

TO: HONORABLE CHAIRMAN AND PLANNING COMMISSION

FROM: RON WHISENAND, COMMUNITY DEVELOPMENT DIRECTOR

**SUBJECT: ZONING CODE AMENDMENT 07-002/CITY INITIATED
TRANSIENT OCCUPANCY AND VACATION RENTAL DEFINITIONS,
AND VACATION RENTAL REGULATIONS**

DATE: JUNE 12, 2007

Needs: For the Planning Commission to consider and recommend approval of amendments to the Zoning Ordinance to add definitions for Transient Occupancy and Vacation Rentals, and regulations for Vacation Rentals.

Facts:

1. This two-part Code amendment is intended to add definitions for “transient occupancy”, and “vacation rentals”, and to provide specific regulations for the operation of vacation rentals.
2. This amendment has been previously considered by the Planning Commission twice. The Commission provided direction at their meeting on May 22, 2007 for staff to research the potential implications of the proposed vacation rental regulations, and to find out whether this use would be considered a commercial activity.

**Analysis
and**

Conclusions:

Transient Occupancy

As noted in previous staff reports, the fundamental distinction between a residence and transient occupancy is the tenancy or duration of stay of an occupant. The City collects transient occupancy taxes (TOT) for tenancies 30 days or less. Tenancies beyond a 30 day length of stay in a lodging facility, would be characterized as residential in nature. In researching this issue, the City could not collect TOT fees for continuous occupancies beyond 30 days. Therefore, by definition, occupancies over 30 days are residential uses, and would be subject to the underlying residential zoning regulations.

Continuous transient occupancy for over 30 days could not be allowed in the Airport Planning Area, since the Airport Land Use Plan and General Plan prohibit it. See Attachment 1, Proposed Ordinance.

Vacation Rentals

The Planning Commission acknowledged that vacation rentals are a growing tourist-oriented business in Paso Robles. However, the Commission communicated caution with regard to adopting regulations, and suggested a more thorough analysis of the implications that may result from regulating this use be conducted.

To date, the City has not received complaints on this use, nor have concerns regarding changes to the residential character of neighborhoods been raised. It has been observed in other communities that there can be impacts to neighborhoods resulting from a proliferation of vacation rentals due to the transient use of homes. Also, other jurisdictions have adopted regulations to ensure this type of use does not become a nuisance in neighborhoods. Therefore, staff has proposed these regulations to allow the City to proactively address this use if determined appropriate.

Impacts experienced in other locations from vacation rentals include:

- Over-proliferation of this use in residential neighborhoods, changing the character of what was once residential to a hotel-like commercial area
- Reduction of residential housing stock available for permanent residents
- “Dead zones” in neighborhoods during times when the homes are not occupied by transient occupants
- Neighbors not knowing who their neighbors are, resulting in social changes between neighbors
- Transient occupants not behaving in a considerate manner including excessive noise, over parking, litter, etc.
- Changes to landscaping (xeriscape) or maintenance (paving the site for low maintenance) that is not consistent with the typical care that permanent residents provide

While a few of the items noted above are regulated through other ordinances in the Municipal Code such as noise, the net impact of potentially having to follow up with code enforcement violation proceedings could impact City resources as well as make life disturbing for permanent residents. In order to allow the City discretion on when and how this type of use could be permitted, it has been suggested that the City require a Conditional Use Permit (CUP) process similar to Bed and Breakfast uses.

In meeting with a representative involved in the vacation rental business, several issues were brought forward. The main issues include:

- A CUP process could be lengthy and expensive for small businesses, and would result in site improvement conditions of approval, such as frontage improvements
- If a vacation rental were to locate in a home that has seismic retrofit issues, by changing the use of a home from residence to a business, would change seismic retrofit compliance requirements
- Homes would need to be brought up to ADA compliance
- Controlling proximity or distance between vacation rentals would unnecessarily reduce the number of homes that could convert to vacation rentals
- Allowing vacation rentals to be permitted in purely single family residential areas (east side of town) might change the character of those areas, versus only allowing them to be established in areas zoned with a Mixed-Use, Historic, or Office professional Overlay, or within one mile from the city center or Paso Robles Event Center, since the composition of these areas are already mixed and they are located in areas conducive to tourist-oriented uses

It seems prudent, consistent with the Bed and Breakfast regulations, to require a CUP so that the Commission could hear from neighbors, make findings that the site and use complies with zoning regulations, apply conditions deemed appropriate particularly to control nuisance issues, and ensure that the use would be compatible with the

surrounding neighborhood. The home owner would receive the benefit of using their home as a business, which should justify the process and costs associated with obtaining approval of a CUP.

Although operators of vacation rental businesses would need to obtain a business license, the use of a home for this purpose would not be considered commercial as defined in the applicable building codes. Therefore, homes with ADA or seismic deficiencies would not need to comply with those building code regulations any differently than a permanent residence.

It may be reasonable to let the market and the Commission use discretion on how close vacation rentals are located to one another. There might also be merit to the idea that vacation rentals would be better suited to the West side of town within a Mixed-Use, Historic, or Office professional Overlay, or within one mile from the city center or Paso Robles Event Center since those areas could more easily absorb this use with less disruption to neighborhoods, and would support the City's tourism goals.

Staff has modified the proposed ordinance to reflect these ideas. The Commission may wish to discuss make recommendations on each regulation proposed as follows:

- Should a Condition Use Permit be required for Vacation Rentals?
- Should Vacation Rentals be allowed citywide or in/near the downtown?
- Should a dispersal standard be established (i.e. no more than one unit per block face)?
- Should the number of occupants be regulated?
- How may parking spaces be provided and should non-conforming properties be brought into conformance?

Reference: Paso Robles General Plan and EIR, Paso Robles Zoning Ordinance, 2006 Paso Robles Economic Strategy and CEQA.

Fiscal Impact: None.

Options: After opening the public hearing and taking public testimony, the Planning Commission is requested to take one of the actions listed below:

By separate motions:

- a. (1) Adopt the attached Resolution recommending approval to the City Council of a Negative Declaration for Zoning Code Amendment 07-002; and (2) recommend to the City Council adoption of the attached Ordinance No. XX.
- b. Amend, modify, or reject the above-listed action.
- c. Request additional information and analysis.

Staff Report Prepared By: Susan DeCarli

Attachments:

1. Resolution to recommend approval of the Negative Declaration
2. Ordinance No. XX

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PASO ROBLES
ADOPTING A NEGATIVE DECLARATION
FOR A ZONING ORDINANCE AMENDMENT
TO ADD DEFINITIONS OF TRANSIENT OCCUPANCY AND VACATION RENTALS
AND ADDING VACATION RENTAL REGULATIONS

WHEREAS, the City Council of the City of El Paso de Robles adopted an updated General Plan in December 2003; and

WHEREAS, this Zoning Ordinance Amendment is consistent with the General Plan; and

WHEREAS, the General Plan Environmental Impact Report (EIR) considered and evaluated programmatically potential impacts that may result from implementation of the General Plan, and includes mitigation measures as appropriate; and

WHEREAS, an Initial Study was prepared pursuant to the California Environmental Quality Act (CEQA) to evaluate whether this project would result in environmental impacts, and the City has determined that this project will not result in significant environmental impacts; and

WHEREAS, pursuant to the Statutes and Guidelines of the California Environmental Quality Act (CEQA), and the City's Procedures for Implementing CEQA, an Initial Study and a Draft Negative Declaration was prepared and circulated for public review and comment; and

WHEREAS, no public comments or responses were received in regard to the Draft Negative Declaration and Initial Study; and

WHEREAS, Public Notice of the proposed Negative Declaration was posted as required by Section 21092 of the Public Resources Code; and

WHEREAS, a public hearing was conducted by the Planning Commission on March 27th, May 22nd, and June 12, 2007 and City Council on July 17, 2007 to consider the Initial Study, the proposed Negative Declaration prepared for the proposed project, and to accept public testimony on the Zoning Ordinance Amendments and environmental determination; and

WHEREAS, based on the information and analysis contained in the Initial Study prepared for this project and testimony received as a result of the public notice, the City Council finds that there is no substantial evidence that there would be a significant impact on the environment as a result of the proposed project. This finding is based on the Mitigation Monitoring Program included in the General Plan Environmental Impact Report.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of El Paso de Robles, based on its independent judgment, that it does hereby recommend adoption of a Negative Declaration and in accordance with the Statutes and Guidelines of the California Environmental Quality Act (CEQA) and the City's Procedures for Implementing CEQA.

PASSED AND ADOPTED THIS 17th day of July, 2007 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Frank R. Mecham, Mayor

ATTEST:

Deborah Robinson, Deputy City Clerk

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING TITLE 21, ZONING, OF THE MUNICIPAL CODE
CITY-INITIATED ZONING ORDINANCE AMENDMENT
ADDING DEFINITIONS FOR TRANSIENT OCCUPANCY AND VACATION
RENTALS, AND ADDING VACATION RENTAL REGULATIONS

WHEREAS, the City's General Plan and Economic Strategy supports economic growth and Paso Robles as a tourist destination; and

WHEREAS, it is the intent to enable tourist-oriented economic development interests to have a clear understanding of the applicable regulations regarding definitions of transient occupancies, vacation rentals and applicable permit requirements; and

WHEREAS, this Zoning Ordinance Amendment establishes the definitions of transient occupancy and vacation rentals, and establishes the permit requirements and regulations applicable to vacation rentals; and

WHEREAS, at its meetings on March 27, May 22, and June 12, 2007, the Planning Commission took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this Ordinance;
- b. Conducted public hearings to obtain public testimony on the proposed ordinance;
- c. Recommended that the City Council approve the proposed Ordinance; and

WHEREAS, based on consideration of information received at its meeting of July 17, 2007, the City Council took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- c. Considered the Commission's recommendation from the Planning Commission's June 12, 2007 public meeting;
- d. Introduced said ordinance for the first reading; and

WHEREAS, on August 7, 2007, the City Council held second reading of said ordinance.

NOW, THEREFORE, the City Council of the City of El Paso de Robles does hereby ordain as follows:

SECTION 1. The zoning ordinance amendment is hereby established in the Zoning Ordinance as shown in Exhibits A, B, and C.

SECTION 2. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this Ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 5. Inconsistency. To the extent that the terms or provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof, such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

Introduced at a regular meeting of the City Council held on July 17, 2007, and passed and adopted by the City Council of the City of El Paso de Robles on the 7th day of August, 2007 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Deborah Robinson, Deputy City Clerk

Exhibit A

Chapter 21.08 DEFINITIONS

Section: 21.08.444 Transient Occupancy

“Transient Occupancy” (land use), means lodging for the purpose of overnight accommodations for a period of not less than one night and not more than 30 consecutive days. Transient occupancies are subject to the transient occupancy tax requirements of Municipal Code, Chapter 5.06. Examples of transient occupancy accommodations include but are not limited to: hotels, motels, vacation rentals, timeshare vacation clubs, villas, cottages, casitas, hostel, bed and breakfast inns.

Section: 21.08.465 Vacation Rental

“Vacation rental” (land use), means a transient occupancy of a residential structure in either a single-family, multi-family or mixed-use facility.

Exhibit B

Chapter 21.34

VACATION RENTALS

Sections:

- 21.34.10 Purpose
- 21.34.20 Definition
- 21.34.30 Permit Requirements
- 21.34.40 Regulations

21.34.10 Purpose.

The purpose of this chapter is to establish regulations for the operation of vacation rental businesses. Vacation rentals are recognized as being a desirable type of tourist accommodations. It is also important to the residents of Paso Robles to protect the residential character of neighborhoods, and necessary to ensure an adequate supply of housing stock for residents. If an over-concentration of vacation rentals were to occur in a residential neighborhood, impacts to the general residential character of a neighborhood could occur and/or the amount of housing stock could be reduced that would otherwise be available for permanent residents. Therefore, it is the intent of these provisions is to control potential impacts or unintended consequences that could result from the establishment of vacation rental businesses.

21.34.20 Definition.

“Vacation rental” (land use), means a transient occupancy of a residential structure in either a single-family, multi-family or mixed-use facility.

21.34.30.1 Permit Requirements.

The permit requirements for establishment of a vacation rental business requires approval of a Conditional Use Permit by the Planning Commission, and a Business License application. Vacation rental business operators shall also be subject to Municipal Code, Chapter 5.06, Transient Occupancy Tax requirements.

21.34.40 Regulations.

a. Vacation rentals shall be a conditionally permitted land use in any zoning district with a Mixed-Use, Historic, or Office Professional Overlay, or within one mile from the city center or Paso Robles Event Center in a residential, commercial or open space zoning district. Property located in the Airport Planning Area is subject specific airport regulations in compliance with the Airport Land Use Plan.

b. The number of occupants allowed in an individual vacation rental shall not exceed two persons per bedroom plus two persons. The maximum number of occupants for each individual vacation rental shall be specified in the approved Conditional Use Permit and Business License.

c. Each vacation rental shall provide two off-street parking spaces per residence.

d. No vacation rental signs shall be permitted on a vacation rental site, including window signs and flags.

e. No exterior alterations shall be permitted that would alter the residential character of each vacation rental unit, including lighting, colors, materials, etc.

f. Landscaping shall be maintained in a manner consistent with the surrounding character.

g. All residential vacation rentals shall comply with the City’s noise standards, per Municipal Code, Chapter 9.07.

h. All residential vacation rentals shall designate a local property manager (or property owner). The local property manager shall be available 24 hours a day to respond to tenant and neighborhood questions or complaints. Contact information shall include: name of contact person, address, and phone number.

- i. An inspection by the City Fire Marshall shall be conducted prior issuance of a business license for use of a residence as a vacation rental.

Exhibit C

Table 21.16.200
PERMITTED LAND USES IN ALL ZONING DISTRICTS

14. Upholstery (includes Auto Upholstery)	N	N	N	N	N	N	N	N	N	N	N	N	C	P	N	P	N	P	N	
H. Transient Lodgings																				
1. Bed & breakfast inns (* See Chapter 21.15A)	C	C	C*	C*	C*	C*	C*	C*	C*	N	P	P	P	P	P	N	P	C		
2. Hotels & motels * Requires a finding that a hotel or motel will not be detrimental to the City's efforts to revitalize the historic downtown	C	N	N	N	N	N	N	N	N	N	N	P	P	P	C*	P	N	P	C	
3. Recreational vehicle parks	N	N	N	N	N	N	N	N	N	N	N	P	P	C	P	N	C	C		
4. <i>Vacation Rentals (* CUP may be approved by Zoning Administrator)</i>	N	C*	C*	C*	C*	C*	C*	C*	N	N	N	N	N	N	N	N	N	N	N	N
I. Wholesale & Storage																				
1. Mini-storage facilities Mini-storage facilities are prohibited along Spring Street and Creston Road. * Requires findings to assure protection of the City's economic vitality and maintenance of positive community image. See findings in Section 21.21.080.	N	N	N	N	N	N	N	N	N	N	N	C*	C	N	C	C	C	C	N	
2. Temporary construction yards in conjunction with valid building permit on the site of the building permit or on the immediately adjacent property	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
3. Temporary off-site construction yards in conjunction with a valid building (unless on the immediately adjacent property)	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	
4. Warehousing	N	N	N	N	N	N	N	N	N	N	N	P	P	N	P	P	P	P	N	
5. Wholesale & distribution (not including truck terminals and fuel dealers)	N	N	N	N	N	N	N	N	N	N	N	P	P	N	P	P	P	P	N	

As amended through Ordinance 902 N.S. adopted July 19, 2005: effective August 20, 2005

PROOF OF PUBLICATION

LEGAL NEWSPAPER NOTICES

PLANNING COMMISSION/CITY COUNCIL
PROJECT NOTICING

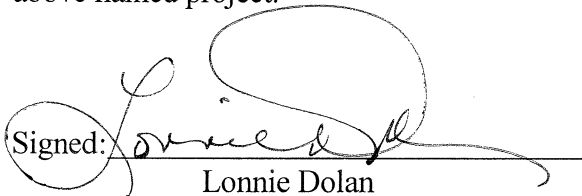
Newspaper: Tribune

Date of Publication: May 9, 2007

Meeting Date: May 22, 2007
(Planning Commission)
June 19, 2007
(City Council)

Project: Code Amendment 07-002
(Defining TOT – City initiated)

I, Lonnie Dolan, employee of the Community Development Department, Planning Division, of the City of El Paso de Robles, do hereby certify that this notice is a true copy of a published legal newspaper notice for the above named project.

Signed: 
Lonnie Dolan

forms/newsaffi.691

CITY OF EL PASO DE ROBLES
NOTICE OF PUBLIC HEARING

NOTICE OF INTENT TO CONSIDER A
CODE AMENDMENT (07-002) AND TO
ADOPT A NEGATIVE DECLARATION

NOTICE IS HEREBY GIVEN that the City of El Paso de Robles will hold two Public Hearings to consider a Code Amendment and a draft Negative Declaration.

The Planning Commission will consider this item at a Public Hearing on Tuesday, May 22, 2007, and the City Council will consider this item and introduce the Zoning Amendment at a Public Hearing on June 19, 2007. Both meetings will be held at 7:30 p.m. at the City of El Paso de Robles, 1000 Spring Street, Paso Robles, California, in the City Council Chambers.

The two hearings will consider the following project and associated draft Negative Declaration:

Code Amendment 07-002: A City-initiated Code Amendment to add the definition of the term Transient Occupancy to the Zoning Ordinance. The definition of Transient Occupancy shall include identifying the time limits for transient occupants as it applies to a range of occupancies including hotels, motels, vacation rentals, timeshares, villas, casitas, cottages, and other types of lodging.

The draft Negative Declaration to be considered is a statement that there will be no significant environmental impacts resulting from the proposed project, in accordance with the provisions of the California Environmental Quality Act (CEQA).

The proposed project and Negative Declaration may be reviewed at the Community Development Department, 1000 Spring Street, Paso Robles, California. Copies may be purchased for the cost of reproduction.

Written comments on the proposed Code Amendment and corresponding Negative Declaration may be mailed to the Community Development Department, 1000 Spring Street, Paso Robles, CA 93446, provided that the comments are received prior to the time of the public hearing. Oral comments may be made at the hearing. Should you have any questions regarding this application, please call Susan DeCarli at (805) 237-3970.

If you challenge the Code Amendment or Negative Declaration application in court, you may be limited to raising only those issues you or someone else raised at the public hearings described in this notice, or in written correspondence delivered to the Planning Commission or City Council at or prior to the public hearing.

Susan DeCarli, AICP
City Planner
May 9, 2007.

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