

Re: Special meeting date

From: "Trevor Parker" <trever@streamlineplanning.net> 05/02/16 17:21
To: trinidadpcscott <trinidadpcscott@gmail.com>, "Cliff Poulton" <cliff@poulton.net>, "Diane Stockness" <diane.stockness@gmail.com>, "Richard Johnson" <rfjbr@gmail.com>, mapinske <pinske@suddenlink.net>
Cc: "Laura Scott" <Inscott@icloud.com>, "Cliff Poulton" <cpoulton@cityofarcata.org>, "City of Trinidad" <cityclerk@trinidad.ca.gov>, "Trinidad City Manager" <citymanager@trinidad.ca.gov>
Attachments: TPCAgendaSpecial0516.pdf (38.3 kB); PC Memo Transferability 0516.pdf (72.8 kB); 0416 Tracked VDU Amendment.pdf (81.2 kB);

Hello,

I have posted the agenda for Thursday's meeting on the City's website. I did not prepare a packet, since there is not much new information or any ordinance changes since the last meeting. However, I did include a memo with the City Attorney's suggested language on transferability that I read at the last meeting, as well as transferability language from the Town of Mendocino LCP Amendment as requested. I still do not have any additional information from the City Attorney regarding the other questions about enforcement that I sent to him in March. I am hopeful that I will have something in time for this meeting.

And though I did not make any changes to the ordinance since the last meeting, there was general agreement that it would be beneficial to track the different changes made at each meeting. So I have gone ahead and started that. I did not bother changing the color for the first couple of reviews, since I had never accepted those changes (they were all still tracked), and everything up to what you saw in March is in red. The changes between March and April are in blue. I will continue to change the colors for subsequent edits. I have attached that new document for your convenience, but again, I have not made any edits since the last meeting.

See you all on Thursday.

Trevor Parker

Senior Environmental Planner
Trinidad City Planner
Project Manager



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-----Original Message-----

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Cc: "Cliff Poulton" <cpoulton@cityofarcata.org>, "Laura Scott" <Inscott@icloud.com>
Date: 04/29/16 15:58
Subject: Re: Re: Special meeting date

Hello and happy Friday once again. I just wanted to let you know that I won't be posting the agenda or providing packet materials (there probably won't be much anyway) until Monday, since the meeting is not



MEMORANDUM

TO: Trinidad Planning Commission
FROM: Trever Parker, City Planner
DATE: May 2, 2016
RE: Special May Meeting VDU Agenda Item

Here is some additional information on transferability. This includes the email from the City Attorney that I read at the April meeting. In addition, there was a request to review the transferability language of the Town of Mendocino LCP amendment. I included a few other sections to put it in context.

Transferability Info from City Attorney

Rather than have to define the outer limit of the ability to limit transfers of the VDU licenses, it is easier to simply point out that the Mendocino limitation concerns me and I think it is too rigid for the city of Trinidad and could be declared unenforceable; however, the other suggestions all seem reasonable except I do wonder about the desire to limit corporations from having VDU's. I think that is problematic.

I believe the much better approach and the approach far less likely to have interpretation or loop hole issues would be along the following lines although the foregoing is a rough draft and not meant to be final language. I suggest thinking about something such as:

Upon the transfer of any portion of title in a property with a VDU license associated with the property or upon the change of more than 50% of the shareholders of any corporation, beneficiaries and/or trustees of any trust, or members of any LLC owning real property associated with a VDU license, the VDU license shall terminate unless a new application or renewal application for a VDU License meets current City of Trinidad requirements for a VDU and in the discretion of the City Council the property remains an appropriate location for short-term rentals.

I like the foregoing approach because a public entity is immune from liability for an injury caused by the suspension, revocation, issuance, or denial of a license if the public entity is authorized by law to determine whether the license should be suspended, revoked, issued, or denied. (Gov.Code, § 818.4.)⁷ The same immunity also applies to a public employee (id., § 821.2)⁸ and extends to the employer by

virtue of section 815.2, subdivision (b). -- Also, this approach allows the City to analyze each transfer to see if allowing the VDU license to transfer is appropriate under current law. and conditions.

Mendocino Town LCP Update Amendment

Definitions from the Zoning Code

"Single Unit Rental" means the use of an attached or detached structure which is operated in conjunction with a residential use or commercial use, as a short term rental for transient occupancy, for a fee charged, and subject to Chapter 520 (Uniform Transient Occupancy Tax) and Chapter 6.04 (Business License Tax) of the Mendocino County Code.

"Vacation Home Rental" means a dwelling unit that is the only use on the property, which may be rented short term for transient occupancy, for a fee charged and subject to Chapter 520 (Uniform Transient Occupancy Tax) and Chapter 6.04 (Business License Tax) of the Mendocino County Code.

Transferability regulations from the Zoning Code

(D) Term. A License for a Single Unit Rental shall run with the ownership of the land on which the unit is located, as set forth in Mendocino Town Plan Action GM-14.1(b), subject to all other applicable license requirements, but are not otherwise transferable.

(E) Vacation Home Rental licenses are not transferable to another location, person, or entity, except that the property owner may transfer the license to a spouse/domestic partner, child, parent, or, for estate planning purposes, to a trust in which the property owner serves as a trustee, which shall not be deemed a change in ownership for purposes of Section 6.04.070(g) of the County Code.

Mendocino Town Plan Action GM-14.1(b)

(b) Single Unit Rental Licenses are not transferable to another location, person, or entity, except that Single Unit Rental license rights shall attach to ownership of the property on which the licensed unit is located, subject to all other Town Plan policies and applicable license requirements. A new owner of property on which a licensed unit is located shall be eligible to continue to license and operate the unit without cessation of use or relegation to a waiting list, if, upon sale or transfer of the property on which the licensed unit is located, the new owner shall provide proof of ownership and compliance with other requirements of Chapter 6.04.080(a), to the satisfaction of the Department of Planning and Building Services, and the Treasurer-Tax Collector pursuant to Chapters 5.20 and 6.04 of the County Municipal Code. Single Unit Rental Rights shall cease to attach to the unit at such point as the licensing is allowed to expire or is revoked.



ORDINANCE 20##14-01

**AN ORDINANCE OF THE CITY OF TRINIDAD
AMMENDINGDDING REPEALING EXISTINGSECTION 17.56.190 AND ADDING A NEW
SECTION 17.56.190 AND AMENDING SECTION 17.56.060 TO OF TITLE 17 OF THE
TRINIDAD MUNICIPAL CODE (ADDING AMMENDING REPEALING EXISTING SECTION
6.26 AND ADDING A NEW SECTION 6.26 AND AMENDING SECTION 6.06 OF TO THE
COASTAL COMMISSION CERTIFIED ZONING ORDINANCE),
AND AMENDING SECTIONS 17.56.160 AND 17.56.180 OF THE TRINIDAD MUNICIPAL
CODE (AMENDING SECTIONS 6.16 AND 6.18 OF THE COASTAL COMMISSION
CERTIFIED ZONING ORDINANCE)**

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

ORDINANCE 20162-0#1, SECTION 1:

There is hereby added to the Trinidad Municipal Code a new Section, Section 17.56.190, replacing the existing Section 17.56.190 (and hereby added to the Coastal Commission certified Zoning Ordinance a new Section 6.26, replacing the existing Section 6.26), "City of Trinidad ~~Vacation Dwelling Unit~~ Short Term Rental Ordinance," which shall read as follows:

Section 17.56.180 (6.26) Regulations for ~~Vacation Dwelling Units~~ Short Term Rentals

Sections:

17.56.190 (6.26).A	Short Title
17.56.190 (6.26).B	Definitions
17.56.190 (6.26).C	Purpose
17.56.190 (6.26).D	Application Requirements
17.56.190 (6.26).E	Effect on Existing Vacation Dwelling Units
17.56.190 (6.26).F	Location
17.56.190 (6.26).G	Non-Permitted Uses
17.56.190 (6.26).H	VDU Standards
17.56.190 (6.26).I	Tourist Occupancy Tax
17.56.190 (6.26).J	Audit
17.56.190 (6.26).K	Dispute Resolution
17.56.190 (6.26).L	Violations—Penalty
17.56.190 (6.26).M	Violations—Revocation
17.56.190 (6.26).N	Ordinance Review

17.56.190 (6.26).A

Short Title.

This Section shall be known and may be cited as "City of Trinidad ~~Vacation Dwelling Unit Ordinance~~ Short Term Rental Ordinance."

17.56.190 (6.26).B

Definitions.

~~#. Dwelling.~~

A single family dwelling, or a dwelling unit within a duplex or multi-family dwelling, not to include mobile homes in a mobile home park.

1. Good Neighbor Brochure.

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, the brochure shall include provisions for maximum occupancy and visitors, off-street parking, minimizing noise, establishing quiet hours, ~~and~~ minimizing disturbance to neighbors and environmentally sensitive habitat areas, and penalties for violations.

2. Event.

"Event" means any use of a structure or land for a limited period of time. "Event" includes, but is not limited to, art shows, religious revivals, tent camps, concerts, fundraisers, and weddings or receptions. "Event" does not include small parties and social gatherings of 20 people or less consistent with normal residential use.

#. Existing STR.

An STR that had a valid VDU license as of the effective date of this ordinance.

#. Homestay.

An owner-occupied dwelling in which no more than two bedrooms are rented for transient use to up to four occupants total, not including residents, and in which the owner also stays overnight in the dwelling while it is rented. Residents plus occupants shall not exceed two people per bedroom, plus two people.

#. Host

A long-term resident that lives on the property, either in the Short Term Rental, or in another legal dwelling unit on the property, and who sleeps on the property while the STR is being rented, and who is responsible for overseeing or managing the STR while it is being rented.

#. Hosted Short Term Rental

A Short Term Rental with a Host.

(San Jose defines 'Host Present' as: "means the Host is present on the premises of the dwelling unit that is being used for Incidental Transient Occupancy during the term of the Transient Occupancy at all times between the hours of 10pm – 6am." This standard would be easier to verify and enforce than the "stays overnight" requirement in the 'Homestay' definition above.)

3. Occupant.

"Occupant" within this Section means any person who exercises occupancy of a Vacation Dwelling Unit (VDU) Short Term Rental, or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement ~~for a period of 30 consecutive calendar days, or less, counting portions of calendar days as full days. Any such person so occupying space in a VDU shall be deemed to be a tourist until the period of 30 days has transpired.~~ As used in this Section, "occupant" does not include children aged 5 or under.

(This definition seems overly complicated. It came from the definition of tourist in the TOT ordinance. And as is, complicates occupancy requirements if there is a caretaker or other residents living in the VDU. However, I have also included provisions for that possibility in other sections as well. Most ordinances do not actually define occupant or renter. That may be because it is defined elsewhere in the Code, or because the definition is considered common sense. The City of Napa defines 'Renter' as "a person, not the owner, renting or occupying a vacation rental unit in accordance with the terms of this section.")

Owner-occupied.

"Owner-occupied" means the "domicile" of a person, as defined by California Elections Code Section 349, which generally means the place in which the person's habitation is fixed, wherein the person

has the intention of remaining, and to which, whenever he or she is absent, the person has the intent of returning. At a given time, a person may only have one domicile.

(San Luis Obispo defines 'Owner Occupancy' as: "a lawfully permitted dwelling that is occupied by the owner(s) named on the property deed as their primary residence and is occupied by them for the major portion of the year." San Jose defines 'Primary Residence' as: "a permanent resident's usual place of return for housing as documented by motor vehicle registration, driver's license, voter registration or other such evidence." Santa Monica defines a 'primary residence' as "considered to be a legal residence for the purpose of income tax and/or acquiring a mortgage.")

#. Responsible Person (or Responsible Party).

Means the occupant of an STR who is at least twenty-five (25) years of age and who shall be legally responsible for compliance of all occupants of the STR and / or visitors will all provisions of this Section.

(This definition was adapted from Palm Springs, but it should be noted that a number of other ordinances that I reviewed define the Responsible Party as what this ordinance currently calls the 'Local Contact Person.'

4. 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 30 consecutive days, or less.

#. Short Term Rental (STR)

"Short Term Rental" (STR) means a rental of any dwelling unit, in whole or in part, within the City of Trinidad, to any person(s) for transient use, other than a Homestay or a Bed and Breakfast.

(The effect of these regulations on the existing Bed and Breakfast should be considered. Should that use be included as an STR, or a different kind of use subject to a Use Permit and only allowed in certain zones?)

#. Short Term Rental: Type 1 (STR:1)

As described in my memo, I need some direction on how to define this.

5#. Short Term Rental: Type 2 (STR2) ~~Vacation Dwelling Unit.~~

~~"Short Term Rental: Type 2 ~~Vacation Dwelling Unit~~" (STR2 ~~VDU~~) means a non owner-occupied dwelling without a host, which is rented for transient use, and no one but the occupants and visitors of the occupants live in the dwelling while it is rented for use as a short term rental and the entire dwelling unit is rented for the purpose of overnight lodging for a period of not more than 30 days other than (1) ongoing month-to-month tenancy granted to the same renter for the same unit, (2) one less-than-30-day rental per year, or (3) a house exchange for which there is no payment. Short Term Rentals may include the use of accessory structures associated with a residence (e.g. garages, game rooms, etc.), but accessory structures that are not legal dwelling units shall not be, by themselves, a short term rental. means any structure, accessory structure, or portion of such structures, which is contracted for transient use. As used in this Section, the definition of "Vacation Dwelling Unit" encompasses any structure or any portion of any structure which is occupied or intended or designed for occupancy by tourists for dwelling, lodging or sleeping purposes, and includes any home or house, tourist home or house, mobile home or house trailer at a fixed location except when located within a mobile home park or RV park, or other similar structure or portion thereof. "Vacation Dwelling Unit" does not include home exchanges or a short term rental one time in a calendar year.~~

STR Watch List

"STR Watch List" means one or more Short Term Rentals that the City Manager has identified on the basis of good cause as STRs that warrant a higher level of oversight, scrutiny, review, or monitoring.

6. Visitor.

"Visitor" means someone staying temporarily at a VDU, such as guests of occupants, but that is not an "occupant" and not staying at the VDU overnight.

17.56.190 (6.26).C

Purpose.

The purpose of this Section is to provide for the renting of single- and multi-family dwellings, and accessory dwelling units, for periods of thirty consecutive days or less, as transient visitor accommodations, consistent with all other provisions of the General Plan and Zoning Ordinance, and 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.

17.56.190 (6.26).D

Application Requirements.

1. Initial Application.

a. Each VDU must procure a VDU License. ~~Existing VDUs must obtain a VDU License within 3 months of the adoption of this ordinance.~~ A VDU License issued pursuant to this Section shall also serve as a business license for rental activity pursuant to Chapter 5.04 of the Trinidad Municipal Code. The VDU License shall identify the existence of a VDU at a particular address and declare the number of bedrooms in the VDU and its intended maximum occupancy.

b. A site plan and floor plan must be submitted along with the VDU License application so the City can verify the number of bedrooms, off-street parking spaces, and other requirements. 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 that addresses the requirements of this Chapter shall also be provided.

c. At the time of application for a new STR, the dwelling shall be subject to inspection by the building official. The purpose of the inspection is to determine the conformance of the dwelling with the Uniform Building Code (date) and Zoning Ordinance. Prior to the issuance of the STR license, the owner of the dwelling shall make all necessary alterations to the dwelling as required by the Building Official to conform with applicable codes.

d. Each application for a VDU License shall be accompanied with proof of a general liability insurance in the amount of one million dollars combined single ~~limit and an executed agreement to indemnify, defend and hold the city harmless from any and all claims and liability of any kind whatsoever resulting from or arising out of the registration of a VDU.~~ In addition, the applicant shall sign an acknowledgement that they will operate the STR in accordance with all applicable rules and regulations, including this section, and that they will be held responsible for the behavior of their occupants and visitors.

(The hold harmless agreement was removed based on the suggestion of the City Manager. It has been an issue for some owners, and the City Attorney has assured him that it is not necessary to protect the City anyway.)

e. An initial VDU License Fee, as set by resolution of the City Council, will be charged for the first year of each VDU's operation.

f. The City will notify all property owners within ~~4~~300 feet of a VDU property of the VDU License within 7 days of its issuance or re-issuance. This notice may be combined with the required 24-hour emergency contact phone number notice required in subsection 3.b below. STR License information, including license number, address, maximum occupancy and 24-hour contact, will be posted on the City's website.

g. Upon initial application for a VDU License, the City shall provide all VDU licensees with copies of informational materials identifying protective measures for preventing and minimizing impacts to environmentally sensitive habitat areas, water resources, and septic systems from the vacation rental use of the residences. Such protective measures include, but not limited to: (1) avoiding human

encroachment into environmentally sensitive habitat areas; (2) directing or screening exterior lighting from illuminating riparian corridor areas; and (3) best management practices for the proper handling and disposal of trash and chlorinated water from hot tubs, swimming pools, and other spa facilities.

2. ~~VDU~~-STR License Renewals.

STR licenses shall be renewed annually. Renewals must be submitted by ~~on~~ February 1. New STRs that received a license after October 1 do not need to renew their license until the February after the license has been in place for a year. The fee for annual renewals for subsequent years shall be set by resolution of the City Council. Any changes to the site plan, floor plan, allowable occupancy, or rental agreement shall be submitted along with the license renewal application. Existing STRs that have not have an initial inspection as required by §17.56.190.D.1.c will be subject to such an inspection.

Although the renewal process includes a staff review of City records and other pertinent information specific to complaints, if any, that have been received about the particular STR, it is the intention of the City of Trinidad that there is a presumption that an application for renewal of a STR License for an existing VDU will be approved as long as all applicable standards are still met unless or until such time as the permit is revoked pursuant to §17.56.190.L (violations) or (refer to license activity requirement if included) or until the VDU license expires pursuant to (refer to property transfer) or if it is voluntarily withdrawn.

(This section mentions staff review of complaints as part of the renewal process. This should probably have more detail if that is to be the case, such as if a property has had over a certain number of complaints, only a provisional license will be granted. There is more discussion of provisional licenses or a license watch list in the violations and enforcement section.)

3. License Transferability.

Zoning Permits-STR Licenses shall run with the landowner and shall automatically expire upon sale or transfer of the property.

4. Application Wait List

It is the City's intention to maintain ### VDU Licenses. When an STR license becomes available, the City will accept a new application for a VDU License. The City will maintain a waiting list of property owners who are interested in obtaining a VDU License for their dwelling unit. A property owner may place his or her name on the waiting list at any time, but only once per property. Names will appear on the waiting list in the order in which they are received. When an opportunity for a new VDU License arises, the City will select the first name from the waiting list. That person will have 4590 days to submit a complete VDU License application, along with any other associated permit applications (Use Permit, OWTS Operating Permit, etc.). If the person so selected does not obtain a VDU License within 180 days, the next name will be selected from the waiting list.

53. Contact Information.

a. Local Contact Person.

Each VDU must designate a local contact person on the VDU License form. That person may be either the owner or the property manager, and that person must live within 205 miles of Trinidad so that he/she can and be able to respond personally to an emergency within 30 minutes.

b. 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 ~~4300~~ feet of the VDU within 107 business days after the issuance or reissuance of a VDU License for the VDU.

The emergency contact information sent to neighbors may include further instructions in the case that a response from the 24-hour emergency contact number is not forthcoming. If there is an emergency or complaint, and the emergency contact person does not respond within a reasonable period of time, concerned persons will be encouraged to report the emergency through the 911 emergency calling system or the Police or Sheriff's Department. It is unlawful to make a false report or complaint regarding activities associated with a VDU.

17.56.190 (6.26).E Maximum Number of Short Term Rentals

In order to preserve community character and an appropriate balance of residential, commercial and visitor-serving uses, the total number of STR permits issued by the City pursuant to this Section shall not exceed ~~##30~~.

17.56.190 (6.26).FE Effect on Existing Vacation Dwelling Units.

~~Existing VDUs, in excess of the number allowed in §17.56.190.??, or that do not meet the minimum distance between VDUs in the UR zone as required by §17.56.190.F, that hold a valid VDU license issued by the City, shall be allowed to continue to operate under that VDU license as long as the permit is renewed in accordance with §17.56.190.D.2 unless or until such time as the permit is revoked pursuant to §17.56.190.L (violations) or (refer to license activity requirement if included) or until the VDU license expires pursuant to (refer to property transfer). Each individual operating a VDU existing at the time the VDU Ordinance is adopted, including those currently holding a valid Trinidad Business License, shall be subject to the requirements of this Section of the Zoning Ordinance upon its adoption. The owner of an existing VDU which does not meet the requirements of this Section will not be issued a VDU License and shall not use the VDU structure for VDU purposes.~~

17.56.190 (6.26).GF Location.

~~VDU's STR's are permitted only in legally established dwelling units within any Special Environment, Suburban Residential, Urban Residential, and Planned Development zoning districts. VDUs are also permitted in a legally established Accessory Dwelling Unit subject to meeting the requirements of this Section. Each separate VDU must obtain its own, individual VDU License. There shall be no more than one VDU per parcel unless a Use Permit is approved by the Planning Commission.~~

Within the Urban Residential (UR) zone, no new STR shall be located within ~~###~~ foot radius around another existing STR. Distances shall be measured from the closest property line of the existing STR, to the closest property line of the property containing the proposed STR. This location standard can be modified through Planning Commission approval of a Use Permit.

(Note that these location exceptions are the only added exceptions in the ordinance. The only existing one was for parking. These exceptions will allow for the continued (or new) use of VDUs that are not causing problems but don't meet these new requirements. The use permit findings should work well for VDUs since they focus on neighborhood compatibility and address issue of noise, traffic, lighting, etc.)

17.56.190 (6.26).GH Non-Permitted Uses.

~~There shall be no permitted use of the VDU structure other than occupancy for dwelling, lodging, or sleeping purposes. Use for commercial events or events which are not hosted by the VDU's property owner are not permitted. No additional occupancy of the dwelling (with the exception of the property owner and private, non-paying guests) shall occur. An STR shall only be used for the purposes of occupancy as an STR or as a full-time occupied unit. No other use (e.g. home occupation, temporary event, homestay, etc.) shall be allowed on the site.~~

17.56.190 (6.26).H VDU Standards

All VDUs will be required to meet the following standards:

1. Number of Occupants.

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), less any residents, hosts or caretakers (define one or more of these). Except that in the Suburban Residential Zone, if the VDU has a total floor area that exceeds 800 square feet per bedroom, then for each additional 500 square feet of floor area above this total, one additional occupant may be allowed, up to a maximum of two additional occupants. On properties that are less than 8,000 sq. ft. in area, the maximum number of occupants allowed is two (2) persons per bedroom. Where it can be determined based on the Humboldt County Division of Environmental Health permit or file information or an actual inspection of the system, the number of bedrooms will be based on the design capacity of the septic system.

2. Off-Street Parking.

A VDU must provide at least one off-street parking space for every two occupants allowed in the VDU pursuant to Section 17.56.190 (6.26).H.1. The off-street parking space/s shall be entirely on the VDU property. VDU owner/operators shall not use public right-of-way (street) spaces to meet their required off-street parking needs. Off-street parking spaces will not be located on the septic system unless it is designed and rated for traffic in a manner that will not compromise the functioning of the septic system. Occupants will be required to utilize onsite parking prior to utilizing offsite and on-street parking as part of the rental contract but are not allowed to park onsite in undesignated parking spaces. Occupants and visitors shall be encouraged to not take up all of the available street parking of adjacent and nearby properties.

(Note that the intent of these additions is to minimize parking impacts, but the second part would not be enforceable.)

VDUs that have been in existence for a minimum of two years that can not feasibly comply with the parking requirements may apply for an administrative exception. Exception requests shall be made through the City Clerk and shall provide documentation (e.g. receipts or rental contracts) showing both that the VDU has been in active operation for a minimum of two years and the maximum rental occupancy over that period. The request shall include a detailed site plan and justification as to why the required parking spaces can not be accommodated on the site, as well as note where alternative parking is utilized. The City Planner shall only grant an exception to accommodate the documented maximum occupancy over the past two years. The City Planner may deny an exception request or approve the exception for fewer parking spaces than requested if the exception would be detrimental to the public health and safety.

(Should parking exceptions have a more formal process or require Planning Commission approval? Technically this section is probably no longer applicable because all existing VDUs have already been dealt with.)

#. Guest Registry

The STR owner or manager shall maintain an occupant and vehicle register for each tenancy of the STR. The register shall include the names, phone numbers, and vehicle license plate numbers for all occupants as well as the dates of the rental period. The guest registry must be available for City inspection upon request.

3. Water Use.

To prevent overloading of septic systems, each VDU shall be operated in a manner to ensure that the occupancy and use of a VDU shall not result in annual domestic water use greater than that associated with the non-VDU use of the residence based on an average daily consumption of 150 gallons per bedroom (7,324 cubic feet per year per bedroom) with a 30% allowance for landscaping above the design flow.

Where it can be determined based on the Humboldt County Division of Environmental Health permit or file information or an actual inspection of the system, the number of bedrooms will be based on the design of the septic system. Annual water use records will be kept on file along with the VDU License

and application materials to allow for verification that the VDU water use did not exceed allowable volumes as described above.

If the City determines that the VDU use has exceeded the appropriate average annual water usage, as described above, during the preceding year, the VDU owner/operator shall take constructive measures to reduce water use. Adaptive measures include, but are not limited to: (a) installing water conservation fixtures and appliances; (b) planting xerophytic landscaping; and/or (c) reducing the maximum occupancy of the VDU.

4. 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 all federal, state, and local regulations. 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.

5. 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 allowed by Section 17.56.160 (6.16). The VDU shall not create any noise, glare, flashing lights, vibrations, or odors that are not commonly experienced in residential areas or that would unreasonably interfere with the quiet use and enjoyment of any other residence or business in the area.

6. Signs.

A single sign, legible from the property's street frontage, and no greater than 3 square feet in size may 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. The signage shall comply with all applicable standards of the Zoning Ordinance's sign regulations.

7. 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 VDU.

8. Visitors.

The number of visitors to a VDU shall be limited to not more than ~~20~~ the allowable occupancy persons, including occupants, per parcel of the STR at any time. ~~If there is more than one VDU on a property, the 20 person maximum applies to the property, not each VDU.~~ Visitors are not allowed in the STR between 11 p.m. and 7 a.m. and shall not stay overnight on the premises. Regardless of the allowable occupancy, there shall be no more than 20 combined occupants and visitors on the premises at any time.

9. Noise.

Occupants of VDU properties and visitors shall not generate noise such that it would unreasonably interfere with the quiet use and enjoyment of any other residence or business in the area. 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. What is reasonable in terms of noise generated shall be determined under existing legal standards applicable to evaluating alleged nuisances.

10. Traffic.

Vehicles used and traffic generated by the VDU shall not exceed normal residential levels or unreasonably interfere with the quiet use and enjoyment of any other residences or businesses in the area. What is reasonable in terms of traffic generated shall be determined under existing legal standards applicable to evaluating alleged nuisances.

11. Tenancy.

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

12. Minimum Activity.

STRs and hosted STRs shall be rented for a minimum of 60 nights per year in order to maintain a VDU License. If the STR owner / manager fails to document rentals of at least 60 nights per year, the City Manager may determine that license is inactive and ineligible for renewal.

(This requirement could go here or up in the license process section)

132. 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 and ~~for~~ shall post the Good Neighbor Brochure in a clearly visible location within the VDU.

143. Emergency Preparedness.

Information regarding local hazards, such as earthquakes and ocean related hazards, 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, information regarding regular testing of the tsunami siren, the Volunteer Fire Department siren and real emergencies shall be included.

##. Transmittal of Rules

Prior to rental of an STR, the Responsible Person shall be provided with a list of rules and responsibilities, in a form approved by the City Manager. The Responsible Person shall initial each rule indicating that they have read it and sign an acknowledgement that infractions will not be tolerated and if any rules are broken, they occupants can be fined by the City, lose their security deposit and / or be evicted. In addition, the STR owner or manager shall meet at least one occupant on the day of their arrival in order to ensure that the rules are understood, and that the occupants have represented themselves correctly.

(Note that the idea of security deposits will have to be reviewed by the City Attorney and probably more added to the violations section to implement it.)

##. Administrative Standards and Rules

(a) The City Manager shall have the authority to impose additional standard conditions, applicable to all Short Terms Rentals, or Types, as necessary, to achieve the objectives of this Section. A list of all such additional standard conditions shall be maintained and on file in the office of the City Clerk and such offices as the City Manager designates.

(b) The City Manager shall have the authority to establish administrative rules and regulations consistent with the provisions of this Section for the purpose of interpreting, clarifying, carrying out, furthering, and enforcing the requirements and the provisions of this Chapter. A copy of such administrative rules and regulations shall be on file in the Office of the City Clerk.

Property Watch List

Notwithstanding the provisions of Subsection (##) above, upon a determination of good cause, the City Manager may impose additional or special standards or requirements for (1) the determination or placement of properties on the Property Watch List; (2) placement or imposition of special conditions or performance standards for Owners, Owner's Agents, Local Contact Persons, and their affected STRs on the Property Watch List; and (3) and removal of an STR from the Property Watch List.

17.56.190 (6.26).I Tourist Occupancy Tax.

The letting, leasing, or other contractual use of a VDU is subject to a Tourist Occupancy Tax ("TOT") and any other mandated taxes. Each VDU owner and/or manager shall meet all of the requirements of the City with respect to registration of TOT collectors, and the collection, recordkeeping, reporting and remittances of applicable TOT.

17.56.190 (6.26).J Audit & Inspection

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

17.56.190 (6.26).K Dispute Resolution.

By accepting a VDU License, VDU 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 VDU. Unless an alternative dispute resolution entity is agreed to by all parties involved, dispute resolution should be conducted through Humboldt Mediation Services.

17.56.190 (6.26).L Violations

1. Penalty

Violations of this Section are punishable as either infractions or misdemeanors, pursuant to the provisions of Section 17.76.050 (7.20) [the referenced section could also use a possible amendment] of the Zoning Ordinance. Each separate day in which a violation exists may be considered a separate violation. The City of Trinidad can also enforce these VDU regulations by way of nuisance abatement action. Enforcement by way of a nuisance action shall be discretionary and shall only occur upon a lawful vote of the Trinidad City Council to prosecute the matter as a civil nuisance action.

2. Revocation

If the VDU owner or property manager is deemed by City staff to be negligent in responding to an emergency-situation-complaint more than two times in a 12-month period, or if more than two documented, significant violations, defined below, occur in any 12-month period, the VDU License may be revoked. Documented, significant violations include, but are not limited to, copies of citations, written warnings, or other documentation filed by law enforcement. No revocation shall occur unless decided by a lawful majority vote of the Trinidad City Council and after written notice, served by first class mail, of at least 21 days was given to the owner of record and the local contact person as set forth in the VDU application. Revocation may be temporary or permanent depending on the nature and number of the violations.

Complaint as used in this subsection means the need or requirement to contact the Local Contact Person to rectify a situation that is disturbing to a neighbor or resident. Complaints, and their resolution, must be reported to the City Clerk's office by the Local Contact Person within two business days of being received.

(Would it be clearer to have these definitions in the definition section? Should provisions for a 'property watch list' (as used in Palm Springs) or other type of provisional / probationary license be included?)

As used in this subsection, significant violation is a situation where the Local Contact Person is either unable to unwilling to rectify the situation within a timely manner, and / or when public safety personnel must be called to assist in resolving the situation. Examples of significant violations include, but are not limited to:

(i) Failure of the local contact person, owner or manager to respond to a complaint within a timely manner [timely manner may need to be defined]

(ii) The inability of City staff or the Sherriff's Dispatch to reach a contact person.

(#) Failure to maintain or provide the required guest registry.

(iii) Violation of the STR maximum occupancy, parking, noise and other requirements as set forth in Section 17.56.190.H.

(iv) Failure to notify City staff when the contact person or contact information changes.

(v) Failure to pay fees or TOT in accordance with this Section.

(vi) Providing false or misleading information on a VDU License application or other documentation as required by this Section.

(vii) Violations of state or County, or City health regulations

Examples of acceptable documentation of significant violations include, but are not limited to:
(i) Copies of citations, written warnings or other documentation filed by law enforcement.
(ii) City file information.
(iii) Advertisements for the VDU
(iv) Signed affidavits and / or photographic evidence from neighbors or other witnesses
(v) Other documents which substantiate allegations of significant violations.—

3. The City Manager shall have the authority to determine what constitutes a significant violation, as necessary, to achieve the objectives of this Section. A list of all such additional significant violations shall be maintained and on file in the office of the City Clerk and such offices as the City Manager designates.

3. It is unlawful to make a false report to law enforcement regarding activities associated with vacation rentals.

17.56.190 (6.26).M

Ordinance Review

This ordinance shall be reviewed by the Planning Commission within two years after its certification, and periodically thereafter, to ensure that it is meeting the needs of the community.