



MEMORANDUM

TO: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: April 15, 2011

RE: Revised Vacation Dwelling Unit (VDU) Ordinance

Based on our conversation and issues raised at the last Planning Commission meeting I made some revisions to the proposed ordinance. I also did some additional research into other existing VDU ordinances and I found some things that the Commission may want to consider including. I forwarded these items to the City Attorney, but I have not heard back from him at this time. We may have more information before the meeting though.

There are a couple of other important things to note. This ordinance likely will not go into effect this summer, since it has to be approved by the Coastal Commission first. They have indicated that they will not be able to get to it until after September. I also realized that the already passed (but not submitted to CCC) ADU ordinance already utilized Chapter 17.54, so the number of one or the other will have to be changed.

The VDU Ordinance is exempt from CEQA per §15301 of the CEQA Guidelines exempting the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing private or public structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The ordinance is also exempt per §15305 exempting minor alterations in land use limitations in areas with an average slope of less than 20%, which do not results in any changes in land use or density.

Changes made to the ordinance

- First, I added to the definition of "occupant" to differentiate between occupants or renters (people sleeping there) and visitors. The consensus seemed to be that it was unreasonable to expect that friends or family or other visitors could not be at the VDU that weren't actually staying there.
- Second, I added a definition of 'temporary event' based on another ordinance to try to better define parties and other restricted events. It certainly is not a perfect definition however, and still open to some interpretation.
- Third, I added a requirement for submittal of a site plan and floor plan along with the business license application so the City can verify the number of bedrooms and parking spaces.

- Fourth, I removed the requirement to notify neighbors after issuance of a VDU business license. Note that the requirement to notify neighbors and inform them of the 24 hour emergency contact information is still in the ordinance. I removed this one because there was no appeal process specified or other remedial actions. Without such a process, it is pointless to notify the neighbors other than for the contact information.
- I added language tying the OWTS requirements to the City's OWTS Management Program and requiring that septic system information be posted in the VDU.
- I also added language requiring emergency preparedness information (such as for earthquakes and tsunamis) to also be posted in the VDU.
- Finally, I added 'visitors' to the noise limitation section and removed examples of temporary events from 17.54.090 because they are now defined at the beginning of the ordinance.

Other items to consider from other ordinances.

- Almost every ordinance I looked at included the requirement for the 24 hour emergency contact.
- Tenancy was also universally common. Sometimes ages were included so that children either were or were not counted toward that tenancy. One ordinance included children over the age of three, and another excluded children under the age of 12.
- Trash was a recurring, common issue addressed by VDU ordinances, but does not seem to be an issue in Trinidad.
- Parking was another universally common issue. Often parking was limited to on-site (no street parking), or limited street parking (e.g. two vehicles). Sometimes alleys and streets were treated differently.
- Palm Springs VDU ordinance:
 - Includes requirements for liability insurance and a hold harmless agreement in favor of the City.
 - Includes specific provisions for additional daytime visitors in the amount of 50 percent of the authorized occupants.
 - Includes a requirement to post a "Good Neighbor Brochure" prepared by the City.
 - Includes provisions for an "audit" (*Each owner and agent or representative of any Owner shall provide access to each Vacation Rental and any records related to the use and occupancy of the Vacation Rental 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.*)
- Santa Cruz VDU ordinance:
 - Includes a provision that when neighbors are notified of a VDU permit application they can appeal / request a public hearing.
 - Requires submittal of a sample rental agreement that includes limitations on parking, tenancy, noise, etc. to be approved by the City with the application.
 - Includes dispute resolution provisions.
 - Includes provisions to revoke the VDU permit after two or more significant violations.

These are just some additional things to consider that I thought could be useful for Trinidad, though some make the ordinance and process more complicated. Also, as requested, I included the original Trinidad VDU Committee recommendations in the packet.

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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.
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.

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

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camp, outdoor festivals, concerts, fundraisers, and weddings or receptions. Temporary events do not include small parties and social gatherings 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 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.

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 _____ days of its issuance or re-issuance.~~

B. Contact Information.

1. Local Contact Person.

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.

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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 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.

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 designed to accommodate the number of bedrooms in the structure 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. Emergency Preparedness

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 and real emergencies shall be included.

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

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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.

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, ~~such as weddings or parties,~~ which are not hosted by the VDU's property owner are not permitted.

17.54.100 **Number of Occupants 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).

17.54.110 **Tenancy.**

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 **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.

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.

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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:

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



Vacation Dwelling Units Advisory Committee

PROPOSED VACATION DWELLING UNIT REGULATIONS

Definition:

A Vacation Dwelling Unit (VDU) is the use of a residence as a rental for transient use. “Transient use” is defined as rental for any period of time which is less than 30 days. A VDU does not include the one-time rental of a residence for less than 30 consecutive days in a calendar year, a “bed and breakfast” facility, a hotel or motel, or the rental of a residence for 30 days or more.

Vacation Dwelling Units: A VDU is a single family residence or a residential unit in a multi-family structure that is rented on a temporary basis for less than 30 days. A new structure that is built to be used as a VDU must conform to all standards applicable to the construction of a residence within the land use category that exists where the construction is to occur.

Purpose: The purpose of this section is to establish a set of regulations applicable to Vacation Dwelling Units. Special regulations applicable only to residences used as VDUs are necessary to ensure that they will be compatible with surrounding residential and other uses and will not act to harm or alter the neighborhoods they are located within.

Permit Requirements: Each owner and property manager of a VDU must procure a Business License for the purpose of identifying the existence of a VDU at a given residence/address. A Property Manager must procure a business license, and each individual property (address) must have a business license procured by the owner. The Business License will act as a registration so that the owner or manager collects and submits to the City of Trinidad the required Transient Occupancy Tax applicable to the renters of VDUs.

The owner and property manager are responsible for paying applicable fees to the City in the first year and for succeeding renewal years. The owner or property manager must declare the number of bedrooms in the VDU and provide proof that the septic system for the residence is designed to accommodate this number of bedrooms (or more). All property owners within 300 feet of the VDU property will be notified of the issuance of the Business License in the first year that it is obtained under this new Ordinance.

For the first year after the adoption of this Section and for any new VDUs that are created after this Section is adopted, a first-year Business License Fee of \$100.00 will be charged for each VDU (property or address). Renewals for subsequent years shall be at the same cost as a renewal for any other business license in the City (\$45.00/year as of June, 2010).

Location: Vacation Dwelling Units are permitted in any zone district in the City that allows for single or multiple family dwelling units. No more than one vacation dwelling unit is permitted per parcel in the City.

VDU Tenancy: The rental of a residence as a VDU shall not be less than two days (nights). There shall be no other permitted use of the property other than a VDU and as a part-time residence for the property owner. Temporary events, such as weddings or parties, which are not hosted by the property owner are not permitted.

Number of Occupants Allowed: The maximum number of occupants allowed in a VDU shall not exceed two persons per bedroom plus an additional two persons (i.e. a two-bedroom unit may have six occupants). In some cases, up to 10 persons may be permitted if there are 4 or more bedrooms or if the square footage of the VDU can easily support the larger number of guests. Parking requirements may also limit the number of occupants when a VDU is being shared by multiple persons, friends, or families.

Appearance, Visibility, and Location: The VDU is not to change the residential character of the outside appearance of the building, either by the use of colors, materials, lighting, or signage (except those which are required by this Section). There shall be no noise, glare, flashing lights, vibrations, or odors not commonly experienced in residential areas.

Signs: A single sign no greater than 3 square feet in size shall be attached to the structure or placed immediately adjacent to the front of the structure. The purpose of the sign is to notify the public that the structure is a VDU, and the sign should provide the

public with a 24-hour emergency telephone contact number for complaints, and a business telephone number for persons seeking information on the rental.

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.

On-Site Parking: Parking for tenants of the VDU shall be entirely on-site in the garage, driveway, or otherwise out of the public right-of-way. A VDU must provide at least one on-site parking place per bedroom in the VDU. The on-site parking space may include enclosed garage spaces, if those garage spaces are made available to the VDU renter. VDU renters may NOT use public right-of-way (street) spaces to meet their parking needs as temporary renters.

Noise: Renters of VDU properties should 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 to the VDU and should not be able to be heard by or offend the adjacent neighbors.

Local Contact Person: Each VDU must designate a local contact person on the Business License form. That person may be 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.

The 24-hour emergency contact phone number for each VDU 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. It must also be posted on the sign visible at the front of the VDU (nearby the front door), and the same contact information shall be prominently placed for the use of the renters inside the VDU. Any change to the emergency contact information shall be promptly provided to the Trinidad City Clerk.

If there is an emergency or complaint, and the emergency contact person does not respond, persons will be encouraged to report the emergency through the 911 emergency calling system. If the owner or manager is deemed to be negligent in responding to an emergency situation more the two times in a given calendar year, the individual's Business License may be revoked.

Transient Occupancy Tax: Each VDU owner and/or manager shall meet the regulations and standards set forth in Trinidad Municipal Code ____ that addresses collection, reporting and submittal of applicable Transient Occupancy Tax (TOT).

Draft - VDU Ordinance Language

Finalized by the VDU Advisory Committee on May 10, 2010

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Effect on Existing Vacation Dwelling Units: Each individual holding a valid Trinidad Business License to have a VDU at a given address shall be subject to the requirements of this Section of the Municipal Code upon its adoption. The owner of an existing VDU which does not meet the requirements of this Section will not be issued a business license.

Violations: To be recommended by Legal Counsel in conformance with the current Trinidad Municipal Code.