



## MEMORANDUM

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**To:** Trinidad Planning Commission  
**FROM:** Trever Parker, City Planner  
**DATE:** July 12, 2016  
**RE:** VDU Agenda Item (July 20)

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Some good progress was made at the last meeting in discussing and voting on several key issues that were included in the table below (now updated). I have also updated the ordinance amendment based on the decisions last week. The latest changes are in purple. However, making those changes also brought up additional questions and possible changes that need to be considered.

I left in all of the definitions currently in the amendment (some of which have been added and since deleted with strikethroughs), since that is still a topic under discussion. Currently in the ordinance amendment, all types of STRs are treated the same. The main types of STRs that we have discussed and reviewed in other ordinances include the following.

- STR as an overarching term that describes all types.
- Non-hosted STR – entire homes rented without a host (as currently defined, may or may not be rented year-round).
- Hosted STR – an entire or a partial home rented for transient use that has a 'host,' manager or owner living onsite (but may or may not live in the STR).
- Owner-occupied STR – An entire house that is the primary residence of the owner and rented for less the half the year.
- Homestay – a portion of a home (e.g. bedrooms) that is rented out while the owner (or potentially a long-term tenant) is living in the residence while it is rented.

Initial lottery: If an STR that does not meet the buffer is drawn in the lottery, would the owner be allowed to substitute another property that does meet the buffer? Are owners of STRs that are drawn but do not meet the buffer allowed to apply for a use permit / exception to the buffer? How does that work with the cap (e.g. Are they only allowed to apply for a buffer exception if there is space under the cap? And if so, do you leave an allowance under the cap for them? Because if the lottery continues until the cap is met, then there is no room for them to apply for an exception, unless there aren't 19 that can meet the buffer, which is fairly likely.) I know that drawing numbers was suggested for the lottery. But I'm not sure what the advantage of that would be over names or addresses, but it is certainly up for discussion.

Subsequent lotteries: How do you want to handle this? A license becomes available under the cap. There is a pool of people who have submitted their names to be in the next lottery (the pool would have to be by zone). A name is drawn, the property meets the buffer, great. A name is drawn and the property does not meet the buffer. Is the next name then drawn, or is the first person given a chance to apply for an exception?

Use permit / exception: While it would be easiest to be able to refer to an existing process such conditional use permits, I don't think it will work for STRs within the existing regulations. For one thing, conditional use permits generally run with the land, and I don't think that the City can legally limit their transferability or put a time limit on them. Also, it would probably be best to modify the findings so they are more specific to STR issues. It could be called a different type of STR license. (Note that I could not find a legal distinction between the terms 'license' and 'permit.' Though licenses are more commonly used for operational allowances, which seems consistent with STRs.) I have included the existing use permit findings below for discussion.

Buffer: How should the buffer be applied to non-UR zoned properties within 100 ft. of a VDU/STR in the UR zone? As currently written, the buffer would also apply between a VDU/STR in the UR zone and one in any other zone, including commercial and mixed use zoned parcels.

Parking exceptions: I removed the parking exception language, because it only applied to VDUs in existence when the first ordinance was adopted. I did add language that those STRs that were previously granted a parking exception would be allowed to continue for the permit term (5 years), but this could be given further consideration.

| ISSUE  | PLANNING COMMISSION RECOMMENDATION  | KEY REASONS  | VOTE                              |
|--|---|--|-----------------------------------|
| Should there be any limit or cap on VDUs?              | Yes   | <ul style="list-style-type: none"> <li>• Too many existing VDUs</li> <li>• Change community character</li> <li>• Neighborhood conflicts</li> <li>• Decreased affordability</li> </ul>                                      | NA (general agreement)            |
| Cap Details – How many, and what mechanism.            | Fixed number by zone: <ul style="list-style-type: none"> <li>• UR: 19</li> <li>• SR: 6</li> </ul> | <ul style="list-style-type: none"> <li>• Similar reasons as above</li> <li>• UR = 15% of developed lots (% does not include second units)</li> <li>• SR = 20% of developed lots</li> </ul>                                 | This was not officially voted on. |
| Density / buffer restriction*                          | 100 ft. from property lines   | For: <ul style="list-style-type: none"> <li>• Reduce clustering</li> <li>• Increase neighbors</li> </ul> Against: <ul style="list-style-type: none"> <li>• Buffer is unnecessary</li> <li>• Buffer is too small</li> </ul> | 3-2                               |
| Treat partial owner-occupied (or hosted*) differently? | Hosted and non-hosted is the distinction in the current amendment.                                | Having a host present on the property reduces the likelihood of nuisance impacts   | NA                                |

| ISSUE   | PLANNING COMMISSION RECOMMENDATION  | KEY REASONS   | VOTE  |
|---|---|---|---|
| Require 'activity' on License?  | 60 days activity (nights rented) per year.  | To ensure STRs (VDUs) are providing the intended benefits to visitors and providing TOT revenue.  | 4-1 I thought this was voted on, but don't have a vote in my notes. |
| License Term  | 1) Annual renewals<br>2) with a 5 year maximum limit  | For:<br>1) Review each year for compliance and complaints<br>2) Increase opportunities for all property owners and easier to remove later than add if necessary<br>Against (2):<br>• Too limiting<br>• Harms VDUs/STRs that aren't causing problems | 1) 5-0<br>2) 3-2  |
| Transferability of Permits  | Not transferable except for specific exceptions for immediate family (spouse, kids) and family trusts.          |   | 5-0   |
| If a cap goes into place that is lower than current VDU #, how do we get there? | • Lottery after amortization period, with each existing VDU in the UR zone going into the pool.                 | For: Balance speed and fairness<br>Against: Too complicated; unnecessary  | 4-1   |
| How do we manage a waiting list for permits?                                    | • Lottery   | Fairness: gives everyone a chance   | (same as above)   |
| Other Issues*:  | Enforcement is the big issue, but there is a long list of other, mostly minor, amendments that have been added. |   | NA  |

\*Not part of the Council recommendation table

I thought the license activity requirement had been voted on. I have a discussion in my notes, but not a vote. Does anyone recall, or should there be a new vote?

I would like to get the Planning Commission's input on all of the information included in the table. This includes what columns / information to include and particularly the key reasons for decisions.

I did like the suggestion that the owner or manager be responsible for notifying neighbors. I have seen examples of this kind of language in other ordinances, but did not have a chance to provide any examples yet. I can try to provide that before or at the meeting though. There are a couple of options for implementing that requirement to ensure it gets done. One way would be to have the owner / manager provide the City with all or some of the information (stamps, envelopes, labels, Local Contact Person and 24-hour Emergency Contact, etc.) for the City to mail. Or the owner / manager could be required to submit a signed affidavit that it was sent with a list of neighboring property owners it was sent to and a copy of what was sent.

17.72.040 *Conditional use permit findings.* A conditional use permit may be granted for any use listed as a conditional use in the applicable zone if the facts establish and written findings are adopted showing:

- A. *That the proposed use at the size and intensity contemplated, and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community; and*
- B. *That such use as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:*
  1. *The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures,*
  2. *The accessibility and traffic pattern for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading,*
  3. *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor,*
  4. *Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and*
- C. *That such use or feature as proposed will comply with the applicable provisions of this title, will be consistent with the policies and programs of the general plan and will assist in carrying out and be in conformity with the Trinidad coastal program.*
- D. *That the proposed use or feature will have no significant adverse environmental impact or there are no feasible alternatives, or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the actions allowed by the conditional use permit may have on the environment.*
- E. *When the subject property is located between the sea and the first public road paralleling the sea or within three hundred feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater, that:*
  1. *The development provides adequate physical access or public or private commercial use and does not interfere with such uses,*
  2. *The development adequately protects public views from any public road or from a recreational area to, and along, the coast,*
  3. *The development is compatible with the established physical scale of the area,*
  4. *The development does not significantly alter existing natural landforms,*
  5. *The development complies with shoreline erosion and geologic setback requirements. (Ord. 166 §7.09, 1979)*



**ORDINANCE 2014-01**

**AN ORDINANCE OF THE CITY OF TRINIDAD  
AMENDING ~~DDING~~ REPEALING EXISTING SECTION 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 AMENDING 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 SECTION  
17.56.060 OF THE TRINIDAD MUNICIPAL CODE (AMENDING SECTION 6.069 OF 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 2014-01, 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, specific to each STR, 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 no more than the maximum allowed occupancy 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. The host must be present on the same property as the Short Term Rental at all times between the hours of 10pm and 6am while it is being rented for Transient Use.

(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 a person, not a host, owner, guest or tenant, renting or occupying an STR in accordance with this section and staying overnight therein. 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 with 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# ~~Non-hosted Short Term Rental: Type 2 (STR2) Vacation Dwelling Unit.~~

"Non-hosted Short Term Rental: Type 2 Vacation Dwelling Unit" (STR2VDU) 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 use 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 non-hosted 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~~Short Term Rentals 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 and includes any forms as required by the City Manager, 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 applicable City regulations, 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/Inspector to conform with applicable codes. This does not mean that the dwelling has to be brought into conformance with current building codes unless, in the opinion of the Building Inspector, the work is necessary to protect public health and safety.~~

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 can will be held responsible for the behavior of their occupants and visitors in accordance with this Section.

~~(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 ~~4300~~ 300 feet of a VDU property of the VDU License within ~~107~~ working 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.

*(I changed this from 7 days to 10-working days to make it consistent with the 24-hour emergency contact notification requirements below.)*

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 17.56.190.H.12 (refer to license activity requirement if included) or until the VDU license expires pursuant to 17.56.190.D.3 (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. Initial License UR Zone Lottery.

After a \_\_\_\_\_ amortization period, all existing STRs within the UR Zone will be subject to a lottery in order to bring the number down to the established cap. All existing STRs within the UR zone shall be allowed to participate in the lottery. The City shall draw the first STR at random, and that owner shall be allowed to renew their STR license in accordance with this section. After that, the City will continue to draw STRs at random until the cap is met. If an STR is drawn and it does not meet the buffer, as required by §17.56.190.G, from another STR that has already been drawn, then the owner will not be allowed to renew that STR license and another name will be drawn. This process shall continue until the cap is met or there are no more names to draw. Once all the names are drawn, those that did not meet the buffer requirement shall be allowed to apply for (an exception) in the order in which their STRs were drawn.

*(Since only the UR zone has a cap that is less than the existing number of VDUs, this section would only apply to the UR zone. I did not worry too much about the exact language at this time, which probably needs some tweaking.)*

## 3. License Transferability.

Zoning Permits-STR Licenses shall run with the landowner and shall automatically expire upon sale or transfer of the property, except that a one-time transfer between spouses, children or a family trust is allowed.

#### 4. Application Wait List & Lottery

It is the City's intention to maintain ##19 STRVDU Licenses in the UR Zone and 6 in the SR Zone. When an STR license becomes available in one of those zones, the City will accept a new application hold a lottery to allocate that STR for a VDU License. The City will maintain a waiting list for each zone 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. The City will randomly draw a name from the waiting list for the appropriate zone. 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. If the property meets the UR zone buffer restriction that person owner 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 property does not meet the UR zone buffer restriction, or if the person so selected does not obtain a VDU License within 180 days, the next name will be selected from the waiting list. City will draw another name from the waiting list for that zone.

#### 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.

*(Should the local contact person and 24-hour emergency contact be required to be the same? What is the difference between these?)*

##### 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-an emergency through the 911 emergency calling system or the Police or Sheriff's Department for other complaints. 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 Non-hosted STR permits issued by the City pursuant to this Section shall not exceed 19 in the UR Zone and 6 in the SR Zone##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.E22, or that do not meet the minimum distance between VDUs in the UR zone as required by §17.56.190.GF, 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 17.56.190.H.12 (refer to license activity requirement if included) or until the VDU license expires pursuant to 17.56.190.D.3 (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 10050### feet radius around from another existing STR within the Urban Residential (UR) zone. Distances shall be measured from the closest center of the property line of with 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 STRVDU 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 are do not meet the minimum distance restriction of §1756.190.G, 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. STRs that were previously granted a parking exception by the City may continue to

operate under that exception for the term of their permit. 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.

~~*(I don't know if this is really a standard, or if it should be in another section, such as licensing.)*~~

### 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 of 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~~ 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.

**ORDINANCE 2016-##, SECTION 2:**

Revise Chapter 17.56, Section 17.56.060, Home Occupations, (Article 6, Section 6.06, Home Occupations) to read, in context, as follows:

**17.56.060 Home occupations.**

Home occupations, including but not limited to sewing, music studios, art studios, home and health care product distributors, bookkeeping, rooming and boarding, of not more than two persons, including tourists, shall be permitted as an accessory use to any dwelling subject to the following conditions:...