

VACATION RENTALS IN LOS OSOS – SUGGESTED CONTROL MEASURES

LLW - Draft 2/17/2018

BASIC ISSUES

1. **Vacation rentals¹ harm communities.** Many cities and counties throughout the state and beyond have banned or attempted to ban vacation rentals because of their harmful impacts. According to these communities' experience as well as local citizens' experience, vacation rentals harm communities by:
 - a. reducing housing stock for residential use, especially when long term rental dwellings are converted to vacation rentals. This has a tremendous impact on those who can least bear it: lower income and working class individuals and families. This is a particular concern in this area, where the demand for housing has outpaced availability and housing costs have skyrocketed in recent years.
 - b. changing community character. Vacation rentals are lodging businesses located in residential areas. They bring a steady stream of strangers into residential areas and displace permanent residents, thereby damaging the fabric and the strength of the community that derives from a stable resident population. As another local resident so succinctly said: Vacation rentals take the neighbor out of the neighborhood.
 - c. introducing nuisance issues in residential areas (excess noise, light, cars etc)

Los Osos is a well established residential community with relatively few tourist serving facilities. Consequently, an influx of vacation rentals can have the following additional harmful impact here:

- d. destabilizing the local economy by displacing a stable resident population with transient visitors who may or may not visit depending on factors such as the economy, weather, gas prices, road work, etc (see endnote¹ discussion)
2. The California Coastal Commission (CCC) recognizes these harmful impacts on communities, but in the interest of protecting public access to the coast the CCC does not support blanket bans on vacation rentals, however they do support regulation of vacation rentals.
3. Vacation rentals are on the rise in Los Osos. In order to protect the community from the harmful impacts of a proliferation of vacation rentals, strong control measures must be implemented.

¹ As used here, "vacation rental" refers to a residential dwelling that is rented out for transient use (<30 days) while the owner (or a permanent resident) is not present.

SUGGESTED CONTROL MEASURES

1. Vacation rentals allowed in (detached) single family residential (SFR) dwellings only

- a. Control measure: VRs prohibited in multifamily dwellings (apartments, duplexes, triplexes, condominiums) and in mobile home parks
- b. Purpose: Protect long term residential renters, especially lower income residents.
- c. Notes:
 - i. Some residential renters will still be displaced due to SFR conversions to VRs, but this measure will help reduce the loss of lower cost housing stock.
 - ii. Rental agreements or association rules may already prohibit using these dwellings as a VR. Nonetheless this restriction should be codified to ensure compliance. Moreover, this will prevent the purchase of entire complexes for the purpose of converting them to vacation rental units, as has happened in other communities².

2. Density control

- a. Control measure: Maximum of 1 VR per block
 - i. Block = all houses with address in the same “hundred” category on a given street – e.g. the 400 block of Mitchell, the 1400 block of 15th Steet, etc.
- b. Purpose: Limit impact to neighborhood fabric & character; reduce nuisance impacts.

3. Cap on number of VRs for community overall

- a. Control measure: Maximum one VR per 100 SFR dwellings (1%)
- b. Purpose(s): Protect housing stock; limit harm to neighborhoods (see endnoteⁱⁱ)
- c. After limit is adopted, all existing and proposed VRs go into permit lottery³. Existing VRs that do not get a permit must cease VR operation within 6 months⁴.
- d. Homes that advertise or operate as an unpermitted vacation rental are subject to penalty.
 - i. First violation: written warning
 - ii. Second violation: TBD. Needs to be substantial to ensure compliance. Hermosa Beach penalties start at \$2,500 with the first violation and increase substantially from there⁵.

² A few examples: Ocean Beach (<https://tinyurl.com/ydd4p6uc>), San Francisco (<https://tinyurl.com/peqcn4y>), Palm Springs (<https://tinyurl.com/y7khmjw2>)

³ For example, see City of Carpinteria’s VR permit lottery policies and procedures (<https://tinyurl.com/y7aeajrx>)

⁴ Permits issued under current system do not expire. This must be addressed as part of this overall effort.

⁵ News article excerpt (<https://tinyurl.com/yacgqaol>) “The ordinance establishes a penalty structure that escalates with the size of the unit and the frequency of violations. For one- and two-bedroom units, a first violation will lead to a \$2,500 penalty issued by the city’s Code Enforcement officers. A second and third will be \$5,000 and \$7,500, respectively. For units three bedroom rentals or larger, those numbers are doubled. And for units of any size, cases of more than three violations in a 12-month period will be referred to the City Prosecutor’s office for possible misdemeanor charges.”

4. Maximum number of VRs per neighborhood

- a. Control measure: Maximum one VR per 100 SFR dwellings in each neighborhood
 - i. Use neighborhood designations from Estero Area Plan January 2009 Figure 4-4 (shown on page 6): Sunset, Cuesta, Upland, Highland, El Moro, Bayview Heights, Creekside
 1. Divide El Moro in two parts for better distribution (e.g. west/east of 11th St)
 2. Los Osos Village (business district) is excluded due to lack of SFRs
- b. Purpose(s): Density control; disperse VR impacts throughout town,
- c. Additional benefit (per CCC interest): diversify lodging options for tourists

5. VRs allowed only in primary residences

- a. Control measure: allow vacation rentals only in primary residences. San Francisco, CA and Portland, OR allow vacation rentals only in dwellings where a permanent resident lives, and only a certain number of unhosted rental nights (when the permanent resident is absent) are allowed.
- b. This arrangement addresses the following key issues:
 - i. Preserves housing stock for residents
 - ii. Helps with housing affordability for some residents
 - iii. Reduces harmful impacts to neighborhood
 - iv. Provides a variety of lodging options for transient visitors
- c. This arrangement may be vulnerable to abuse. Strong controls must be included to address the following issues.
 - i. Verify that the claimed permanent resident is in fact the permanent resident.
 - ii. Allow only unhosted rentals.
 - iii. Limit the number of total days (perhaps 60?) and also the number of weekends the dwelling may be rented out.
- d. Although this arrangement reduces harmful impacts to neighborhoods, it does not eliminate them. Unhosted rentals will still impact neighborhoods, therefore most of the control measures suggested here still apply. However if strong controls are implemented for a primary-residence-only arrangement, then some other controls may be somewhat relaxed.

6. VR ownership restrictions

- a. Primary control measure: Limit of one VR per property owner⁶
- b. Secondary control measure: VR property owner must have at least 5 years of residency in Los Osos (current or past)
- c. Purpose: allow residents who have personal investment in the community to supplement income; reduce negative impacts from outside investors whose only interest is financial.

⁶ If permanent residency is required as in Control Measure #5 then this requirement is naturally met.

7. Strict standards to get, keep and renew permit

- a. Purpose: to reduce nuisance issues.
- b. To get a permit
 - i. Application fee = 0.5-1 % of assessed value of property⁷ (so impacts are roughly proportionate⁸)
 - ii. Neighbor notification
 1. Neighbors to be notified when permit application is first made.
 2. Notification range = all houses on the same block as the VR (both sides of the street) plus all houses on the block immediately behind the VR.
 3. Certified letter - include copy of permit application, local 24/7 property manager contact information, permit conditions, complaint procedure, neighbor feedback form.
 4. Send copy of neighbor responses to VR permit officer and LOCAC LUC.
 - iii. Inspection by VR permit officer to ensure compliance with permit conditions
- c. To keep a permit
 - i. Adhere to permit conditions [----*review/develop this further* ---]
 1. Include all operating conditions in SLO ordinance number 23.08.165
 2. Property manager must respond to complaints within 15 minutes by telephone or within 30 minutes in person.
 3. Advertising for more than permitted occupancy subject to penalty
 4. Trash: Put out no sooner than 6 pm the night before collection, pull in no later than noon on collection day.
 5. House numbers must be easily seen from the street (so guests can find house without unnecessary driving around the neighborhood)
 6. External lighting fixtures must be International Dark Sky Assn approved⁹.
 - ii. Property subject to inspection by VR permit officer at any appropriate time
 - iii. Penalties for violations
 1. Violation reporting and substantiation must be doable and protective for neighbors but also protect permit compliant VR owners.
 2. Violations may be categorized according to magnitude (major vs minor) with appropriate penalties attached. All violations must be taken seriously, and cumulative impacts must be addressed.
 3. Penalty structure should start with a warning then escalate rapidly to prevent recurrence. For instance:
 - a. First violation in 12 month period = written warning
 - b. Second violation in 12 month period = 3 nights' rent
 - c. Third violation in 12 month period = suspend permit for a year
 - d. Four violations in 24 month period = permit revoked

⁷ I am not versed on when an agency can charge a relative amount vs. a fixed amount, nor on what constitutes a fee vs. a tax vs. a surcharge. Concepts are presented, but terminology may need to be corrected and specifics may need to be altered.

⁸ Proportionality addresses two factors: (1) Neighborhood impacts. Larger, more expensive houses can have larger impacts on neighbors due to higher occupancy. (2) Owner impacts. Owners of older or smaller homes are typically of more limited means than owners of newer or larger homes, consequently fixed fees have a larger impact on the former and a smaller impact on the latter. There may be exceptions, but generally speaking a proportionate fee is more equitable than a fixed fee.

⁹ Many residents and visitors appreciate the star gazing opportunities afforded by Los Osos' typically dark night sky. VRs often have exterior lights turned on when all other houses in the vicinity are dark, which interferes with this very special aspect of Los Osos' character.

- d. To renew a permit
 - i. Required annually¹⁰
 - ii. Fee = 0.25-0.5% of assessed property value
 - iii. Neighbor notification – same as for permit application.
 - 1. Yes - all of it, every year. Currently neighbors are notified only once. However they may misplace this information or new neighbors may move in. Annual notification helps ensure that neighbors have current contact information and an opportunity to provide input to the VR owner.
- e. Note: Guests should be considerate of neighbors and community. VR business operators should take proactive measures to ensure guest compliance with permit conditions. The burden for enforcement should be on the VR owner, not on neighbors. Permit conditions and enforcement measures suggested here are designed to give VR owners/operators a chance to identify and correct problems without being unduly punished, but to also prevent problems from recurring. VR owner/operators can protect themselves by implementing measures such as clearly communicating expectations to guests, emphasizing respect for neighbors, having strong house rules, and implementing measures to ensure compliance (large deposit, loss of use of property for remainder of stay etc)

8. Establish dedicated staff position for VR program administration and enforcement

- a. Funded by any combination of the following:
 - i. permit fees
 - ii. surcharge on nightly rental rate
 - iii. transient occupancy tax (TOT).
 - 1. Currently all TOT goes to the SLO County General Fund. If a portion of the TOT is directed to a VR program for Los Osos it would have a negligible effect on the County budget¹¹ but could have a significant positive impact on the community through improved VR administration and enforcement.
- b. Work hours to include weekends and evenings

9. Planning Department web page for vacation rentals, to include:

- a. Database with VR address, permit number, owner name, property manager contact information, permit conditions, permit expiration date, violations under current owner.
- b. Complaint resolution information: Procedure, contact information, and form for neighbor complaints

¹⁰ As noted above, permits issued under the current process do not expire. This must be changed.

¹¹ In fiscal year 2016/17, total TOT revenue collected from Los Osos was \$247,513. This represented 0.05% of the General Fund budget for that year. If half of this amount was directed toward a VR program for Los Osos it could fund a full time enforcement staff person while reducing the General Fund budget by only 0.025%.

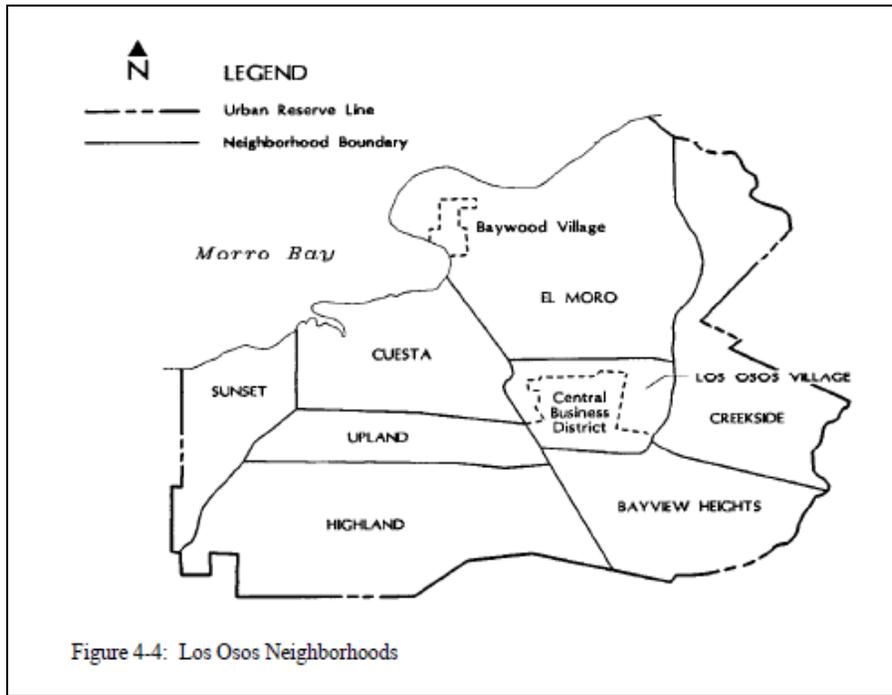
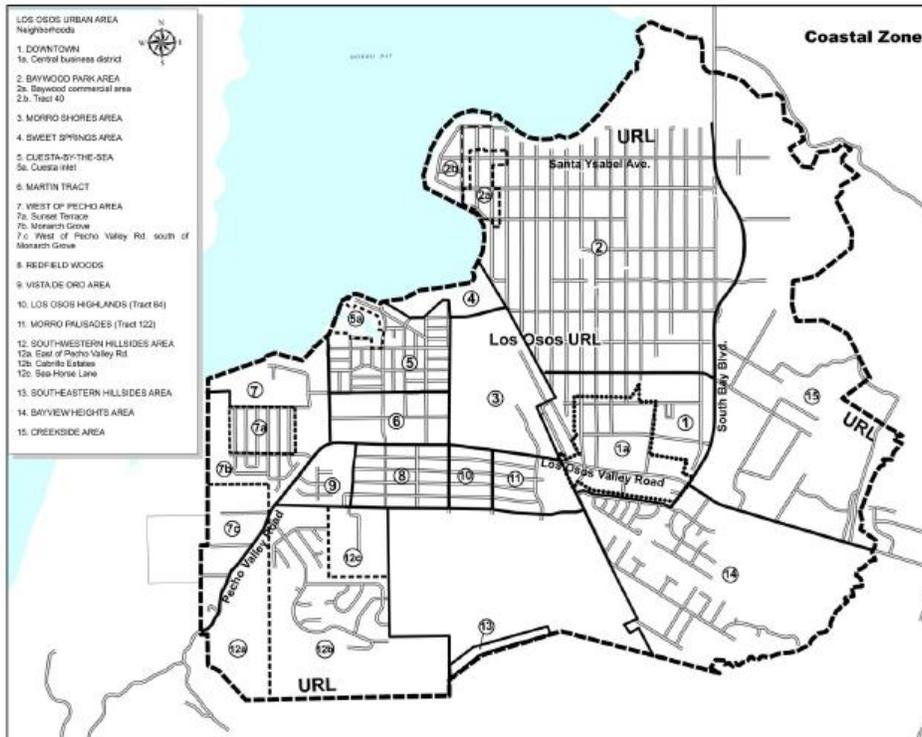


Figure 4-4: Los Osos Neighborhoods

1 Los Osos Neighborhoods map from Estero Area Plan January 2009



2 Detail - included for reference (from LO Community Plan Draft Jan. 2015)

ⁱ ENDNOTE: COMMENTS ON ECONOMIC IMPACTS OF VACATION RENTALS IN LOS OSOS

Proponents of VRs often claim that VRs benefit the local economy. Reports can be found that tout this supposed positive impact. However these reports are often sponsored by VR advocacy organizations, and they typically examine only tourist spending; they do not account for the negative economic impacts of vacation rentals. Economic impacts are complex and can vary among different communities. Only a very thorough study of the matter can definitively assess this. However the following issues must be considered.

Claim: Economic benefit: “VR tourists pay taxes”

Comment: There is no special tax revenue from VR tourists that benefits Los Osos directly. VR tourists pay:

- sales tax on items purchased in town, the same as residents do.
- transient occupancy tax (TOT), which goes into the county general fund. No TOT revenue is specifically directed to Los Osos.
- tourism marketing fees (TMD, CBID), which are restricted to funding marketing efforts only.

Claim: Economic benefit: “VR tourists eat in our restaurants”

Comment: VR tourists are not a reliable customer base. VR tourists may dine in Los Osos restaurants, or not.

- One reason that many people choose a vacation rental instead of a hotel is so they do not have to dine in restaurants; they often dine at their rental lodging for convenience and/or economy.
- VR tourists who do eat out do not necessarily dine in Los Osos
- Many Los Osos restaurants have been in business for many years supported by local residents, not by tourists. La Casita, Nichol’s Pizza, Sylvester’s, Celia’s Garden Café, Noi’s, Lotus Thai, etc.
- Tourists do not guarantee the success of a restaurant. Restaurant turnover occurs in other communities that get many more tourists than Los Osos (Morro Bay, Cayucos, SLO, etc)
- Tourists do not supply a steady stream of customers. Tourists come seasonally and on weekends; visitorship depends on weather, the economy, gas prices, road closures, etc.

Claim: Economic benefit: “VR tourists shop here”

Comment: Local businesses in Los Osos cater to residents, not to tourists. Local businesses in Los Osos are sustained by a stable resident population. Tourists are not a reliable customer base.

- Where do VR tourists shop in Los Osos? Perhaps Ralphs or Grocery Outlet. Maybe Rite Aid. Those profits do not stay in Los Osos.
- Local businesses in Los Osos cater to residents, and depend on a steady customer base. When residential housing is converted to vacation rentals, residents are displaced by tourists, and local businesses that cater to residents lose customers – the florist, jewelry store, pet store, dry cleaner, gym, yoga studio, game & hobby shop, hair stylists, physical therapists, dental offices, auto shops, etc. The fewer residents there are, the harder it is for these businesses to survive, much less thrive.
- If too many local residents are displaced, shops that cater to residents may not survive, leaving empty storefronts, which can make it harder to attract tourists, leading to a downward spiral

Other economic impacts:

- Vacation rentals reduce housing stock, which drives up home prices. High housing costs mean that residents have less disposable income to spend on goods and services which support the local economy.
- Residents provide financial support and volunteer time to local service organizations such as Rotary, Scouts, PTA, faith communities, the arts, People Helping People, SWAP, Celebrate Los Osos, etc. Loss of residents due to loss of housing (from conversion to VRs) results in loss of support to these organizations whose work is vital for the well being of the community.
- To the degree that school funding depends on enrollment, when high housing costs and/or lack of housing force families to live elsewhere then school funding can suffer.

ii **ENDNOTE: DATA AND REASONING BEHIND 1% CAP**

- 1) Protection of housing stock: It is well known that there is a significant housing crisis in SLO County; homes are hard to come by (to buy or rent), especially lower cost homes. It is a simple, indisputable fact that every home that is converted to a vacation rental removes that dwelling from the housing stock. When available homes are so severely limited, it is unconscionable to reduce the housing stock for residents by converting homes to vacation rentals. Additionally, the lower the housing supply, the higher the cost, which can become an unbearable burden for many people, especially those in lower income brackets.
- 2) Limiting harm to neighborhoods
 - a. SLO County Planning Commission hearing of Grummer VR application (Los Osos) 7/14/16 Ken Topping – Commissioner from Cambria – said that he had driven around the area of the proposed VR – commented that “this is a neighborhood”, which he said was unlike his neighborhood which he described as being “a vacation rental neighborhood”.
 - b. A speaker at the LUC meeting on 1/29/2018 noted that when he moved to this area a couple of years ago he initially looked at Morro Bay to live but was put off by the number of vacation rentals, so he came to Los Osos instead where he could live in a residential area, not “a business district”. “Please don’t let Los Osos become like Morro Bay” is a common refrain heard when discussing vacation rentals in Los Osos.
 - c. Cambria and Morro Bay have well known reputations as tourist towns. As illustrated above, the number of vacation rentals in those towns has altered their character in a negative way for residents. Data from these two communities can inform guidelines for Los Osos.
 - d. In 2017 Cambria had 3,766 residential water service connections, which represents the number of dwellings (source: *Cambria CSD Buildout Reduction Program Report 12/14/2017*). Due to a longstanding building moratorium in Cambria, this is a valid number for previous years as well. In 2015 Cambria had 351 licensed vacation rentals (source: *SLO County Grand Jury Report on VR Enforcement 5/12/15*). At the LOCAC LUC meeting on 1/29/2018 a local realtor reported that about half of Cambria’s licensed vacation rentals are active, which amounts to about 175 active vacation rentals in Cambria. This equates to 4.6% of the total number of dwellings.
 - e. Morro Bay currently has 5,479 residential water service connections (source: *California State Water Resources Control Board Database*). In 2016 Morro Bay had 174 licensed vacation rentals (source: *City of Morro Bay Ordinance 604 adopted 6/14/2016*). This number is still valid; Ordinance 604 placed a temporary moratorium on new vacation rental licenses which is still in effect as of this writing. This equates to 3.2% of the total number of dwelling units.
 - f. In all three of these communities, in addition to licensed vacation rentals there are a number of unlicensed vacation rentals, and also some second homes that are not operated as vacation rentals. Although second homes generally have a somewhat lower impact on communities than vacation rentals, all of these kinds of vacation homes together have a cumulative impact on residents and on the character of the community. The number of licensed vacation rentals may be used as a gauge for the total impact of all vacation homes.
 - g. Summary: Cambria and Morro Bay both have well known reputations as tourist towns, and the number of vacation homes in these communities has noticeably altered their character. In order to avoid these negative impacts to Los Osos, the proportion of VRs allowed in Los Osos should be significantly lower than that in Cambria (4.6%) or Morro Bay (3.2%). Therefore, a 1% cap is proposed for vacation rentals (VRs) in Los Osos.
 - h. Note: these calculations are based on the total number of dwellings in Cambria and Morro Bay, while the 1% cap for Los Osos is suggested based on SFRs only. The discrepancy between these values is expected to be small. The proposed cap for Los Osos is deliberately conservative (more protective).