

June 28, 2019

To: Amador County Planning Commission/July 9, 2019 Hearing

From: Terri Sweet, :

Comments on Revised Proposed Ordinance 19.48.2 (two pages)

1. 19.48.203 Purpose and Findings: There is no evidence in the record to support a finding "Unregulated Short-Term Rentals present a threat to the public welfare and the peaceful enjoyment of property as well as an undue burden on the police, fire, and other County resources."
2. 19.48.205 Definitions: B) Transient refers to the occupancy, not to the occupant. People are not temporary, occupancy is temporary. A "transient" person is one who does not have a permanent abode.
3. 19.48.205 Definitions: D) "is present on the same or contiguous parcel at least 75 percent of the renter's occupancy". This requirement is unenforceable, unreasonable, arbitrary, and an invasion of the owner and renter's right to privacy. It is contradictory to the proposed requirement to reach the rental unit within 30 minutes. An owner/manager would not have to be present or on a contiguous parcel to reach the rental within 30 minutes.
4. 19.48.205 Definitions: E) "is present on the same or contiguous parcel less than 75 percent of the duration of the renter's occupancy." Same argument as "3."
5. 19.48.205 Regulations – Generally: "Short-Term Rentals are prohibited in residential zones..." Does this mean that short-term rentals in Agricultural, Commercial, and Industrial zones do not need a permit? Is that not unequal treatment under the law? Would it not be a conditional use rather than a prohibited use?
6. 19.48.205(B)(1) Total occupancy should be 2 per bedroom plus 1, according to the State standard.
7. 19.48.205(B)(3) Noise: There exists no noise ordinance for residential neighborhoods in the County. This requirement is unenforceable. Also, the General Plan guideline is nighttime hours of 10pm-7am.
8. 19.48.205(B)(5) Parking: This requirement is vague and unenforceable. What is "customary residential use of the property" standard? What is "adequate parking."
9. 19.48.205(B)(6) Local Contact. Responding in less than 30 minutes is unreasonable and arbitrary. What if a renter is well known to the owner and the owner has an appointment at Kaiser in Folsom which is 45 minutes away? This is unenforceable. What is the underlying statute authorizing this requirement?
10. 19.48.205(B)(7) Firearms: "Transients and their guests shall not discharge firearms." This is arbitrary and unenforceable. The proposed ordinance prohibits renters having "guests." If an off-duty police officer or someone with a concealed carry permit is renting the unit and sees a rattlesnake near his car, is he not allowed to shoot the snake? Would the owner then lose his/her short-term rental permit?
11. 19.48.205(B)(10) Safety: The following conditions apply prior to use of a Short-Term Rental, subject to inspection as defined in 15.30. This section is arbitrary and unenforceable. 15.30 applies to new construction. Scope exemptions at 15.30.030 "These regulations do not apply to

existing structures, roads, streets, and private lanes or facilities.” There seems to be no statutory authority for this section.

12. 19.48.205(B)(10)iv. “Landline phone service shall be installed.” This requirement is arbitrary and unenforceable.
13. 19.48.205(C) Advertising. This is arbitrary and unenforceable. What is the statutory authority for this section?
14. 19.48.205(D) Notification to Transients. This section is arbitrary and unenforceable. The County has no statutory authority to require signage within private residential properties or on privately owned websites, or to interfere with private contracts for advertising, or to require handing out rules to renters. The County has no statutory authority to require private homeowners prepare notices to their guests or tenants.
15. 19.48.205(E) Permit Term. This is vague, arbitrary, and unenforceable because the proposed ordinance does not clearly define a permit, even whether it is ministerial or discretionary.
16. 19.48.206 Additional regulations for Non-Hosted Short-Term Rentals. This section is arbitrary and unenforceable. What is the statutory authority for this set of requirements?
17. 19.48.209 Agency representation. This section is arbitrary, without statutory authority, and unenforceable.
18. 19.48.210 Application for Short-Term Rental permit. This section is contradictory, without statutory authority and unenforceable.
19. 19.48.210(J) The County can’t require consent to inspect as a condition of permit approval.
20. 19.48.210 Neighbor notice is without statutory authority except for the initial planning commission hearing on June 11, 2019 which the County failed to do. Permission from neighbors on a private road is without statutory authority. If the road is in a common interest development, the requirement is a violation of the Davis-Stirling Act.
21. 19.48.21 Application Fee. This requirement is vague and unenforceable as it is conditional: “provided the fee sufficiently defers the cost incurred by the County..”.

In summary, this proposed ordinance is vague, arbitrary, capricious, oppressive, unconstitutional, and unenforceable because it attempts to abate a single nuisance instead of provide a sound, reasonable roadmap for the development of short-term rentals in the County. It would have been simpler and effective just to enforce the existing public nuisance laws.

There is not a single reference to the Amador County General Plan. Ordinances have to be consistent with the General Plan.