal 2FF: Provide employment opportunities in the rural parts of Whatcom County.

Policy 2FF-1: Support small businesses, cottage industries, home occupations, resource-based, tourist, recreational, and other appropriate industries in the rural areas of Whatcom County. New rural commercial and industrial uses that are more intensive than those permitted within rural zones as home occupations or cottage industries should be located within designated Rural Communities and Rural Business areas.

Policy 2FF-3: Ensure that business operations do not adversely impact adjacent residential, agricultural or forest land, or compromise water quality and quantity.

Policy 2FF-4: Allow home-based occupations, cottage industries and small-scale tourist and recreational uses throughout the rural area provided they do not adversely affect the surrounding residential uses, agricultural uses, forestry uses, or rural character.

Goal 7K: Enable a geographic balance for economic growth within the capacities of the county’s natural resources, natural systems, public services, and public facilities.

Policy 7K-4: Consider establishing more resource and tourism based recreational, commercial, and industrial uses to create economic opportunity in the rural areas of the county.

mean nightly rate that operators charge (2 x’s ~\$200), this could generate a potential maximum of roughly \$662,400 if all known STR’s were registered and paid.

⁵ Which they said they want to do.

V. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

Staff recommends the Council adopt the following findings of fact and reasons for action:

1. Whatcom County Planning and Development Services submitted an application for a zoning code amendment to add a definition and standards for vacation rental units.
2. The amendment would add vacation rentals as an accessory use in zones where “bed and breakfast establishments” are currently permitted as an accessory use.
3. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on December 8, 2014.
4. Notice of the subject amendment was submitted to the Washington State Department of Commerce on November 26, 2014, for their 60-day review. No comments were received.
5. On January 8, 2015, the Whatcom County Planning Commission held a duly noticed public hearing on a proposal to amend the Zoning Code (WCC Title 20) to allow vacation rental units as accessory uses in most zones, and recommended approval.
6. The County Council held an advisory public hearing on May 10th, 2022, and a duly noticed public hearing on the proposed amendments on [REDACTED], 2023.
7. WCCP Policies 2A-13, 2FF-1, 2FF-3, 2FF-4, and 7K-4 support small home-based businesses in the rural areas of the county.
8. WCCP Policies 2FF-3 and 2FF-4 support rural businesses provided they do not adversely impact rural character or surrounding uses.
9. WCCP Policy 2DD-2 supports protecting rural character through development regulations.
10. The vacation rental amendments are necessary to better regulate vacation rentals, minimize impacts on neighboring properties, and ensure consistency with WCC Title 23 (Shoreline Management Program).
11. The Council deems it appropriate to require registration by owners of vacation rentals as a means of enforcing health, safety, and other requirements, but understands it will take some time for Planning and Development Services and Finance to engage a vendor to administer a vacation rental registration system, develop a fee structure for said registry, and develop a strategy to inform vacation rental operators of the pending registration requirement and performance standards in Exhibit B.
12. Therefore, Exhibit B shall not become effective until after Council acts to approve the fee structure and implement the vacation rental registration system.
13. In addition, many of the amendments are solely to fix grammar and have more concise language.

VI. PROPOSED CONCLUSIONS

1. The amendments to the development regulations are in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VII. RECOMMENDATION

Planning and Development Services recommends that the Council adopt the draft ordinance with Exhibit A (definitions, allowances, and permit types) now. The ordinance additionally 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 Exhibit B at the time they are considering the fee structure.

ATTACHMENTS

- Draft Ordinance
- Exhibit A – Proposed Title 20 (Zoning) amendments, phase 1
- Exhibit B – Proposed Title 20 (Zoning) amendments, phase 2