

**AGENDA
PENNINGTON COUNTY
SPECIAL PLANNING COMMISSION MEETING
February 15, 2023 @ 4:00 p.m.**

County Commissioners' Meeting Room - Pennington County Administration Building

The Planning Commission utilizes Speaker Request Forms, which are available in the Commission Chambers during the meeting.

**If unable to attend the meeting, please submit your comments via e-mail to plz@penngo.org or by mail to the attention of the Pennington County Planning Department, 130 Kansas City St., Ste. 200, Rapid City, SD 57701, or, if appearing by teleconference, contact the Planning Department at 605-394-2186, twenty-four (24) hours prior to the scheduled meeting.

ROLL CALL

1. APPROVAL OF THE AGENDA
2. MEETING PROCEDURE
3. ORDINANCE AMENDMENT / OA 23-01: Pennington County. To amend Section 319 Vacation Home Rental [to amend and supersede the existing Section 319 Vacation Home Rental] of the Pennington County Zoning Ordinance.
4. ADJOURNMENT

ADA Compliance: Pennington County fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the Planning Department so that appropriate auxiliary aids and services are available.

STAFF REPORT

GENERAL INFORMATION:

REQUEST: **ORDINANCE AMENDMENT / OA 23-01:** To amend Section 319 – Vacation Home Rental of the Pennington County Zoning Ordinance.

REPORT BY: Brittney Molitor

GENERAL DESCRIPTION: To amend Section 319 – Vacation Home Rental, based upon the VHR Committee recommendations.

PROPOSED TEXT:

SECTION 319 – VACATION HOME RENTALS

- A. *Purpose.* To establish regulations and standards for owners of Vacation Home Rental (VHR) properties in Pennington County for the protection of the public health, safety, and welfare, and to minimize the impacts of such use.
- B. *Applicability.* This Section applies to all VHRs within Pennington County outside the jurisdiction of an incorporated municipality.
- C. *Definitions.*
1. *Operator.* Any person or organization designated in charge of the day-to-day operations of a VHR.
 2. *Vacation Home Rental (VHR).* Any home, cabin, or similar building that is rented, leased, or furnished in its entirety to the public on a daily or weekly basis for more than 14 days in a calendar year and is not occupied by an owner or manager during the time of rental.
- D. *General Requirements.*
1. *Special Permitted Use.* If all of the general requirements set forth in this Section and all performance standards set forth in § 319(E) are met, a VHR is allowed with a Special Permitted Use (SPU).
 - a. *Exceptions.* Certain uses and structures are not eligible for an SPU and require a Conditional Use Permit (CUP) subject to PCZO § 510 and the general requirements of this Section.
 - i. *Failure to meet performance standards.* If the performance standards set forth in § 319(E) are not met or an applicant refuses to meet the performance standards, then a VHR may be allowed with a CUP.

- ii. *Non-traditional structures.* Any non-traditional structures must obtain a CUP. This may include, but is not limited to, tents, efficiency dwellings, treehouses, grain bins, yurts, etc. It is within the Planning Director's full discretion to require a CUP for structures deemed by the Planning Department to be non-traditional.
 - iii. *Dead-end road system.* Any structures on a dead-end road system exceeding 40 dwelling units or 2 miles in cumulative length must obtain a CUP.
2. *Zoning.* VHRs are allowed with a SPU or a CUP in agriculture and residential zoning districts.
 - a. VHRs are a use-by-right in commercial and highway service zoning districts.
 - b. VHRs are prohibited in industrial zoning districts.
3. *Minimum Lot Size.* A minimum 1-acre lot size is required for all VHRs.
4. *Dwelling requirements.*
 - a. *One VHR per lot.* Only one VHR is allowed per lot.
 - i. *Exception.* Multiple VHRs per lot may be allowed in highway service or commercial zoning districts.
 - b. *Accessory Dwelling Units (ADUs).* VHRs are allowed in ADUs under the following conditions:
 - i. The property must be owner-occupied.
 - ii. Only one rental ADU is allowed per lot. The main home cannot be used as a VHR.
 - iii. The ADU must have an approved CUP in accordance with PCZO§ 324.
 - c. *Multiple-family and apartments.* VHRs are prohibited in units located in apartments, condominiums or other multiple-family dwellings.
 - i. *Exception.* Duplexes, under single-ownership, may be used as VHRs.
 - d. *Recreational Vehicles.* VHRs are prohibited in recreational vehicles.
5. *Special Flood Hazard Area.* VHRs are prohibited in a floodway and no portion of the structure can be within the floodway boundaries.
6. *Local contacts.* If an owner chooses to have a local contact, the contact must:
 - a. Live within 50 miles of the VHR; and,
 - b. Be reachable 24-hours a day, 7-days a week.
7. *Application.* The following information must be submitted to the Planning Department with the SPU or CUP application:
 - a. *Application Form.* On a form provided by the Planning Department.
 - b. *Fees.* In accordance with § 511.
 - c. *Site Plan.* The site plan showing the layout of the property, including all existing and proposed structures with setbacks, wells and/or water

- lines, on-site wastewater treatment system and/or sanitary sewer lines, and on-site parking spaces.
- d. *Floorplan*. An interior diagram/floorplan of the dwelling to be used as a VHR.
 - e. *Utility Plan*. The location and type of all utilities serving the dwelling. This must include:
 - i. On-site wastewater treatment system information and location.
 - ii. Water supply information and location.
 - iii. Propane tank(s) locations, if applicable.
 - f. *Performance Standard Information*. All information supporting compliance with the required performance standards set forth in § 319(E). This must be submitted for both CUP applicants and SPU applications. An applicant for a CUP must set forth why they cannot meet the general requirements of this Section or the performance standards in §319(E).
 - g. *Dead-end Road System*. Properties on a dead-end road system are required to complete and submit an additional exterior evacuation plan.
- 8 *Density Cap*. Pennington County has a cap on the allowable number of VHRs in its unincorporated limits. The cap is based on the number of single-family residences (hereinafter “SFR” refers to the percentage of residences the total cap is calculated from) that can be utilized as VHRs. The calculation is based upon the following:
- a. That there is a 5% cap on the number of VHR rentals permitted in Pennington County based upon the total number of SFR in the unincorporated portion of the County.
 - b. That an additional 1% (for a total of 6%) is permitted after the compliance grace period as outlined PCZO § 601.
 - c. SFR is equal to the single-family resident estimates published by the United States Census Bureau for each even-numbered year.
- E. *SPU Performance Standards*.
1. *Bedrooms*. The maximum number of bedrooms in the dwelling cannot exceed 5.
 2. *Maximum Occupancy*.
 - a. *Overnight Occupancy*. The maximum occupancy is 14 people (guests) or the maximum allowed based on the size of the existing onsite wastewater treatment system (see South Dakota Administrative Rules 74:53:01:20, 74:53:01:25 and 74:53:01:31) serving the VHR under the approval from South Dakota Department of Agriculture and Natural Resources (DANR) for the on site wastewater treatment system, whichever is smaller.
 - i. All ages count towards the number of people.
 - b. *Allowable Daily Guests*. The maximum overnight occupancy plus 4 people.
 3. *Campers and tents*. No campers or tents are permitted to be occupied by guests or guest’s visitors on a property approved under an SPU.

4. *Parking.*
 - a. *Minimum parking requirement.* One parking spot is required per bedroom.
 - b. *Maximum parking requirement.* No more than two parking spots per bedroom is allowed.
 - c. *Off-street parking.* All motor vehicles and trailers, including all-terrain vehicles (ATV), utility terrain vehicles (UTV), etc., must be parked off- street in a designated parking spot.
 - d. *Designated parking.* All guests and guest’s visitors must park in a designated parking spot.

5. *Fire Restrictions.* Only UL[®]-approved propane or professionally installed natural gas fire pits and grills are permitted.
 - a. The following is prohibited:
 - i. wood burning fire pits;
 - ii. charcoal grills;
 - iii. fireworks of any kind; and,
 - iv. any other open flame which is not specifically allowed above.
 - b. Any VHR located within the Black Hills Area Fire Protection District must obtain all permits as required by South Dakota Law and regulation prior to the use of fire on the property.

6. *Liability Insurance.* The owner must provide a Certificate of Insurance indicating short-term rental coverage for the VHR, with “Pennington County” listed as a Certificate Holder.

7. *Wastewater Treatment and Water.* The owner must provide a letter from DANR approving the number of guests allowed for the wastewater system.
 - a. All septic tank lids must be secured and locked.
 - b. All cisterns must be locked.

8. *Department of Health (DOH) Inspection Report.* The owner must submit the VHR Inspection Report performed by the DOH at the time of application.
 - a. Any corrective action required by DOH must be completed prior to application to the Planning Department.

9. *Evacuation Plan.* The owner must provide an evacuation plan to the guests. This will include an interior plan showing all exits.
 - a. *Special Flood Hazard Area.* For those properties located within a Special Flood Hazard Area, an additional exterior evacuation plan is required.

10. *Severe Weather Safety Plan.* In the event of a severe weather condition (i.e. thunderstorms, wind, hail, lightning, tornadoes, or winter storm events) a plan must be provided to guests. This plan should include location(s) of a disaster supply kit or safe room/shelter area.

11. *Noise and Quiet Hours.* Quiet hours for VHRs are from 10 p.m. to 7 a.m.
 - a. Quiet hours apply to noise levels in the interior and exterior of the VHR.
 - b. Noise levels during quiet hours should be appropriate to accommodate sleep of neighboring properties.
 - c. During all times, amplified sound beyond the property boundaries is prohibited and no unreasonable noise in violation of SDCL § 22-18-35 is allowed.
12. *Department of Revenue (DOR).* All owners must have a DOR Sales Tax License.
13. *DOH Lodging License.* All owners must have a current DOH Lodging License for a VHR.
14. *Interior Signage.* The following signage is required on the interior of the VHR or alternatively in a guest book. A copy of the signage/book must be provided to the Planning Department at the time of application:
 - a. Local contact plus one additional contact.
 - i. Name, phone number and email address must be provided to the guests.
 - b. Property address.
 - c. Emergency numbers. This includes the local police and fire departments and emergency dispatch numbers.
 - d. Internal and External Evacuation Plan(s).
 - e. Severe Weather Shelter Plan.
 - f. Maximum occupancy – both overnight and daily maximums.
 - g. Parking space allotments and locations.
 - h. Quiet hours.
 - i. Pet rules and applicable leash laws.
 - j. Fire restriction information.
 - k. Trash and refuse locations and pick up day information.
 - l. Special Flood Hazard Information, if applicable.
 - m. A copy of the DOH Lodging License.
 - n. A copy of the DOR Sales Tax License.
 - o. Notification to guests and guest’s visitors that they are subject to all requirements of Pennington County Ordinance and South Dakota State law and may be subject to any penalties prescribed by law if violations occur.
 - p. Notification that failure to conform to the parking and occupancy regulations of the VHR unit is a Violation of County Ordinance.
 - q. A map or description of the property lines so as to clearly identified the property limitations and prevent trespassing by guests onto neighboring properties.
 - r. A statement that: “Guests are expected to be courteous to all neighbors and to respect property boundaries”.

15. *Miscellaneous requirements.*
 - a. All Operators of a VHR are required to keep records of guests in accordance with South Dakota Administrative Rules.
 - b. All VHRs are required to list their County Issued Identification Number on all booking sites.

- F. *Local Contact.* An Owner may retain a Local Contact as the Operator to comply with the requirements of § 319, including, without limitation, the filing of an application for a SPU or CUP, the management of the VHR, and compliance with the conditions of the Permit.

- G. *Notice.*
 1. *Special Permitted Use.*
 - a. Notice must be made in accordance with § 517(C)(2).
 - b. Notice must include Local Contact or owner information.

 2. *Conditional Use Permits.*
 - a. Notice must be made in accordance with § 510(B)(2).
 - b. A Hearing is required for a CUP in accordance with § 510(B)(3).

- H. *Registration.* All Operators of a VHR (regardless of permit type) are required to register with Pennington County and pay a bi-annual permit fee by March 1st January 31st. All Operators must pay the bi-annual permit fee set forth in § 511.

- I. *Approval of VHR Permit.* A SPU will be approved in accordance with PCZO § 517(G). A CUP is approved in accordance with PCZO § 510.

- J. *Review of VHR Permit.*
 1. *Special Permitted Use.*
 - a. *Power-to-Review.* Special Permitted Uses are subject to review by the Planning Department for compliance with the designated criteria. A review will occur under the following circumstances:
 - i. The Planning Department receives a substantiated complaint that the property is in violation of any Zoning Ordinance or designated criteria; or,
 - ii. Upon the third year of operation, to include a site visit by Planning Staff.
 - b. All Owners or Local Contacts must pay review fees set forth in § 511 and this Section.
 - c. *Determination.* In issuing a determination on a review, the Planning Director or his/her designee may:
 - i. approve the Special Permitted Use subject to the designated criteria;
 - ii. continue the review for no more than 90 days for the applicant to come into compliance with the designated criteria; or,
 - iii. terminate the Special Permitted Use.

2. *Conditional Use Permit.*
 - a. *Power-to-Review.* The Planning Commission has the authority to review a CUP for a VHR to ensure compliance with the PCZO, any conditions imposed, and state law.
 - b. *Procedure.* The procedure for the review will be done in accordance with
 - i. § 510(F).
 - c. *Revocation.* The procedure for the revocation will be done in accordance with § 510(I).
- K. *Fees.* All fees set forth in § 511 are applicable. Additionally, a penalty fee of \$1,500 will be assessed in the following circumstances:
 1. Operating a VHR without an approved SPU;
 2. Operating a VHR without an approved CUP; or
 3. Operating a VHR with an expired SPU or CUP.
- L. *Sale or Transfer of a Dwelling with a Special Permitted Use or Conditional Use Permit for a VHR.*
 1. SPUs and CUPs for VHRs are not transferable.
 2. All new Owners or Operators must apply the appropriate permit in accordance with all the requirements of PCZO § 319.
- M. *Termination or Revocation.* Termination or revocation of any permit granted under § 319 shall be done in accordance with PCZO §§ 510 (CUP) or 517 (SPU).
- N. *Building Permit.* Building permits will be issued in accordance with PCZO §§ 506, 510, and 517.
- O. *Expiration.* Permits issued in accordance with PCZO § 319 expire as outline in PCZO §§ 510 (CUP) or 517(SPU).
- P. *Appeals.* Appeals from PCZO § 319 should be conducted in accordance with PCZO §§ 510 (CUP) or 517 (SPU).
- Q. *Enforcement.* Failure to comply with conditions of approval of a SPU or CUP is a violation of Pennington County Zoning Ordinance and subject to the enforcement provisions of § 514. County enforcement actions, including revocation or termination, may be taken based on guests and invitee's acts or failure to conform to the provisions of this Ordinance.

Recommendation: Staff recommends approval of Ordinance Amendment / OA 23-01.