

## **Public Input To Yachats City Council Regarding Proposed Changes To Vacation Rental (VR) Ordinance**

### **Comments Submitted By:**

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### **General comments:**

There has been a lack of adequate notice to **all** Yachats property owners affected by the proposed changes. Why? Does the city council seriously consider a notice mailed on Friday, July 7, 2017, received locally on Saturday, July 9, requesting public input via email by 5:00 PM, Wednesday, July 12, or appearance at a public hearing at 6:00 PM Wednesday July 12, to be considered genuine for local as well as out of town and absentee property owners? I consider it disingenuous approach to input. I do; however, wish to acknowledge one city council member with whom I did have a constructive discussion regarding the proposed VR changes.

FYI, the City Council's web site on July 7, showed the wrong time for the public hearing on July 12.

Why is the full factual history and documentation of VR complaints not available for review and consideration by the public and for their use in formulating their "requested" input? What specific factual information was available to those coming up with the proposed changes that has not been made available to the general public?

### **Guiding Principles:**

Why did the guiding principles omit the effectiveness of VR rules and incenting desired behavior?

Why was the impact on property values and the income producing potential of property that would be prohibited from future VR not a guiding principle? This affects the potential financial planning and wellbeing of all Yachats property owners, creating some "winners" and some "losers". Clearly it creates a competitive advantage for all existing motels, B&B's and VRs. The attempt to social engineer more low income and long term rentals in Yachats into the justification and decision making values for the proposed VR ordinance changes is misplaced. The Council's VR committee specifically acknowledged the increased value potential of VRs in their earlier recommendation drafts. It would seem clear a council vote to cap rentals is a vote to reduce property values of at least some residences and undeveloped property.

Yachats is a unique, desirable village. It has been and is a destination city for tourists and visitors as evidenced by the plethora of long term restaurants, motels, B&B's, VRs and programs

at The Commons and around town. To justify the cap on VR's in Yachats by comparing to the City of Newport, is misplaced and inappropriate as the towns each have unique characters and values.

Not stated as one of the committee's guiding principles is their stated desire to "reduce the impact of VR activity in residential neighborhoods". This appears to be a disingenuous, preconceived principle and objective. Where does this slippery slope end? Are the laws of property owners subject to the arbitrary decisions of elected officials currently in office that have "the power"? Do the citizens and property owners of Yachats have no true property rights?

Likewise, the Committee's justification for a rental cap based on, "The license count has been stable the last four years. This suggests now might be a good time to impose a limit on the number of licenses without impacting existing license holders." This clearly indicates the Council's premeditated judgement and intent to limit VR's without acknowledging it as one of their primary goals and a guiding principle in their "evaluation". To me, a stable count suggests the opposite. There is no need to limit the number of VRs, even if there had been an official public referendum and legal finding it was somehow beneficial to do so. This does not justify the denial of current non-VR property owners the rights and earnings opportunities enjoyed by their neighbors and current VR owners.

Just because some people may not like VRs, it is not justification to deny residential property owners their rights. Again, adopting such solutions based on personal likes and dislikes and beliefs start us down another slippery slope. A slope that is not consistent with the history or stated vision of this town.

Maybe it's time to admit the real "legal" problem that exists. There is a problem with VR code enforcement with some existing VRs and perhaps with some current VR rules and administration. I suspect there may also be a problem with code enforcement with existing non-VR properties. Directly and effectively fix that problem and be realistic about expected results and consequences of bad choices.

**Specific Comments Regarding The VR Specific Questions Raised By the City Council In Their July 7, 2017, Information Mailer:**

**Q 1. Should we limit the number of vacation rentals? NO**

Please refer to the above general comments and guiding principles discussions as well as the following partial list of supporting comments to not limit the number of VRs:

Current non-VR residential properties have future financial and estate contingency plans to become VRs. For example:

- A. Increased income for fixed income individuals and retirees – I know specifically of one retired couple that is in the process of remodeling their Yachats home to once again be

a VR. They are using a portion of their retiree savings to fund the remodel in an effort to improve their income in retirement.

- B. Upon death, long term convalescence, legal incompetence of the existing property owner to provide an improved opportunity for heirs to retain Yachats property (My house was a former VR for this specific purpose and is currently planned to be again by my beneficiaries.)
- C. Future severe inflation
- D. High future medical bills
- E. Loss of income from job / other sources

Capping the number of VRs will provide a competitive advantage to existing VRs by reducing competition for such rentals and over time increasing their price. In essence, by closing the market to new entrants when the cap is reached. It will also reduce the employment opportunities for locals to maintain and service those facilities and patrons. It will also harm real estate agents and property owners in the marketing of developed and undeveloped non-VR property in town, while boosting the fortunes of others immediately outside the city's jurisdiction.

Capping the number of VRs will reduce the income generation opportunities of properties denied such opportunities. This in turn should reduce the market and property tax value of such non-VR properties while raising the value of existing VR properties. This will be argued before city and county tax authorities and real estate and appraisal professionals with appropriate equity adjustments sought and expected from both county and city officials.

Some Yachats neighborhoods are clearly characterized as VR neighborhoods. My house was a former vacation rental, as was the house next door to the north. The house on the other side is a current VR, as is the house next door to it and the house two doors down, as well as four on the short non-through half street behind me. In all there are 9 VRs (according to a 10/16, map the city provided) within what I consider a one block area, plus a current motel within approximately 100 yards in one direction and a former motel (now multiple single homes on reconfigured small lots with approved minimal building line clearances) within 100 yards in the other direction. To deny me those same rights at any time of my or my heirs choosing via a cap on VRs is a serious equity and fairness issue.

Interestingly, I am not aware of any formal or informal VR complaints in my immediate area. VR complaints have not been a source of neighborhood concern that I have been witness to. I realize that may not be the case with all VRs and neighbors, but that is an enforcement problem, as it is with noisy or other "problem" non-VR / non-ordinance abiding neighbors in any neighborhood. Capping the number of VRs does not eliminate those problems and only penalizes the many, or the one, because of a few bad actors or a few that may be less tolerant of legitimate ordinance abiding differences. It would be like adopting an ordinance to cap the number of existing non-VR houses and neighbors, because of a few.

Given the wide range of property values in Yachats, it seems highly doubtful that many higher value properties would generate a monthly rental rate sufficient to cover their carrying and opportunity costs or become low income rentals. Yet, those same properties may come closer to covering their costs as VRs, while providing their owners the opportunity to also use their property at times of their choosing. If the city wishes to promote low income housing and long term rentals it needs to find other social engineering ways to do so.

Denying 72% of property owners the rights that 28% enjoy raises interesting discrimination questions. Selective discrimination of selective senior citizens' property will raise other issues.

### **Q. 2. Should we increase the annual license fee?**

Without knowing the City's cost of administering and enforcing the VR ordinance, it's difficult to judge the adequacy and level of the various fees. Furthermore, what Yachats public policy determination has been made about what portion, if any, of the occupancy taxes collected from VR tenants should be "credited" toward covering the City's VR costs?

Given that, I think some guiding principles are needed here too. For example:

1. The cost causer should be the rate payer. The fees for VR activities should cover the costs of those activities, some perhaps individually, and certainly all collectively. I would also include complaint handling and fines under this umbrella, with fines varying based on severity of offence, recurrence, costs to enforce and designed to encourage full compliance, responsible management, and good neighbor behavior. If the City's financial records and analysis do not include sufficient detail to reasonably estimate these costs, then some effort should be made to do so.
2. The Public should financially benefit from a portion of the VR occupancy taxes collected. Some portion of the occupancy fees collected should benefit the City and its citizens for the use of its public infrastructure, governance, and various sponsored programs which benefit guests / residents. This is a public policy determination and should recognize historical practices if a change is made to soften the blow. With some creativity this would also be a way to reward VRs that operate within the rules and contribute to the City's coffers versus the unproductive rentals the committee expressed concerns about.
3. If the city needs to add people, or contract services to have an effective VR administration and enforcement program, it should do so with the costs passed on to VR owners and occupants.

### **Q. 3. Are fine amounts sufficient to encourage compliance?**

Please refer to the response to Q2. If the city is receiving recurring complaints from the same VR properties, this suggests the fine structure and adequacy and consistency of enforcement need improvement. At a minimum, fines should cover their costs to administer and enforce.

**Q. 4. Is licensure process adequate and efficient?**

Given the problems expressed by the committee, it appears not. I would add “effective” to this question too.

VR activity should be transparent and readily available to the public. A public accessible data base of each VR location and relevant information and activity would help insure this. I like tying to tax, licensing and property data bases of the city and county that are available to the public.

I do not agree that an independent professional property manager is needed for the reasons delineated by the committee. Owners should have the opportunity to self-market / use other professional marketing sources and manage their property as well as contract for various services to insure full compliance. Owners should also be held accountable – again a compliance requirement. My experience has been that some professional managers are expensive for the services provided. I previously used one because that worked best for my circumstances, but I don’t believe responsible owners should be required to do so and incur such costs. Owners should be permitted to manage their costs and make use of current and emerging technology.

What are the duties and fees to become a professional property manager as the council views them? Does a professional property manager have to reside or have offices locally? While some compliance items require local contacts, VR owners should be allowed to separately contract for them without the necessity of hiring a full blown independent property manager.

**Q. 5. How do we identify homes that are operating outside the Code?**

Some of the proposed changes, such as capping the number of VRs, pit neighbors and citizens against each other and create more community discord. If the City’s future and improved administration and enforcement mechanisms are inadequate to accomplish expected enforcement, why not go all in and adopt a “whistle blower” program with rewards to whistle blowers? While I don’t particularly like pitting neighbors against each other and creating more community division, the council has already entered down this path with its capping proposal and ineffective enforcement.

Not all vacation homes are alike. Some have dorm like bedroom set ups and can comfortably accommodate more than the suggested 2 per bedroom plus 2 proposal. I agree that each VR should have an occupancy limit, but there needs to be a legitimate exception approval process for property differences. VR renter’s deposits via the VR property owner, should be held accountable for compliance.

**Q. 6. What process can differentiate between “family use” and “renters”?**

I do not agree that when property owners use their property that they should be bound by restrictions, requirements or fees that non-VR owners are not subject to, held accountable for and enforced. Specifically, I do not believe they should be limited to the number of guests, the placement and removal of trash cans, parking cars, or noise limitations that non-VR residential properties are not similarly limited.

See comments regarding Q. 5.

**Q. 7. How do we get better compliance from owners to control noise and parking violations?**

Encourage VR owners to meet with and discuss unusual circumstances, issues and resolution with their neighbors. The same as non-VR owners should be encouraged to do. Enforce the rules and fine owners for non-compliance. Require written or oral VR “rental contracts” to include a description of and expected tenant compliance with noise, parking, trash, etc. regulations.

See related comments in other sections of these comments.