

DEVELOPMENT SERVICES DEPARTMENT

County of
EL DORADO

<http://www.co.el-dorado.ca.us/devservices>

PLANNING
SERVICES

**PLACERVILLE OFFICE:**

2850 FAIRLANE COURT
PLACERVILLE, CA. 95667
(530) 621-5355
(530) 642-0508 Fax
Counter Hours: 8:00 AM to 4:00 PM
planning@co.el-dorado.ca.us

LAKE TAHOE OFFICE:

3368 LAKE TAHOE BLVD., SUITE 302
SOUTH LAKE TAHOE, CA 96150
(530) 573-3330
(530) 542-9082 Fax
Counter Hours: 8:00 AM to 4:00 PM
tahoebuild@co.el-dorado.ca.us

EL DORADO HILLS OFFICE:

4950 HILLSDALE CIRCLE, SUITE 100
EL DORADO HILLS, CA 95762
(916) 941-4967 and (530) 621-5582
(916) 941-0269 Fax
Counter Hours: 8:00 AM to 4:00 PM
planning@co.el-dorado.ca.us

MEMORANDUM

DATE: February 26, 2008
TO: Planning Commission
FROM: Lillian MacLeod, Senior Planner
SUBJECT: OR07-0005, Bed and Breakfast Ordinance (17.40.090)

Agenda of: March 27, 2008
Item #: 9.a.

Background:

On September 27, 2007, staff presented the working draft ordinance to the Planning Commission in a second workshop conducted on the subject that incorporated proposed revisions based on previous discussion. Pursuant to direction from the Commission the working draft ordinance was sent to every innkeeper within the County, as interested parties. In addition, staff submitted the working draft to the Deputy Director of Planning Services, Building Services and Environmental Health for their review. Staff revised the working draft ordinance based on subsequent comments.

Proposed Revisions:

1. The public review draft ordinance (Attachment 1) continues to require a special use permit in residential zone districts, subject to approval by the Commission.
2. Proposed language will allow up to 20 guestrooms for all inns based on State law, as the conditional use permit applications will be subject to CEQA review and Planning Commission approval on a case-by-case basis.
3. Special events remain subject to continued discretionary review above that required for the inn itself, to ensure adequate oversight for public health, safety and welfare.
4. Building permit review of an historic structure is subject to specific standards under the Uniform Building Codes; however, it is unclear as to what qualifies for that designation. The public review draft includes a clear definition of an historic structure based on federal law that has been included in the updated Glossary.

5. The maximum length of stay is clarified consistent with Title 5.56, as well as the corresponding transient occupancy tax and business license requirements.
6. Review by the Agricultural Commission has been expanded to include Timber Production Zones (TPZ) and agricultural zone districts, in addition to the General Plan designated Agricultural District under the current Guidelines.
7. Clarifying language has been added regarding meal service, signage, and parking standards.

ENVIRONMENTAL REVIEW

The Bed and Breakfast Inn Ordinance is exempt from the requirements of CEQA pursuant to Section 15601(b.3) of the CEQA Guidelines stating that “A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” The ordinance complies with previous Planning Commission direction in requiring further discretionary review under a conditional use permit to include environmental review on a case by case basis.

RECOMMENDATION

Forward a recommendation that the Board of Supervisors take the following action:

1. Certify the project is exempt pursuant to Section 15061(b.3) of the CEQA Guidelines;
and
2. Approve OR07-0005 incorporation the Bed and Breakfast section into the Zoning Ordinance.

ATTACHMENTS

Attachment 1 2008 Public Review Draft Bed and Breakfast Inn Ordinance

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| Exhibit A | General Plan Policies |
| Exhibit B | 1997 Interim Guidelines |
| Exhibit C | State Business and Professions Code 24045.11 |
| Exhibit D | Responses (5) to request for comments on Working Draft Ordinance |
| Exhibit E | Resolution No. 44–2008 |

ATTACHMENT 1

BED AND BREAKFAST INNS

A. Purpose. In order to further the development of the tourism and recreation economy of the County, while protecting the single family residential character of neighborhoods, the standards set forth in subsection B, below, shall apply to bed and breakfast inns.

B. Definitions. “**Bed and breakfast inn**” means any owner-occupied residence that provides up to 20 guest rooms, without individual kitchens, for paying guests, as temporary sleeping accommodations for a period not to exceed 30 consecutive days. ”

“**Historic structure**” means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

C. Standards. Bed and breakfast inns shall be considered an expanded home occupation in residential and agricultural districts and shall only be authorized by approval of a special use permit based on the standards provided herein. Bed and breakfast inns within commercial zone districts are permitted by right pursuant to §17.22.xxx.

1. The bed and breakfast inn shall be the principal residence of the property owner.
2. Meal service shall be limited to registered guests and shall consist of breakfast and light snacks as a portion of the overall room rate.
3. One, non-internally illuminated sign shall be permitted based on the applicable zone district standard set forth in Chapter 17.37 unless greater sign area is authorized under the special use permit. The design of the sign shall be reviewed by the approving authority for architectural compatibility with the inn’s structure.

4. Bed and breakfast inns shall have direct access to a maintained road in conformance with Department of Transportation standards. The entrance, parking area and walkways shall be illuminated pursuant to Chapter 17.35 and kept free of obstructions or hazards of any type.
5. Kitchens shall be clean, well-maintained and comply with accepted standards of sanitation and hygiene by conforming to the requirements of the applicable El Dorado County Environmental Health Department permit.
6. Bed and breakfast inns shall provide off-street parking at a ratio of one space per each guest room, plus two spaces required for the principal dwelling. Guest parking shall be subject to the following:
 - a. No guest parking shall be permitted within the required front or side yard setback.
 - b. Tandem parking, meaning two cars parked one behind the other, may be allowed. Denser parking lot configurations may be allowed if valet parking is required.
 - c. Guest parking shall be designed so as to prohibit the backing of vehicles directly into any public right of way in order to exit any parking space.
 - d. The parking area provided for a bed and breakfast inn may have a gravel surface.
7. A bed and breakfast inn consisting of five or fewer guestrooms shall be considered a single residential dwelling unit or lodging house for the purpose of building codes, unless additional standards are required by the Uniform Fire Code or the Uniform Building Code, as amended and adopted by El Dorado County. Six or more guestrooms shall be considered a commercial lodging facility subject to further requirements under the Uniform Building Code.
8. To qualify as an historic bed and breakfast inn, the main structure and/or outbuildings must meet the qualifications defined under 17.40.090.B. When applicable, Building Services shall review the proposed project based on the State Historic Building Code.
9. Bed and breakfast inns within Agricultural Districts as identified on the General Plan land use maps or adjacent to land zoned Exclusive Agriculture (AE), Planned Agriculture (PA), Select Agriculture (SA), Residential Agriculture (RA-20, -40, -60, -80, -160), or Timberland Production Zone (TPZ) districts must be reviewed by the Agricultural Commission for compatibility with surrounding agricultural land uses prior to action by the approving authority.

10. The operation of a bed and breakfast inn shall be subject to Title 3.28 (Transient Occupancy Tax) and Title 5.08 (Business License Requirements) of the El Dorado County Code. The business license shall be posted in a conspicuous place on the premises prior to operation of the business.
11. The special use permit may authorize limited ancillary activities such as weddings, receptions, fund raisers or similar events attended by non-guests, subject to conditions of approval that include, but are not limited to, restrictions upon the frequency and time of holding events, duration thereof, and the maximum number of persons attending. A separate accessory building is required to serve as a commercial kitchen for these events. Food preparation, except for the aforementioned breakfast and light snacks, shall not be permitted to occur in the bed and breakfast inn. Unless expressly authorized in the special use permit, such ancillary activities are prohibited. A temporary use permit for an ancillary activity may be processed in situations where special events are not authorized under the special use permit for the inn. Applicable conditions shall be imposed, as determined necessary by the approving authority, which restrict the number of people attending and offset other related impacts, in order to maintain the residential character of the surrounding neighborhood.
12. New construction proposed on a bed and breakfast inn site, including buildings not necessarily proposed for bed and breakfast inn use, or exterior remodeling of the building to be used for the inn, is subject to architectural review by the approving authority as part of the special use permit process. This determination will be based on compatibility with neighborhood building style, building materials and any historic style indigenous to the area.