



MEMORANDUM

To: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: May 12, 2011

RE: May meeting agenda items

1. VDU's: I edited the ordinance based on the discussion from last month, which I included in the packet. In addition, there were several questions that the Commission wanted the City Attorney to address. I wrote up a memo detailing those questions, which I have also provided in the packet. Paul was hoping to be able to get to that this week, but was not able to do so. However, he said he could have answers early next week – prior the meeting. I will get those to you as soon as I have them.
2. General Plan update: Hopefully we will have some time to continue through the circulation element from where we left off last Tues. I have not made any additional changes, so please bring your materials from the last meeting.

Vacation Dwelling Unit Ordinance
Draft

ORDINANCE 2011-xx

**AN ORDINANCE OF THE CITY OF TRINIDAD
ADDING CHAPTER 17.54 TO TITLE 17 OF THE TRINIDAD MUNICIPAL CODE,
AND AMENDING SECTION 3.20.030 OF THE TRINIDAD MUNICIPAL CODE**

The City Council of the City of Trinidad does hereby ordain as follows:

ORDINANCE 2011-XX, SECTION 1:

There is hereby added to the Trinidad Municipal Code a new Chapter, Chapter 17.54, “City of Trinidad Vacation Dwelling Unit Ordinance,” which shall read as follows:

Chapter 17.54

VACATION DWELLING UNITS

Sections:

17.54.010	Short Title
17.54.020	Definitions
17.54.030	Purpose
17.54.040	Requirements
17.54.050	Appearance and Visibility
17.54.060	Effect on Existing Vacation Dwelling Units
17.54.070	Location
17.54.080	Noise
17.54.090	Non-Permitted Uses
17.54.100	Number of Occupants Allowed
17.54.110	Tenancy
17.54.120	Traffic
17.54.130	Tourist Occupancy Tax
17.54.140	Violations--Penalty

17.54.010 Short Title.

This chapter shall be known and may be cited as “City of Trinidad Vacation Dwelling Unit Ordinance.”

17.54.020 Definitions.

Good Neighbor Brochure.

“Good Neighbor Brochure” means a document prepared by the City and approved by the City Manager that summarizes general rules of conduct, consideration, respect, and potential remedial actions. In particular provisions for parking, noise and septic use shall be included.

Occupant.

“Occupant” within this Chapter is synonymous with the definition of “Tourist” in Trinidad Municipal Code section 3.20.020G. As used in this Chapter, “occupant” additionally means a person sleeping in the VDU over the age of 5.

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Temporary Event.

"Temporary Events (land use)" means any use of a structure or land for an event for a limited period of time where the site is not to be permanently altered by grading or construction of accessory facilities. Events include but are not limited to art shows, religious revivals, tent camps, outdoor festivals, concerts, fundraisers, and weddings or receptions. Temporary events do not include small parties and social gatherings of less than 20 people consistent with normal residential use.

Transient Use.

"Transient use" means any contractual use of a structure or portion thereof for residential, dwelling or sleeping purposes, for any period of time which is less than 30 consecutive days.

Vacation Dwelling Unit.

"Vacation Dwelling Unit" (VDU) means any structure, accessory structure, or portion of such structures, which is contracted for transient use.

As used in this chapter, the definition of "Vacation Dwelling Unit" falls within the definition of "Lodging House" found in Trinidad Municipal Code section 3.20.020A but does not include "inn" or "motel" within Section 3.20.020A.

17.54.030 Purpose.

The purpose of this Chapter is to ensure that Vacation Dwelling Units are compatible with surrounding residential and other uses and will not act to harm or alter the neighborhoods within which they are located.

17.54.040 Requirements.

A. Business License and Fees.

Each VDU must procure a Business License, within _____ months of the adoption of this ordinance, which identifies the existence of a VDU at a particular address and declares the number of bedrooms in the VDU. A site plan and floor plan must be submitted along with the business license application so the City can verify the number of bedrooms and parking spaces. The site plan and floor plan do not have to be professionally prepared, but must be to scale and include enough information to verify compliance. A sample rental agreement shall also be provided.

A Business License Fee of \$100.00 will be charged for the first year of each VDU's operation. Annual renewals for subsequent years shall be at the same cost as a renewal for any other Business License in the City.

The City will notify all property owners within 300 feet of the VDU property of the VDU's Business License within 7_____ days of its issuance or re-issuance.

B. Contact Information.

1. Local Contact Person.

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Each VDU must designate a local contact person on the Business License form. That person may be either the owner or the property manager, and that person must live within 25 miles of Trinidad so that he/she can respond personally to an emergency.

2. 24-Hour Emergency Contact Phone Number.

A 24-hour emergency contact phone number is required for each VDU. The 24-hour emergency contact phone number shall be prominently placed for the occupants' use inside the VDU. Any change to the emergency contact number shall be promptly provided to the Trinidad City Clerk and posted within the VDU.

The emergency contact phone number will be forwarded by the City Clerk to the Trinidad Police Department, the County Sheriff's Office, the Trinidad Volunteer Fire Department, and to each neighbor within 300 feet of the VDU within 7 days after the issuance or reissuance of a business license for the VDU.

If there is an emergency or complaint, and the emergency contact person does not respond, concerned persons will be encouraged to report the emergency through the 911 emergency calling system. If the VDU owner or property manager is deemed to be negligent in responding to an emergency situation more than two times in a 12-month period, the VDU's Business License may be revoked.

C. Parking.

A VDU must provide at least one on-site parking ~~place-space~~ per bedroom in the VDU. The parking space/s shall be entirely on the VDU property. VDU occupants may not use public right-of-way (street) spaces to meet their parking needs. Parking spaces will not be located on the septic system unless it is designed and rated for traffic in accordance with the OWTS Regulations.

D. Septic System.

Each VDU's owner or property manager must provide proof that the septic system for the structure in which the VDU is located is functioning properly and in conformance with the City's OWTS Management Program. Information on the appropriate use of a septic system, in a form approved by the City, shall be posted in each bathroom in the VDU and the kitchen.

E. Signs.

A single sign no greater than 3 square feet in size shall be attached to the VDU structure or placed immediately adjacent to the front of the VDU structure. The purpose of the sign is to notify the public that the structure is or contains a VDU. The sign must provide a 24-hour emergency telephone contact number for complaints, and a business telephone number for persons seeking information on the VDU.

F. Trash.

Trash and refuse shall not be left stored within public view, except in proper containers for the purposes of collection. There shall be no accumulation or storage of trash and / or debris on the site or within the unit.

G. Emergency Preparedness.

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Information regarding local hazards, such as earthquakes, tsunamis and winter waves, in a form approved by the City, shall be posted within the vacation rental in an easily seen location, such as the entry or kitchen area. In particular, ~~if a tsunami siren is installed in or near the City,~~ information regarding regular testing of the tsunami siren and real emergencies shall be included.

H. Good Neighbor Brochure.

Prior to occupancy pursuant to each separate occasion of rental of a VDU, the owner or the owner's agent shall provide a copy of the Good Neighbor Brochure to the occupants.

17.54.050 Appearance and Visibility.

The outside appearance of the VDU structure shall not change the residential character of the structure by the use of colors, materials, lighting, or signage (except as required by this Chapter). The VDU shall not create any noise, glare, flashing lights, vibrations, or odors which are not commonly experienced in residential areas.

17.54.060 Effect on Existing Vacation Dwelling Units.

Each individual holding a valid Trinidad Business License for a VDU existing at the time the VDU Ordinance is adopted shall be subject to the requirements of this Chapter of the Municipal Code upon its adoption. The owner of an existing VDU which does not meet the requirements of this Chapter will not be issued a Business License and may not use the VDU structure for VDU purposes.

17.54.070 Location.

VDU's are permitted in any zone district in the City that allows for single or multiple family dwelling units. No more than one VDU is permitted per parcel in the Urban Residential Zone. A second VDU may be allowed in a legally established Accessory Dwelling Unit in the Suburban Residential Zone. A second VDU may also be allowed in a legal, multi-family dwelling with more than two residential units.

17.54.080 Noise.

Occupants of VDU properties and visitors shall not generate noise in excess of what might be expected in a residential neighborhood. Any noise occurring after 10:00 pm and before 8:00 am should be contained within the VDU and shall not be able to be heard by or offend any adjacent neighbors.

17.54.090 Non-Permitted Uses.

There shall be no permitted use of the VDU structure other than occupancy for dwelling or sleeping purposes, as defined in Section 3.20.020A of the Trinidad Municipal Code. ~~Use for temporary events, which are not hosted by the VDU's property owner are not permitted.~~

17.54.100 Number of Occupants and Visitors Allowed.

The maximum number of occupants allowed in a VDU shall not exceed two persons per bedroom plus an additional two persons (e.g., a two-bedroom VDU may have six occupants). The number of temporary visitors to a VDU shall be limited to not more than 20 persons at any time. Visitors are not allowed on the premises between 12:00 a.m. and 5:00 a.m.

17.54.110 Tenancy.

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The rental of a VDU shall not be for less than two successive nights.

17.54.120 Traffic.

Vehicles used and traffic generated by the VDU shall not exceed the type of vehicles or traffic volume normally generated by a residence occupied by a full-time resident in a residential neighborhood.

17.54.130 Tourist Occupancy Tax.

The rental or other contractual use of a VDU is subject to a Tourist Occupancy Tax (“TOT”). Each VDU owner and/or manager shall meet all of the requirements of Trinidad Municipal Code Chapter 3.20, “Tourist Occupancy Tax,” which addresses the registration of TOT collectors, and the collection, recordkeeping, reporting and remittances of applicable TOT.

17.54.140 Audit

Each owner and agent or representative of any owner shall provide access to each VDU an any records related to the use and occupancy of the VDU to the City Manager at any time during normal business hours, for the purpose of inspection or audit to determine that the objectives and conditions of this Chapter are being fulfilled.

17.54.1540 Violations–Penalty.

Violations of this Chapter are punishable as either infractions or misdemeanors, pursuant to the provisions of Section 1.08 of the Trinidad Municipal Code. Each separate day in which a violation exists shall be considered a separate violation.

17.54.160 Ordinance Review

This ordinance shall be reviewed by the Planning Commission a year after its adoption, and periodically thereafter, to ensure that it is meeting the needs of the community.

ORDINANCE 2011-XX, SECTION 2:

Section 3.20.030 of the Trinidad Municipal Code, entitled “Imposed--Rate” is amended to read as follows:

“For the privilege of occupancy in any lodging, each tourist is subject to, and shall pay, a Tourist Occupancy Tax (“TOT”). The TOT constitutes a debt owed by the tourist to the City. The tourist shall pay the TOT to the lodging house operator based on the rent charged by the operator at the time the rent is paid. If the rent is paid in installments, a proportionate share of the TOT shall be paid with each installment. The unpaid TOT shall be due upon the tourist’s ceasing to occupy space in the lodging house. If for any reason the TOT due is not paid to the lodging house operator, the Tax Administrator may require that such TOT shall be paid directly to the Tax Administrator.

The TOT is hereby set in the amount of _____ percent (___%) of the rent charged by the operator.

The amount of the TOT may be set by resolution of the City Council from time to time.”

ORDINANCE 2011-XX, SECTION 3:

***Vacation Dwelling Unit Ordinance
Draft***

This Ordinance shall take effect thirty days after its passage.

Passed, approved, and adopted this _____ day of _____, 2011 by the following roll call vote:

- AYES:
- NOES:
- ABSTENTIONS:
- ABSENT:

ATTEST:

Gabriel Adams,
City Clerk,
City of Trinidad

APPROVED:

Kathy Bhardwaj,
Mayor,
City of Trinidad



MEMORANDUM

TO: Paul Hagen, City Attorney

FROM: Trever Parker, City Planner

DATE: May 9, 2011

RE: VDU issues from the Planning Commission

Several issues have come up regarding the VDU ordinance during the past two Planning Commission meetings. The Planning Commission has continued the hearing and discussion again, and would like to get your specific input on several items prior to making their final recommendation to the City Council.

1. The Planning Commission is interested in including a requirement for proof of liability insurance and / or a hold harmless agreement benefiting the City. They would like to know your thoughts / opinion on the value of including such language. This provisions comes from the Palm Springs' VDU ordinance, with the language as follows from §5.25.060(c)
http://www.google.com/url?sa=t&source=web&cd=3&ved=0CC0QFjAC&url=http%3A%2F%2Fwww.ci.palm-springs.ca.us%2FModules%2FShowDocument.aspx%3Fdocumentid%3D2065&rct=j&q=palm%20springs%20vacation%20rental%20ordinance&ei=02DITeydA4i8sQO8i62IAw&usg=AFQjCNEiGWrz1J9CYgHdUHLiBfgh-ABYIg&sig2=-H6h9-4_M96IJzpukUF3zQ&cad=rja

“The registration of a Vacation Rental shall be accompanied by a fee established by proof of a general liability insurance in the amount of one million dollars combined single limit and an executed agreement to indemnify, defend and save the city harmless from any an all claims and liability of any kind whatsoever resulting from or arising out of the registration of the Vacation Rental.”

2. The Planning Commission is interested in the implications of having an appeal process for a VDU business license. I thought it was a ministerial process, but I see that municipal code §5.04.220 already includes an appeal process for a business license. Would this section be adequate for a neighbor to appeal the issuance of a VDU license, what recourse would be available and what standards would be used in reviewing such an appeal?

3. The Planning Commission is also interesting in including more details or having more information regarding the enforcement process. How does enforcement under municipal code §1.08 really work? Who is responsible for any violations (the landowner, the manager, the renters or some combination)? The Managers are concerned because they can include all the rules in a contract, and renters may still not follow them. In addition the Commission is interested in your thoughts on a couple of provisions from the new Santa Cruz County VDU ordinance, one having to do with dispute resolution (13.10.694(j)) and one allowing revocation of the permit (13.10.694(k)). I also like the final section (l), which also came up as a concern at the Planning Commission meeting. Language follows the link. http://sccounty01.co.santa-cruz.ca.us/bds/Govstream/BDSvData/non_legacy/agendas/2011/20110503/PDF/072.pdf

(j) Dispute resolution. By accepting a vacation rental permit, vacation rental owners agree to engage in dispute resolution and act in good faith to resolve disputes with neighbors arising from the use of a dwelling as a vacation rental. Unless an alternative dispute resolution entity is agreed to by all parties involved, dispute resolution shall be conducted through the Conflict Resolution Center of Santa Cruz County.

(k) Violation. It is unlawful for any person to use or allow the use of property in violation of the provisions of this section. The penalties for violation of this section are set forth in Chapter 19.01 of this Title (Enforcement). If more than two documented, significant violations occur within any 12-month period a permit may be reviewed for possible amendment or revocation. Documented, significant violations include, but are not limited to, copies of citations, written warnings, or other documentation filed by law enforcement; and copies of Homeowner Association warnings, reprimands, or other Association actions.

(l) It is unlawful to make a false report to the Sheriff's Office regarding activities associated with vacation rentals.

4. Another point that has been discussed from several viewpoints is the limitation on parking. The Planning Commission wants to be sure that it is within their right to restrict parking on a public street. Should alleys and streets be treated differently? And does the City have the right to restrict the number of vehicles that can park at a VDU, regardless of whether they all fit on the property? (One person wants the number of cars limited, but doesn't care if they all park on the street, since her street is private. She has a neighbor that has room to park 8 or 9 cars in their driveway and she does not like the number of vehicle trips.)
5. The Planning Commission, and myself, are also interested in your opinion as to whether the City can start implementing this ordinance prior to getting

an LCP amendment approved by the Coastal Commission. They will not even have time to review and process such an application until after September and many people are anxious to get this ordinance implemented this summer. I assume that as long as the provisions do not conflict with anything in the certified LCP, then it could be OK. The Coastal Commission staff did not want to give me their opinion.

6. Finally, the Planning Commission wanted to know if there was a reason that you did not include language (the second two sentences) from the Vacation Dwelling Unit Advisory Committee recommendation from the section “number of occupants allowed” regarding greater occupancy based on square footage rather than just bedrooms.

I recognize that several of these questions overlap with the questions I sent you in a previous email, but these have been more flushed out with further discussion. I will also be making some changes to the ordinance based on other issues discussed, and will forward that to you as soon as I can for review. Feel free to call (822-5785) if you want to discuss any of this further.