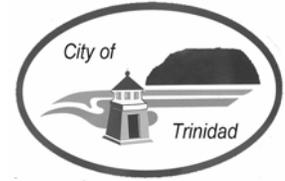


TRINIDAD PLANNING COMMISSION DISCUSSION / ACTION AGENDA ITEM



Wednesday, July 19, 2017

Item: Reinman/RCVR Appeal of Staff Determination: Appeal of a determination by City Manager Dan Berman on August 28, 2017 that a significant violation occurred pursuant to §17.56.190.R of the City's Short Term Rental (STR) Ordinance at the STR known as Paloma Creek Lodge. The complaint/violation, which occurred on July 22-23, 2017, was related to noise standards, visitor and occupancy restrictions, emergency contact response and the required guest registry. Located at 178 Parker Creek Road; APN: 042-063-38.

Appeal Information

The City received two complaints regarding several incidences that occurred at the Short Term Rental (STR) known as Paloma Creek Lodge, 178 Parker Creek Drive, between July 21 and July 24, 2017. After meeting with the involved parties, and reviewing the evidence presented by both sides, the City Manager determined that a Significant Violation, as defined in §17.56.190.R of the City's STR Ordinance, occurred. A letter outlining the reasons for the determination was mailed and emailed to the owner/manager on August 28, 2017. That decision was appealed by email on August 28, 2017 and by a follow-up letter on September 11, 2017 stating the reasons for the appeal. The City received another letter, dated September 29, 2017, from an attorney representing the owner/manager objecting to the Significant Violation determination. The original complaint, file information, City Manager's determination, the appellant's responses and the STR Ordinance are attached to this report.

Section 17.72.100 of the City's Zoning Ordinance allows staff determinations to be appealed to the Planning Commission within 10 working days of being notified of the decision. The Planning Commission must hold a public hearing on such appeals. And the Planning Commission's decision is similarly appealable to the City Council. However, the Council decision is not appealable to the Coastal Commission in this case, because it is not related to a Coastal Development Permit.

The Planning Commission should consider the evidence that has been provided by all parties, as well as any public comments provided at the hearing, and the requirements of the City's STR Ordinance. Based on this information, the Planning Commission will decide whether to overturn, modify or uphold the City Manager's decision. Neither the Zoning Ordinance, nor the STR Ordinance provides specific guidance on making that determination.

Background

Section 17.56.190.R of the STR Ordinance authorizes the City Manager to issue fines and take other enforcement measures for violations of the ordinance. Subsection 6 provides examples of significant violations, and subsection 2 provides guidance for fines. One of the reasons for the City Manager's determination was the number of violations that occurred and the disturbance it caused to the neighborhood. While not all of the violations can be proven based on the evidence available to the City (e.g. whether a phone call or just texts were placed to the appropriate 24-hour emergency number by the complainant), it does seem clear that there was a noise violation and visitor and/or occupancy violations.

Section 17.56.190.M.2 (Noise) of the STR Ordinance states that: *"Any noise occurring after 10:00 p.m. and before 7:00 a.m. should be contained within the STR and shall not be able to be heard by or offend any adjacent neighbors."* Call logs show that the neighbor called and texted the property manager, Redwood Coast Vacation Rentals (RCVC), regarding barking dogs in a parked vehicle just before midnight on July 22 and again before 7:00 a.m. on July 23. Although the STR occupants stated that they did not hear the dogs barking again after midnight, there does not seem to be any dispute that they were barking up until midnight, which is well after the 10 p.m. quiet hour.

Section 17.56.190.M.4 (Visitors) states that: *"Visitors are not allowed in the STR between 11 p.m. and 7 a.m."* The response to the complaint from RCVR refers to the dog owner as "a visitor to our Paloma guests" and acknowledged that they were there at midnight. While there was an attempt by RCVR to address the noise issue, it does not appear that there was any attempt to address the fact that visitors were there past the 11 p.m. cut-off. Further, the letter from the renter stated that they had guests (18 people total) late on Saturday, and that one of their "guests" was the one with the dogs in the car. Again, this confirms that they had visitors well past 11 p.m. Further, it appears that this particular "guest" stayed overnight in violation of §17.56.190.M.4, since the car was still there before 7 a.m. By default, this apparently was also a violation of the occupancy requirements, since the renter's letter of July 28, 2017 indicated that they already had 10 occupants (2 sets of parents, each with 3 adult children), so any visitor that stayed the night would have put them over the maximum occupancy (§17.56.190.M.3) of 10 adults.

No guest registry, as required by §17.56.190.M.5, was collected by RCVR for this rental, which could have helped shed light on what actually happened. The attorneys for RCVR argue that the booking was made prior to the guest registry requirement of the new STR ordinance. However, the ordinance does not "grandfather" existing bookings, but took effect immediately upon certification by the Coastal Commission on June 8, 2017. The City Manager sent a letter to all STR owners and managers on June 15th extending the existing VDU licenses through September 30, 2017. The letter noted that: *"This extension allows STR occupancy to continue as currently licensed through September, but*

it does not delay the effective date of other components of the revised Ordinance..” This means that RCVR was still responsible for collecting that information for rentals that occurred after the effective date, which this one did.

There were also some irregularities with the 24-hour emergency number and response. But regardless of that, it appears there was a timely response from RCVC. The issue of potentially parking on private property is not an STR Ordinance issue or violation. So these parts of the complaint are not clearly violations. However, as described above, the evidence provided to the City indicates that several violations did occur.

Section 17.56.190.R.6 gives the City Manager authority to determine what constitutes a significant violation. Examples of significant violations are also provided and include:

- (iii) Failure to maintain or provide the required guest registry.*
- (iv) Violation of the STR maximum occupancy, parking, noise and other requirements set forth in section 17.56.190.H (should refer to 17.56.190.M in the new ordinance).*
- (x) Repeated minor violations and / or complaints.*

Planning Commission Options

At this point, the Planning Commission has four basic options: (1) uphold the City’s Manager’s determination that a significant violation occurred and the fine amount of \$200; (2) modify the decision, such as by removing the “significant” determination or altering the fine amount; (3) uphold the appeal by eliminating the fine and the “significant” determination; or (4) continuing the hearing in order to request additional information. In making your decision, the Planning Commission should consider not just what their determination would be in this instance, but whether the City Manager’s decision was reasonable in light of the STR Ordinance and supported by the available evidence.

Staff Recommendation

Review the background information, receive public comment, and discuss the appeal. Based on the evidence provided to the City, it appears that several violations did occur, which resulted in disturbance to the neighborhood. The City Manager’s decision was based on that evidence and was consistent with the provisions of the City’s STR Ordinance. The City Planner recommends that the Planning Commission uphold the City’s Manager’s determination and deny the appeal. A motion could be similar to the following:

Based on the evidence in the file record, the requirements of the STR Ordinance and public testimony, I find that the City Manager’s decision was reasonable and correct, and I move to deny the appeal.



City of Trinidad

August 28th, 2017

Mike Reinman
89 E. 15th St.
Arcata, CA 95521

Re: STR Complaints at Paloma Lodge (178 Parker Creek Road).

Dear Mr. Reinman.

The City received two complaints in late July regarding disturbances related to your short term rental operated by Redwood Coast Vacation Rentals (RCVR) at Paloma Lodge. Thank you for meeting with me and providing information regarding these incidents to help the City investigate them. This letter describes the City's decisions in resolving these complaints.

July 21st Complaint -

The first complaint was related to an interaction in the street between a neighbor and your STR guests on July 21st. The neighbor was concerned about vehicle speed on the street, spoke directly to your guests, and the interaction became hostile. Both parties are accusing the other of vulgarity and hostility.

This is unfortunate, but is not being considered an STR ordinance issue or violation by the City. I do encourage you to emphasize slow and cautious driving to your guests on the unpaved and bumpy road to Paloma Lodge, and civility with the neighbors.

July 22nd-23rd Complaint

The second complaint involves dogs barking in a parked vehicle at Paloma Lodge at approximately midnight on Saturday July 22nd, and challenges with the response to this problem.

Staff has determined that this incident involves multiple violations of the STR Ordinance, as summarized below:

1) Violation of Noise Standards. (Ordinance 2016-03 Section M. 2) The barking dogs disturbed the neighbor after 11:30 pm. The Ordinance states that noise after 10 pm should be contained within the STR. The complainant reports that barking continued well after he spoke with a manager. He also reports this was the second night of these dogs barking in the car at this location.

2) Violation of Visitor Standards. (Ordinance 2016-03 Section M. 4) Visitors to STR guests are not allowed to stay after 11 pm, and shall not stay overnight. The information provided to the City is clear that the car with dogs belonged to a visitor, not the STR guests, the car was there after 11

pm, and the car was still there Sunday morning. The car was also there on Monday morning. It seems clear that the 'visitor' stayed overnight at least one night.

3) Emergency Contact Response. (Ordinance 2016-03 Section R.6 paragraph 2)

The complainant states that he called the 24 hour emergency number, the call went to voicemail, and he left a voicemail message. His call log, inspected by City staff, validates his account in terms of the number dialed and the call duration. The City expects every call to the 24 hour emergency contact number to get a live person, or rapid call back.

RCVR has provided conflicting information, stating that no call was received that night at the 24 hour contact number. They included a printout of a call log that does not show the complaint call received. The printout does not clearly identify the dates involved, or the number of the phone the screenshot was captured from.

Without a forensic cellphone log investigation, this may be difficult to resolve more clearly. The best information available to the City is that the complainant's phone shows a completed call to the 24 hour emergency number, with a near 1 minute duration, at the time in question. The fact that this call did not succeed in getting a response is a major concern to the City.

The complainant then called another number for RCVR. That call reached a property manager who called the home and asked for the barking dogs to be addressed. So a manager was contacted (not at the 24 hour emergency number) and did conduct the initial step of a response, requesting the guests address the issue. However it does not appear that the RCVR manager did anything more to ensure the issue was resolved, or to get back to the neighbor. The neighbor reports that the dogs continued to bark for some time, and the car was in the same place at the house early the next morning.

4) Parking – the car in question was parked on private property (the Saunders lot) off of Parker Creek Rd on Monday morning the 24th. RCVR has been previously informed that this lot is private property and not available for parking. That information needs to be clearly conveyed to your guests.

5) Guest registry – (Ordinance 2016-03 Section M. 5).

RCVR is responsible for maintaining an occupant and vehicle registry that is available to City staff. It was not available for this set of guests. Staff understands that reservations made prior to this (newer) requirement being in place did not collect this information, but this incident is a clear example of how it will help to have clear records of what vehicles belong to guests as opposed to visitors to those guests.

Significant Violation and Administrative Fine

This letter serves as notice that I have made the determination that the events of July 22 described above, taken together, constitute a significant violation of the City's STR Ordinance, as detailed in section R.6 of that Ordinance.

This decision is based on the information available to the City, including the complaint received, and the information provided by you, your property managers, and your guests.

The STR Ordinance provides that if more than two significant violations occur in any 12 month period, the City can impose additional conditions, up to and including the revocation of the STR license for this property. Any such action would go before the City Council for consideration.

I am authorized to impose administrative penalties in an amount up to \$1000 per day for each violation of the ordinance. I am hereby imposing the recommended initial fine of \$200.00, due within thirty days of receipt of this letter.

You have the option of appealing this administrative decision. To do so you must notify the City of your appeal within ten working days of receipt of this letter. That appeal would be considered by the Planning Commission, and their decision could be appealed to the City Council.

Please feel free to call me at 677-3876 or email me at citymanager@trinidad.ca.gov if you have any questions.

Sincerely,



Daniel Berman
City Manager

RECEIVED

COPY

JUL 21 '17

CITY OF TRINIDAD
P.O. BOX 390
TRINIDAD, CA 95570

CITY OF TRINIDAD



CITIZEN COMPLAINT FORM

DATE: 7.21.17

TIME: 11:15AM

SUBJECT OF COMPLAINT: Paloma Vacation Rental

DETAILS OF COMPLAINT: I asked the driver of car (silver Traverse SUV 6VNN216) going down to the STR to please slow down on Parker Cr.

Cr. Dr. / Trail. He then started calling me names telling his kids and family that that I am one of Trinidads pricks / assholes / fuckers amongst other choice

names. He stated Trinidad is full of jerks and I am a good example of one. He called out to his group and repeated his vulgar verbal abuse of me as I walked

back to my house. Two cars, the SUV and a white Prius, just left as I am typing this with their stereos bass extra loud, retaliation?

*** OPTIONAL INFORMATION ***

NAME: Jacques Beaupre

TELEPHONE: 707.499.8309

ADDRESS: P O Box 1177

EMAIL: jqs.beaupre@gmail.com

SIGNATURE: *Jacques Beaupre*

REPLY REQUESTED : YES NO

NOTE: INFORMATION CONTAINED IN THIS FORM MAY BE SUBJECT TO REVIEW THROUGH THE PUBLIC RECORDS ACT

*** OFFICIAL USE ONLY ***

DATE & TIME COMPLAINT RECEIVED: 1:40 pm / 07/21/17 COMPLAINT #

COMPLAINT RECEIVED BY: *[Signature]* IN PERSON MAIL EMAIL TELEPHONE

ACTION TAKEN:

CITY OF TRINIDAD
P.O. BOX 390
TRINIDAD, CA 95570



CITIZEN COMPLAINT FORM

DATE: July 22-24

TIME: Weekend 2nd COMPLAINT

SUBJECT OF COMPLAINT: Barking dogs locked in a SUV at Paloma STR/VDU

DETAILS OF COMPLAINT: Dogs were left locked in a SUV overnight, 2 nights, at Paloma Lodge

STR/VDU. The dogs were barking and seemed distressed. This is against the law and inhumane.

I called all the numbers that were given to me concerning Paloma. My calls started at 11:54PM with a voice mail left on Dori Fulks cell # 601-1938, call was 49 seconds long. Party went on till 2AM

First response back from Paloma managment (Dori) was at 7.23 2:13PM stating I did not

call the right way. PLEASE SEE ATTACHED FOR TIME LINE.

*** OPTIONAL INFORMATION ***

NAME: Jacques Beaupre

TELEPHONE: 707-499-8309

ADDRESS: 231 Parker Crk Rd P O Box 1177

EMAIL: jcqs.beaupre@gmail.com

SIGNATURE: Jacques Beaupre

REPLY REQUESTED : YES NO

NOTE: INFORMATION CONTAINED IN THIS FORM MAY BE SUBJECT TO REVIEW THROUGH THE PUBLIC RECORDS ACT

*** OFFICIAL USE ONLY ***

DATE & TIME COMPLAINT RECEIVED:

COMPLAINT #

COMPLAINT RECEIVED BY:

IN PERSON MAIL EMAIL TELEPHONE

ACTION TAKEN:

Phone and Text history of PALOMA LODGE complaint 7.21.17 to 7.24.17

7.21.17 11:20AM Dori Fulk / Dan Berman: **TEXT about angry driver with picture.**

Dori's text stating she will give them a call.

Text back to Dori with more info

11:29AM Text from Dori stating she gave a stern talk...

1:40PM Filed a complaint form with Trinidad.

7.22 and 7.23

11:54PM Called Dori 601-1938; Left voice mail about dogs in SUV, call was 49 seconds long.

11:58PM Called Mike Reinman; Sounded like I woke up a women, asked if Mike is there, told her about the dogs, she said she would take care of It.
Dogs continued to bark, party went on till 2AM. Did not hear back from the sleepy woman.

12:05AM Text to Dori / Dan; Picture of SUV with dogs, text is about the dogs in the car.

7.23 6:58AM Text to Dori / Dan; Pictures of dogs in car, text states party continued Dogs still in car.

2:31PM Dori text to me stating I should have called and not texted. Also **"we have addressed the guests. Late last night and this morning"**

7.24 8:31AM Text to Dori / Dan; Stating the same SUV with dogs parked on Saunders property across from the Torres house. Text states this but auto correct messes it up.

Dori texts back they will be gone today.

Our response to Jacque Beaupre's complaint about dogs left in car of friend of our guests at Paloma on Saturday evening, July 22.

In summary, a visitor to our Paloma guests had left 2 dogs in his car while visiting his friends at Paloma on the evening of Saturday, July 22nd. The dogs would bark for about 1 minute when people would walk by the car. We were texted about it by Mr. Beaupre but, because texts are not the protocol for issues like this, and because the phone call was forwarded to our coverage person, not Dori at the time, our people that were on duty did not receive those text messages. Jacque never called the number that he was calling according to our records. There were no missed calls or voicemails from him. He then called Mr. Reinman's phone #, even though this is not protocol and, as stated above, he did not call the Emergency contact #. Upon calling Mr. Reinman's #, he reached Samantha Wise, another manager of ours in McKinleyville. She answered the phone on his first call, apologized for the issue and said she would resolve it. Mr. Beaupre did not request a call back for confirmation. Ms. Wise then immediately called the guest. The guest apologized, stating that they did not hear the dogs barking and would have the car moved immediately. Samantha then heard the guest relaying the information to the person with the car. Our on-site resident, Bert Kilborne, stated that the barking did stop at that time, approximately midnight. The renter has also reiterated that the car was moved immediately upon receiving the call from us. We handled the issue exactly as is required in this situation. Our phone call logs are attached as well.

Notes from Samantha Wise:

On Saturday Night 7/22/2015, I received a call from 707-499-8309 at 11:58 pm. The call was brief. I was asked if this was the Reinmans residence and I replied it was not, that this was Samantha one of Mike Reinman and RCVR's employees. I was then informed that there were dogs barking inside a car in front of the Paloma house. I said thank you for informing me, I will call the guests immediately and we hung up.

I called the Paloma house landline at 11:59 pm. A woman answered and the call was brief. I identified myself as Samantha from RCVR and that the neighbor was calling about barking dogs in a car in front of the house. The woman replied that she would take care of it. I said thank you and I heard her directing the message to another person as we both hung up.

Notes from Dori Fulk:

July 21 11:21 AM

Received text message from Jacq regarding asking a guest to slow down, and some exchange.

July 21 11:24 AM

I called the guest who rented the home and read the text to her. She was embarrassed and said she would speak to everyone again. She apologized profusely.

July 22 AM

I was off work on the 22nd so my phone line was forwarded to Haley. Jacq had sent a few texts regarding dogs barking in a GMC. Unfortunately, there was a delay in response time because he had only sent texts, and had not called. He did call Mike's number, I was informed, which was forwarded to Sam, and she did call Paloma House immediately after speaking with Jacque and ask our guests to ask their visiting friends to move the car.

July 23 7:07 PM

I made an unannounced visit to the home to assess home and guests. I did this to catch them off-guard. I met up with renter (the mom), uncle, son, a friend, and 2 others. I stayed a while to discuss Jack's complaints and complaints that they had called me about. No issues observed during the time I was there. I questioned about the barking dogs from the previous night, and they said they spoke with Sam and that they moved the car immediately. The mother and uncle said they did not hear the dogs, and the caretaker said he did not hear the dogs after midnight.

July 24 8:17 AM

Received a call from Jacque, but the phone hung up as soon as I picked it up (see copy of attached phone log) and I immediately called back and left a voice message. Shortly thereafter (8:31AM) I received texts regarding GMC parked in Saunders field. (Note from Mike: Isn't this not Jacques concerned because it is private property owned by Saunders?). I contacted our guests to ask their friends to remove the car. I followed up with reply text after contacting guest, that car will be gone today. Guests were just checking out.

July 24 11:01AM

Did a post guest walk-through. Cleaners were to inform me of anything unusual or any sign of pets in the home or on the property to ensure those people were not staying here.

Received this email post-clean:

Misc. notes –

Haley's phone log attached from Saturday, as she said she received no calls past 8PM ish, and no message from Jacq. Also, any calls left on her machine would have said, You have reached Haley @...not Dori.

This home was booked in August 2016, prior to documenting/registering plate IDs.



3:41



Call details



Paloma

Home (707) 677-5225

Calls list

↗ **Outgoing call**

Saturday, July 22, 2017, 11:59 PM

0 mins 45 secs





(707) 499-8309

California

Calls list

Incoming call

Saturday, July 22, 2017, 11:58 PM

0 mins 32 secs

July 28, 2017

Dori

Redwood Coast Vacation Reality

Re: complaint letter Paloma Creek Lodge

Per your request I am writing to formally lodge my complaint about our recent rental of the Paloma Creek Lodge, 187 Parker Creek Drive, Trinidad, CA, which we occupied from Thursday July 20 – Monday July 24, 2017.

On Thursday July 20 we moved in to the Paloma Creek Lodge. My wife and I along with our three adult children joined my brother and sister-in-law, **XXXXXXXXXXXX**, and their family of three adult children sometime in the afternoon. We were there to celebrate the wedding weekend for **XXXXXXXXXXXX**. The Paloma Creek Lodge was one of eight homes my extended family rented in the area for the weekend. We were excited to be in beautiful Trinidad, but the mood quickly changed when the neighbor, who we later learned was named Jack, ran across the road to tell 3 young female members of our extended party including the bride to be and her mother April Ross, that they could not temporarily park their car across from his house while they unloaded their vehicle. They politely apologized and asked if they could simply unload their bags and immediately move their vehicle. Jack, in rude terms, rejected this. They again apologized and moved.

On Thursday night we received a call from Redwood Coast Vacation Rentals saying that someone had complained about noise. We immediately relocated everyone indoors to mitigate any noise and our guests returned to their homes. We acted as good and responsive neighbors.

On Friday, July 21, two other members of our extended family members drove to our house. As they stopped their car Jack appeared at the car window cursing. He claimed the vehicle had exceeded the speed limit. Both people in the car were shocked by his language and aggressive demeanor. They replied that they were in fact driving at the speed limit. Jack told them to (and I quote here) "fuck off" and shouted that he was filing a complaint. He walked onto our property and began to take photos of their car. They objected but Jack again replied with obscenities. That night we felt forced to go to another of our family's rental homes so as not to have any problems with our neighbors.

On Saturday, July 22, we attended the wedding outside of Trinidad Head at the home of **XXXXXXXXXX**, longtime Trinidad residents and (*relatives*) of the bride. The wedding was a great success and we were back in Trinidad by dusk. Knowing our neighbor Jack was looking to create problems we went to my sister's rental home and socialized. Later that evening we came back to the Paloma. This time we had a few additional people with us, bringing our total number in the house to 18. (At NO time did we ever reach the contractual limit of 20 people.) One of the guests left his two pet dogs in his parked car. The dogs are generally quiet except when someone gets close to the car at which time they bark a warning. We never heard the dogs bark, but we later found out that our neighbor Jack had complained. Much later when the vehicle owner went out to the vehicle he found Jack close to the car taking photos. This encroachment caused the dogs to bark defensively. The dog's owner asked Jack what he was doing and said that he did not appreciate Jack taking pictures of his car. Jack replied that he had no problem with anyone in the house but was mad at the homeowner who he identified as Mark. The car was subsequently move up to area near the supermarket.

Very late on Saturday two members of our group, a man and woman, took a walk. We were all aware of the problems with Jack the neighbor. As they left they were startled by a flashlight shining in their faces from Jack's house. He said nothing but shined the light in an aggressive manner, frightening the woman. Rather than waiting to see if he meant harm, had a weapon or was looking to pick yet another fight, they quickly left. They were still shaken when they reported the incident to us the next day. We now fully realized that Jack was a bellicose and potentially dangerous person trying to create problems. We thought about calling the police but dismissed this idea as Jack was acting irrationally and could become violent. Naively we simply hoped it would all be fine if we stayed away from Jack and obeyed the rules.

On Sunday July 23, we took a group hike at the Lady Bird Johnson Redwoods. Instead of enjoying the beauty we discussed this problem with Jack as we had just been informed by Redwood Coast Vacation Reality that we were in violation of our lease. I called and spoke to Dori and explained what was happening. She expressed surprise. I explained that we were increasingly concerned about the aggressive and unpredictable behavior of Jack. We were simply trying to be good neighbors by not calling either the realty company or the police. Dori appeared shocked when I told her about the confrontation with the flashlight and about Jack stating that we were not the problem and that Mark was. Dori asked me to put our complaints in writing. I am doing so now, but I ask that you please do not share either my contact information with Jack as I remained concerned by his behavior.

Sunday night we again went to another rental home and returned quietly. We got up Monday, cleaned the home and left without further issues.

In total, over the weekend, our families rented eight home in the area for nearly \$20,000. We had ZERO complaints at any of the other rentals. If you include the cost of the wedding, frequent trips to Murphy's Supermarket, meals at the local restaurants, souvenirs and other provisions we pumped in excess of \$50,000 into the local economy.

It is troubling that we could not enjoy full use of our home and were forced to go night after night to other homes due to problems that stem from a history of confrontation between Mark and Jack. Jack's statement of, "this is not about you, this is about Mark" is problematic as this along with Jack's behavior demonstrates that we were potentially at risk, a risk that was never disclosed to us prior to renting. Despite our vast combined expenditures and good faith efforts we were continuously harassed and bullied by our neighbor. In retrospect we realized that we were merely pawns in a battle between Jack and Mark. Trinidad is a beautiful area but unfortunately we had our time there ruined.

I believed that we acted responsibly and honestly and I respectfully ask that you immediately return our entire deposit of \$1,000 unconditionally. If this does not occur within the two week departure period stated in our confirmation letter we are prepared to pursue all our options including legal ones.

I respectfully await your response.

(Contact information withheld up on request)

Trinidad City Manager

From: Mike Reinman <mgmt@redwoodcoastvacationrentals.com>
Sent: Thursday, July 27, 2017 12:25 PM
To: Trinidad City Manager
Cc: Dori Fulk
Subject: Phone call log of phone that calls from Dori's RCVR phone were forwarded to
Attachments: Phone call log of the # where calls were going to on Saturday and Saturday night.jpg

Hi Dan,

Attached is the phone call log for the phone where calls were forwarded to from the 707-601-1938 #, which is the one that is given to neighbors to contact us 24-7 if an important issue needs to be dealt with in regards to a vacation rental. As you can see, we did not receive a call from Jacques at all on Saturday. We received the call from him when he wrongly called my number instead, and it went to our property manager, Samantha, in McKinleyville. Please make Jacques aware that he was incorrect in calling me at midnight in regards to this issue. He needed to call the number he was given. It is fortunate for Jacques that my phone was forwarded, and that Samantha picked up, was working, and dealt with the issue immediately. However, he did not call and leave a phone message on the phone # that he was given. He did send text messages to that forwarded number, but that is not a valid method of communication for emergency issues, especially because forwarding phones do not typically forward text messages.

The names & numbers on this log should remain private, though. Please mark them out so that it is not public information.

Regards,

Mike Reinman, Owner & General Manager (707) 496-8746
www.RedwoodCoastVacationRentals.com



All Missed

Edit

Mike requested these names and numbers be kept private.

Dan B

Note -> this log has no dates, or evidence of what phone it is from

mobile

Sunday ⓘ

Sunday ⓘ

Saturday ⓘ



Favorites



Recents



Contacts



Keypad



Voicemail



September 11, 2017

City of Trinidad
Attn: City Manager Daniel Berman
& the Clerk of the City of Trinidad
409 Trinity Street
Trinidad, CA 95570

re: Appeal of Alleged "Significant Violation" filed against Redwood Coast
Vacation Rentals (RCVR) -- Paloma Lodge (178 Parker Creek Road)

To the City Manager and the City Clerk of the City of Trinidad:

I represent Redwood Coast Vacation Rentals (RCVR), the subject of the above referenced alleged "Significant Violation" ("SV") under the City's Short Term Rental (STR) ordinance [Trinidad Municipal Code §17.56.190 et seq.]. This letter is an appeal of the alleged Significant Violation notice that was received by my client less than 10 working days ago. My client (1) denies each and all of the factual allegations of the notice of violation, (2) denies the legal foundation of each and all of the allegations of the notice of violation, and further (3) my client asserts (a) that the complaint underlying the alleged violation is waived due to the complainant's failure to request alternative dispute resolution, and (b) the STR ordinance provisions and the enforcement procedures are unconstitutionally vague, an unlawful delegation of legislative authority to the City Manager, and void as an arbitrary, capricious and irrational attempted regulation of the property rights of the STR owner.

A summary of the objections of RCVR follows, but RCVR reserves the right to submit further objections and/or evidence in its defence at a hearing on this appeal.

1. The "SV" mentions a July 21 complaint relating to an altercation between two vehicle drivers (one of them a purported STR renter) in the street, in which allegedly hostile words were exchanged by both parties. This is not a violation of the STR Ordinance! Why is it even mentioned here in the SV? The presence of this description of an irrelevant incident (the facts of which are apparently disputed by the participants) is biased and deeply prejudicial to my client, making it impossible for my client to begin to have a fair hearing on allegations that are related to the STR Ordinance. This SV complaint reflects the bias of that initial alleged incident description, and the SV should be dismissed on that basis alone as it taints all of the allegations that follow.

2. Alleged violation of noise standards. To begin with (see §17.56.190.M.2.) the purported “noise” allegedly came from barking dogs in a car parked on private property (not the STR) that the occupants of the STR did not themselves hear, and was provoked by the complainant walking up to the car and shining a flashlight into it on the dogs—and the dogs reacted by barking as one might expect. The “noise” did not come from the STR, so its not a violation of the Ordinance. The “noise” was created by the complainant who provoked dogs to reacted defensively to an aggressive act by the complainant. And when the complaint of alleged noise reached RCVR (even though the complainant didn’t follow the correct notice procedures), RCVR reacted promptly, asked the occupants to deal with it, and to the knowledge of RCVR whatever issue had arisen was resolved.

3. Alleged violation of visitor standards. There was no violation of “visitor” standards under the STR ordinance. If a person is an occupant or becomes an occupant of the STR, and the occupancy limits of the STR have not been exceeded under the STR ordinance, there is no such thing as a “visitor” violation because an occupant has stayed overnight. Your SV doesn’t allege that occupancy standards were violated and you have no basis to make such an allegation. Further, you have no knowledge or basis to distinguish an occupant from a “visitor” and you admit that the rental of this STR took place before the new requirements of your ordinance relating to registry etc., so you don’t have any evidence to support this outlandish allegation. To make it worse, this “visitor “ restriction is an egregious irrational violation of the civil rights, constitutional rights, and property rights of the STR owner and the renters to peaceful assembly and congregation that causes no one any harm. Prosecution of this outrageous restriction cause the City of Trinidad to be liable for federal civil rights violations that are answerable in damages.

4. Emergency response. The complainant did not call the established and required phone number to notify someone of an alleged violation. Despite documentation supplied by RCVR to that fact, the City persists in pressing this purported violation without evidence or any documentation of its own. And when an improper phone number was utilized its undisputed that RCVR responded immediately, notified the occupant that some claimed issue had arisen, was promised that it was taken care of, and RCVR reasonably relied on that assurance that no further action was required. You cannot assess what amounts to an intentional criminal penalty based upon the both the failure of a real violation and the good faith response of RCVR despite the inadequate initiation of this process.

5. Parking.? No actual violation is alleged, and no violation occurred. If there was an issue with parking on private property, that is not described as a violation in the STR ordinance and there is no citation to the ordinance in this SR.

6. Guest Registry. You admit that the rental was made before your “Registry” provisions were in place, yet you cite this as a violation? It is not legally possible.

7. Unlawful delegation of legislative authority to the City Manager and unconstitutionally vague provisions that cannot be enforced as criminal penalties. The City was aware that these provisions for “violations” are so vague and uncertain that reading the ordinance does not put a reasonable person on notice of what is or is not a violation. Therefore you gave the City Manager the power to decide what is a “violation” and left him/her to arbitrarily decide and prosecute “violations” even though he has no legal authority to decide what is a violation to begin with. This gross violation of the constitutional and civil rights of my client puts your City in grave jeopardy should a suit for damages be filed under federal law.

Thank you for your consideration of this appeal.

Very truly yours,

MCNEILL LAW OFFICES



WALTER P. MCNEILL

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LINDA SHAW
SUSAN MAY
AMBER KLUCK

September 29, 2017

RECEIVED

Daniel Berman, City Manager
City of Trinidad
PO Box 390
Trinidad, CA 95570

OCT 02 '17

CITY OF TRINIDAD

Re: Your letter dated August 28, 2017 – Determination of Significant Violation of the City of Trinidad’s Short Term Rental Ordinance – 178 Parker Creek Rd.

Dear Mr. Berman:

I am writing on my behalf of my clients, Redwood Coast Vacation Rentals (Mike Reinman) in regard to the aforementioned letter and complaint determination by you. Specifically, I am asking you to reconsider your finding of a “Significant Violation” for the following reasons:

1. Regarding the alleged violation of Noise Standards (Ord. 2016-03 Section M.2) and Visitor Standards (Section M.4) – the noise complaint arose from two dogs in the car of an additional **renter, not a guest**, as you have asserted. This fact is supported by a written statement received from the renter herself. Please note that the additional renter did not exceed the maximum occupancy for tenants (non-guests) of the property, as set out in RCVR’s permit.

Second, the dogs’ barking arose directly from the act of the complainant, Jacques Beaupre, trespassing onto the Paloma property and approaching the vehicle. In that respect, the complaint was self-generated by an illegal act which amounted to what appears to be an intentional provocation by the complainant, and for that reason, should not be a basis for a Significant Violation finding by the City.

When the complainant then contacted my client that evening with the noise complaint, the additional renter immediately moved his vehicle to an area near the supermarket. My client disputes that you informed him that the area in question is not available for parking, and in fact, that particular lot is regularly and routinely used for both authorized and unauthorized vehicle parking on both a daily and nightly basis. I would also point out that insofar as that particular lot is a private lot, only the owner – not the City – has standing to enforce any such alleged parking prohibition. If the owner of the lot had an issue with the parked vehicle, he could have resorted to private remedies, such as calling a tow truck. Notwithstanding this fact, it is improper for the City to base its finding on an alleged private parking breach, over which it has no standing to assert.

2. Regarding the Emergency Contact Response (Section R.6) – it is unknown why the complainant was unable to reach the listed number on the permit, and the complainant did **not** leave a voice mail at that number. In any event, the complainant *was* able to reach Mike Reinman immediately thereafter, who seconds later telephoned the renters to address the complaint. The vehicle owner then immediately responded to and resolved the noise complaint by relocating the vehicle with the dogs to the remote location, more than two blocks away. At that point, the issue of noise – if the alleged noise remained (a fact disputed by several eyewitnesses) – would be an issue between the City and the vehicle owner, and should not be a basis to penalize RCVR, which responded appropriately. The City should also note that if the complainant actually believed the issue was not then resolved, he did not call back Mike Reinman to so assert that allegation.
3. Finally, the issue of Guest Registry (Section M.5) is moot as to this particular renter, who (as you appear to acknowledge in your letter) had made a reservation prior to this Guest Registry requirement being in place. Since its enactment, RCVR has scrupulously enforced among its tenants the Guest Registry requirement.

RCVR additionally observes the following protocol *with each prospective renter* of its Paloma Creek Lodge, reflecting RCVR's above-and-beyond commitment to playing by the rules:

- a. Call and speak with guests wanting to book the property before accepting the booking, to make sure they understand the constraints.
- b. Have a person living on the property
- c. Have signs in the house, at the hot tub and patio, and at the fire pit specifying quiet hours and even what being quiet means.
- d. Have no parking signs on the street.
- e. Have rules listed on doorways and walls and in the binder
- f. The Renter has to sign and initial agreement to all of the rental terms
- g. Remind the renter in an email of the rules
- h. Call them ahead of arrival to review the key rules
- i. Meet with them in person to go over the rules, with everyone staying at the rental present.
- j. Have photos at the house of our staff, including Bert, our on-site caretaker
- k. Have a device at the house which warns us if more than 10 cell phones are present
- l. Have 2 exterior, day & night, motion sensor cameras with 24 hour online access
- m. Have our on-site caretaker talk to people if we have concerns that they may be getting a little too loud or breaking any rules, even if they haven't broken any yet.

In summary, my client is extremely concerned that the alleged complaint is being used to unfairly target RCVR, as a basis for the complainant to harass RCVR/Mike Reinman as a pretext for getting RCVR's permit revoked so that its vacation rental is eliminated from Parker Creek Road. Indeed, Jacques Beaupre stated verbatim to the Paloma renters during their stay that he

“had no problem with anyone in the house, but was mad at Mike Reinman” and “this is not about you, this is about Mike.” In service of his vendetta against my client, and throughout the duration of their stay, Mr. Beaupre proceeded to harass these tenants – who have the same right to quiet use and enjoyment of their rental as Mr. Beaupre – by preventing them from unloading their vehicle when they arrived and temporarily parked on the street, by shining a flashlight in the faces from inside his house at night when they exited their rental, and by trespassing onto the Paloma property with a video camera to precipitate a confrontation. Not only is this behavior abusive by this individual, it is bad for the City. The renters rented eight homes in the area for their wedding that weekend in Trinidad and estimated that with the cost of their wedding, frequent trips to Murphy’s Market, local Trinidad meals, souvenirs and related expenditures, they injected **an excess of \$50,000 into the Trinidad economy** for the four days they stayed in the City. Nonetheless, they asserted in a letter to my client that “because of Jacques Beaupre’s aggressive, irrational and unpredictable behavior, our time in the Trinidad area was ruined.”

I intend to follow up this letter with a telephone call to you to discuss it, because my client truly cares about Trinidad and is committed to being a good neighbor who plays by the rules. However, such a commitment must go in both directions, and it requires the City to, at a minimum, treat the complaints of all the parties, including guests to the City of Trinidad, fairly and equally. My client is concerned that this has not occurred, and that instead, the City’s enforcement has merely indulged the agenda of Jacques Beaupre and Dorothy Cox to wage a war against STR’s of all kind, regardless of whether they are in conformity with the letter and spirit of the City’s STR Ordinance.

As you know, the Ordinance recognizes that STRs benefit the Coastal Act’s goals by providing coastal lodging, and, in particular, lower cost visitor-serving uses, specifically protected by Coastal Act § 30213. The City has an obligation to accommodate those uses. I am hopeful that our telephone discussion to come with allow us to reach a rapprochement and balance of all parties’ interests, rather than further unnecessary escalation of these issues.

I welcome further dialogue on the issue, and feel free to call me yourself at 442-3758.

Respectfully,

A handwritten signature in black ink, appearing to read "Neal G. Latt". The signature is fluid and cursive, with the first name "Neal" being the most prominent.

Neal G. Latt

cc: client



To: **Short-Term Rental (STR) Owners & Managers**

Date: June 15, 2017

From: Dan Berman, City Manager

Re: **2016-17 STR License Extension through September 30th 2017**

SUMMARY

The City approved a revised STR Ordinance (2016-03) in the fall of 2016, which will replace the current VDU Ordinance (2014-01). This new Ordinance was approved by the state Coastal Commission on June 8th 2017 and the new rules were effective as of that date.

Given this timing, the City is extending your 2016-17 VDU licenses through September 30, 2017. This extension will relieve both you and the City of the effort of have to prepare and navigate new procedures and forms with less than a month to go before the existing licenses expires. If you are no longer interested in maintaining a VDU license, and do not want your license extended, please let us know.

This extension allows STR occupancy to continue as currently licensed through September, but it does not delay the effective date of other components of the revised Ordinance, including limitations on transferability of licenses, caps on the number of licenses allowed in certain zones, and new enforcement provisions.

It is the responsibility of the VDU permit holder to verify that all application materials stay current and on file with the City through the extension period. This includes your OWTS permit, proof of insurance, and changes in ownership/contact information.

FURTHER DETAILS

Renewal Application Dates & Cycle Transition

The City intends to roll-out a new 2017-2018 STR License Application process by August 2017, with the intent of issuing new licenses to take effect October 1st under the new rules. One of the changes in the new STR Ordinance is to change the date of the annual renewal process to February 1st. In this transition year, STR Licenses issued this fall will be valid from October 01, 2017 through January 31, 2019, and will be annually thereafter by February 01. The revised Ordinance is available via link from the City's website, www.trinidad.ca.gov

*Please note that VDU and STR have the same meaning. The previous Ordinance and Licenses use VDU, but the City is transitioning to STR.

The City will do our best to keep all STR operators and managers informed of any further changes as soon as we are aware of them. In the meantime, we encourage you to review your current licenses and make sure all information is current and there will be no lapses in insurance coverage or septic system permits during the extension period.

For questions related to application materials on file, contact **Sandra Cuthbertson** at 707-677-0133.

For questions related to the license extension, contact City Manager **Dan Berman** at 707-677-3876.



Daniel Berman, City Manager
City of Trinidad

*Please note that VDU and STR have the same meaning. The previous Ordinance and Licenses use VDU, but the City is transitioning to STR.



ORDINANCE 2016-03

AN ORDINANCE OF THE CITY OF TRINIDAD REPEALING EXISTING SECTION 17.56.190 AND ADDING A NEW SECTION 17.56.190 AND AMENDING SECTION 17.56.060 OF TITLE 17 OF THE TRINIDAD MUNICIPAL CODE (REPEALING EXISTING SECTION 6.26 AND ADDING A NEW SECTION 6.26 AND AMENDING SECTION 6.06 OF THE COASTAL COMMISSION CERTIFIED ZONING ORDINANCE)

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

ORDINANCE 2016-03, SECTION 1: PREAMBLE

The City of Trinidad (hereinafter City) is a small town with a population of approximately 350 people. Historically, most houses in the City accommodated resident owners or long-term renters. Over the last twenty years there has been an ongoing trend wherein many houses in the City have been converted to Short Term Rentals (STRs).

The effect on the City has been a noticeable change within many residential neighborhoods. In the winter, many houses in the City are vacant as STR's are not rented as often in the winter months. In the summer, STR's are occupied by transient visitors, often in higher numbers than a residential home. Tourists are concerned with their recreation and vacation pursuits but do not always display an appropriate level of concern for City residents' right to quiet peace and enjoyment of neighboring property.

By this new STR Ordinance, the City attempts to find an appropriate balance between the interests of the City residents, property owners, STRs owners, commerce in the City, and visitors enjoying the City and the coast. In considering these issues the City Council has made the following findings and determinations after long and careful study of the issues:

* The proportion of homes in the City being used primarily as vacation rentals or STRs has risen from approximately 5 percent of the total dwelling units in the City in 2000 to approximately 18 percent in 2014.

* Short Term Rentals in Trinidad provide significant lodging opportunities for visitors and tourists, who are economically important to the retail businesses and restaurants in Trinidad.

* Transient Occupancy Tax from STRs is a significant annual component of the City's General Fund income.

* Given the City's small size and desirability as a tourist destination, the proportion of homes used primarily as STRs may continue to increase in the absence of regulation.

* STRs have the potential to alter the residential character of neighborhoods with impacts related to traffic, parking, noise, occupancy, septic system capacity, housing availability, real estate prices, neighborhood character, City population, the availability of citizens to participate in the community, and the quality of life in the City for both residents and tourists.

* City residents have raised concern over the impacts caused by STR's and the increased number of homes becoming STR's, and called on the City to find a balance between residential and vacation rental uses.

* High numbers and concentrations of STRs can have negative impacts on coastal resources such as environmentally sensitive habitat areas and public access, and STR use needs to be regulated to minimize impacts.

* A City Ordinance regulating some aspects of STRs went into effect in 2015, but did not address the overall number of vacation rentals in the City.

*The California Coastal Commission (Commission) has oversight of City STR regulations, therefore understanding the Commission's guidance and decisions on these issues is a prudent place to start. The Commission has established that:

- STRs are an allowable use in Residential Zoning,
- STRs serve a benefit to the Coastal Act's goals by providing coastal lodging,
- Cities do have legitimate reasons to regulate STRs.
- Coastal Act section 30213 protects lower cost visitor serving uses, including STRs, and the City has an obligation to accommodate those uses.
- Attempts to ban STRs outright have been overruled based on impacts to visitor services opportunities.
- Limits on the number or proportion of homes used as STRs have been upheld, along with reasonable regulations to address potential nuisance impacts.

* California state law and the City of Trinidad General Plan require the City to maintain a mix of affordability in its residential housing stock, but affordability and accessibility of housing for long-term residents is negatively affected by STRs. Prospective buyers interested in living in Trinidad are competing with buyers interested in houses as STR investment properties.

* Engaged citizens who live in a community are the basic fabric that makes up a community, and too high of a tourist-to-resident ratio in our residential neighborhoods can dramatically alter the health and welfare of the City and its residents.

* At the City Council's direction, the Planning Commission devoted substantial effort over nine months of public meetings to developing this ordinance, and the City Council then further considered changes over three months of public meetings to complete this revised ordinance.

* A cap on the number of STR's allowed in Residential Zones is an appropriate tool to set a balance between the benefits and impacts of Short Term Rentals.

* Regulating the transferability of STR licenses will reduce their impact on real estate prices, and it will help achieve the City's desired balance between STRs and long term residents

* By establishing standards for visitor behavior and occupancy, the City will mitigate the potential conflict between tourists who want to enjoy their vacations and nearby residents who have a right to the peaceful use and enjoyment of their homes.

* Standards for health and safety will ensure appropriate facilities for tourists.

* Standards for visitor behavior, water use, and occupancy will help the City protect the sensitive coastal resources and environment of Trinidad.

ORDINANCE 2016-03, SECTION 2:

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 Short Term Rental Ordinance," which shall read as follows:

Section 17.56.190 (6.26) Regulations for Short Term Rentals

Sections:

17.56.190 (6.26).A	Short Title
17.56.190 (6.26) B	Findings
17.56.190 (6.26).C	Purpose
17.56.190 (6.26).D	Definitions
17.56.190 (6.26).E	Application Requirements
17.56.190 (6.26).F	Maximum Number of Short Term Rentals
17.56.190 (6.26).G	Location
17.56.190 (6.26).H	One STR License Per Owner
17.56.190 (6.26).I	Effect on Existing STRs
17.56.190 (6.26).J	License Transferability
17.56.190 (6.26).K	Homeshare STR Licenses
17.56.190 (6.26).L	Resident STR Licenses
17.56.190 (6.26).M	STR Standards
17.56.190 (6.26).N	Tourist Occupancy Tax
17.56.190 (6.26).O	Audit and Inspection
17.56.190 (6.26).P	Dispute Resolution
17.56.190 (6.26).Q	Administrative Standards and Rules
17.56.190 (6.26).R	Violations
17.56.190 (6.26).S	Ordinance Review
17.56.190 (6.26).T	Severability

17.56.190 (6.26).A Short Title

This Section shall be known and may be cited as "City of Trinidad Short Term Rental (STR) Ordinance."

17.56.190 (6.26).B Findings

The City Council finds that adoption of a comprehensive code to regulate issuance of and standards for Short Term Rental Licenses is necessary to protect the public health, safety and welfare and to strike a proper balance between City residents' concerns and the rights of property owners, STR owners and operators as well as visitors to the City. The City Council finds the regulation of short-term rental uses through this Ordinance, including its nontransferability provisions, to be a valid exercise of the city's police power in furtherance of the legitimate governmental interests documented in this chapter.

17.56.190 (6.26).C Purpose

The purpose of this chapter is to establish a permitting process, together with appropriate standards that regulate short-term rental of dwellings in the City in order to: minimize negative secondary effects of Short Term Rentals (STRs) on surrounding residential neighborhoods; preserve the character of neighborhoods in which any such use occurs; ensure that STRs are compatible with surrounding residential and other uses and will not act to harm or alter the neighborhoods within which they are located; minimize impacts to coastal resources, provide for visitor services in accordance with the Coastal Act; and ensure STRs are consistent with all other provisions of the General Plan and Zoning Ordinance. This section addresses traffic, noise and density; ensures health, safety and welfare of neighborhoods as well as of renters and guests patronizing short-term rentals; and imposes limits on the number of licenses issued to ensure long-term availability of the affordable housing stock and to ensure Trinidad has enough residents to maintain a viable community. This chapter also sets regulations to ensure enforcement of these standards, and collection and payment of fees and transient occupancy taxes.

17.56.190 (6.26).D Definitions

1. City Manager

“City Manager” means the City Manager of the City of Trinidad or their designee.

2. Dwelling.

“Dwelling” means a single family dwelling, including associated accessory structures, or a dwelling unit within a duplex or multi-family dwelling, not to include mobile homes in a mobile home park.

3. 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, consistent with normal residential use.

4. Existing STR.

“Existing STR” means an STR that had a valid STR license as of the effective date of this ordinance.

5. Full-time STR

“Full-time STR” means any STR that is not a Homeshare STR or Resident STR.

6. Good Neighbor Contract & Good Neighbor Brochure.

“Good Neighbor Contract” 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 contract shall include provisions for maximum occupancy and visitors, off-street parking, noise standards, and penalties for violations. The “Good Neighbor Brochure” is a brief summary of the Good Neighbor Contract, in a form approved by the City Manager, which may include additional information and suggestions for Occupants for minimizing disturbance to neighbors and environmentally sensitive habitat areas. The Good Neighbor Brochure shall be posted or placed in a prominent location inside each STR.

7. Homeshare STR

“Homeshare STR” means a Short Term Rental whereby a homeowner rents out no more than one bedroom in their primary residence and is present on site between the hours of 10PM to 7AM while rented as an STR.

8. 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. As used in this Section, ‘occupant’ does not include up to two children aged 12 or under.

9. Primary Residence

“Primary Residence” means the dwelling owned and occupied as the owner’s principle place of residence, where the homeowner lives more than 50% of the year. The County homeowners’ property tax exemption form shall be the preferred documentation of Primary Residence status. A person can only have one primary residence at any time.

10. Resident STR

“Resident STR” means a Short Term Rental that is operated less than 60 nights per year and which is the owner’s primary residence, but the owner does not have to be in residence while the dwelling is rented as an STR.

11. Responsible Person.

“Responsible Person” means an occupant of an STR who is at least twenty-five (25) years of age, who signs the Good Neighbor Contract and who shall be legally responsible for compliance of all occupants of the STR and / or visitors with all provisions of this Section.

12. Short Term Rental (STR)

“Short Term Rental” (STR) means a rental of any dwelling, in whole or in part, within the City of Trinidad, to any person(s) for transient use, other than (1) a permitted bed and breakfast (2) ongoing month-to-month tenancy granted to the same renter for the same dwelling, (3) one less-than-30-day rental per year, or (4) a house exchange for which there is no payment.

13. STR Watch List

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

14. Transient Use.

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

15. Visitor.

“Visitor” means someone staying temporarily at a STR, such as guests of occupants, but that is not an ‘occupant’ and not staying at the STR overnight.

17.56.190 (6.26).E Application Requirements

1. Initial Application.

- a. Each STR must procure an STR License. No additional business license is required for an STR. The STR License shall identify the existence of an STR at a particular address and declare the type of STR, number of bedrooms rented in the STR and its intended maximum occupancy.
- b. A site plan and floor plan must be submitted along with the STR 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 includes the Good Neighbor Contract and any other forms as required by the City Manager shall also be provided. Applications for a Homeshare or Resident STR License shall provide documentation that the property is their Primary Residence.
- c. At the time of application for a new STR, the dwelling shall be subject to inspection by the Building Inspector. The purpose of the inspection is to determine the conformance of the dwelling with applicable City regulations. 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 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 an STR License shall be accompanied with proof of a general liability insurance in the amount of one million dollars combined single. 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 be held responsible for the behavior of their occupants and visitors in accordance with this Section.
- e. The City will notify all property owners within 300 feet of an STR property of the STR License within 10 working days of its issuance or re-issuance. This notice shall be combined with the distribution of contact information required in subsection 2.c below. STR License information, including, but not limited to, license number, address, maximum occupancy, Local Contact Person and 24-Hour Contact Phone Number, will also be posted on the City’s website.
- f. Upon initial application for an STR License, the City shall provide all STR 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 are 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. Contact Information

a. Local Contact Person (LCP).

Each STR must designate a Local Contact Person on the STR License form. That person may be the owner or the property manager. The LCP may designate a temporary LCP for a specific rental night(s); that designation must be reported to the City at least 24 hours before the rental date. The LCP, or their temporary designee, must live within 20 miles of Trinidad and be able to respond personally to an STR concern within 30 minutes.

b. 24-Hour Contact Phone Number.

A 24-hour Contact Phone Number is required for each STR. The 24-hour Contact Phone Number shall be prominently placed for the occupants' use inside the STR. Any change to the 24-hour Contact Phone Number shall be promptly posted within the STR and provided to the Trinidad City Clerk at least 15 days prior to any change. A temporary LCP designee shall utilize the same Contact Phone Number as the LCP.

c. Distribution of Contact Information.

The name of the LCP and 24-hour Contact Phone Number will be forwarded by the City Clerk to the Trinidad Police Department, the County Sheriff's Office, the Trinidad Volunteer Fire Department, and to each neighbor within 300 feet of the STR, and posted on the City's website within 10 business days after the issuance or reissuance of an STR License for the STR.

The contact information sent to neighbors may include further instructions in the case that a response from the LCP is not forthcoming. If there is an emergency or complaint, and the LCP does not respond within a reasonable period of time, concerned persons will be encouraged to report 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 an STR.

3. STR License Renewals

STR licenses shall be renewed annually. Renewals must be submitted by 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 had an initial inspection as required by §17.56.190.E.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 an STR License for an existing STR will be approved as long as all applicable standards are still met unless or until such time as the license is revoked pursuant to §17.56.190.R.4 (6.26.R4, *Revocation*) or 17.56.190.M.14 (6.26.M14, *Minimum Activity*) or until the STR license expires pursuant to 17.56.190.J (6.26.J, *License Transferability*) or if it is voluntarily withdrawn.

4. Appeals

Appeals of staff determinations or decisions in accordance with this section shall be appealable per section 17.72.100 (7.14) except that STR License decisions are not appealable to the Coastal Commission because they do not constitute a Coastal Development Permit. Notwithstanding section 17.72.100.D (7.14.D), fees for appeals of STR License decisions shall be set by resolution of the City Council.

5. Fees

Fees for initial applications and renewals for each type of STR shall be set by resolution of the City Council.

6. Application Wait List & Lottery

It is the City's intention to maintain no more than 19 Full-time STR Licenses and 6 Resident STR Licenses in the UR Zone and 6 Full-time STR Licenses in the SR Zone. When an STR license becomes available within one of those limits, the City will hold a lottery to allocate that STR License. The City will maintain a waiting list, for each type of STR License by zone as needed, of property owners who are interested in obtaining an STR License for their dwelling. 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 type of license and zone. If the property meets the applicable location standards (§17.56.190.G (6.26.G)), that owner will have 45 days to submit a complete STR License application, along with any other associated license or permit applications (Use Permit, OWTS Operating Permit, etc.) that may be required. If the property owner does not obtain an STR License within 90 days, or if the property does not meet the applicable location standards, the City will draw another name from the waiting list for that zone and STR type.

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

In order to preserve community character and an appropriate balance of residential, commercial and visitor-serving uses, no new Full-time STR licenses shall be issued by the City if the total number of Full-time STR Licenses would exceed 19 in the UR Zone and 6 in the SR Zone, with no limit in other zones. An additional 6 Resident STR Licenses shall be allowed in the UR Zone, with no limit in other zones. Additional Resident STR Licenses may be granted in the UR Zone with approval by the Planning Commission pursuant to the Conditional Use Permit findings and procedures of Chapter 17.72 (Sections 7.06 - 7.18) of the Zoning Ordinance.

17.56.190 (6.26).G Location

STR's are permitted only in legally established dwellings within any zoning district. Each separate STR must obtain its own, individual STR License. There shall be no more than one STR per parcel.

No new STR within the UR zone shall be located where it shares a property boundary with a property containing another STR within the UR zone.

Either of these location standards may be modified through an exception approved by the Planning Commission pursuant to the Conditional Use Permit findings and procedures of Chapter 17.72 (Sections 7.06 7.18) of the Zoning Ordinance. Such an exception shall only be valid as long as the associated STR license is maintained.

17.56.190 (6.26).H One STR License Per Owner

No new STR license shall be issued for a property in the UR or SR Zone if the owner already holds another STR license unless there are fewer than the maximum number allowed pursuant to §17.56.190.F (6.26.F) and no one else on the wait lists. This limitation shall not apply to renewals of existing STR licenses.

17.56.190 (6.26).I Effect on Existing STRs

Existing STRs, in excess of the number allowed in §17.56.190.F, or that do not meet the location requirements of §17.56.190.G (6.26.G), shall be allowed to continue to operate under an STR license as long as the permit is renewed in accordance with §17.56.190.E.3 (6.26.E.3) unless or until such time as the permit is revoked pursuant to §17.56.190.R.4 (6.26.R.4, *Violations*) or 17.56.190.M.14 (6.26.M.14, *Minimum Activity*) or until the STR license expires pursuant to 17.56.190.J (6.26.J, *License Transferability*).

17.56.190 (6.26). J. License Transferability

An STR License is issued to a property owner for a single location. The STR License shall be revoked when the permit holder sells or transfers the real property which was rented pursuant to the STR License except as provided below. For purposes of this section, "sale or transfer" means any change of ownership during the lifetime of the license holder or after the death of the permit holder whether there is consideration or not except a change in ownership where title is held in survivorship with a spouse, or transfers on the owner's death to a trust which benefits only a spouse for the spouse's lifetime, or lifetime transfers between spouses. If the owner is a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity, then "sale or transfer" shall mean a change in 50% or more of the shareholders or members or partners or beneficiaries. A license holder may transfer ownership of the real property to a trustee, a limited liability company, a corporation, a partnership, a limited partnership, a limited liability partnership, or other similar entity and not be subject to permit revocation pursuant to this section so long as the transferor lives and remains the only owner of the entity. Upon the transferor's death or the sale or transfer of his or her interest in the entity to another person, the transient rental permit held by the transferor shall be revoked.

17.56.190 (6.26).K Homeshare STR Licenses

Homeshare STRs are subject to all the provisions of this ordinance (section) except the following:

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

17.56.190 (6.26).G Location

17.56.190 (6.26).H One STR License Per Owner

17.56.190 (6.26).M.14 Minimum Activity

17.56.190 (6.26).L Resident STR Licenses

Resident STRs are subject to all the provisions of this ordinance (section) except the following:

17.56.190 (6.26).M.14 Minimum Activity

17.56.190 (6.26).M STR Standards

All STRs will be required to meet the following standards:

1. Transmittal of Rules and Good Neighbor Contract

Prior to rental of an STR, the Responsible Person shall be provided with a Good Neighbor Contract, consisting of 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, 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. A Good Neighbor Brochure, summarizing the Good Neighbor Contract shall be placed or posted in a clearly visible location within the STR.

2. Noise.

Occupants of STR 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 7:00 am should be contained within the STR 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, including any City noise standards or ordinances.

3. Number of Occupants.

The maximum number of occupants allowed in an STR shall not exceed two persons per bedroom plus two people (e.g., a two-bedroom STR may have six occupants), less any residents, tenants, hosts or caretakers living onsite while it is rented. Except that in the UR Zone, on lots less than 10,000 sq. ft. in area, the maximum occupancy is two people per bedroom (e.g. a two bedroom STR in the UR zone may have four occupants). In the Suburban Residential Zone, if the STR 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. 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.

4. Visitors.

The number of visitors to an STR shall be limited to not more than the allowable occupancy of the STR at any time. For example, if the maximum occupancy is 6, then no more than 6 visitors are allowed. 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.

5. 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 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.

6. Off-Street Parking.

An STR must provide at least one off-street parking space for every two occupants allowed in the STR pursuant to Section 17.56.190 (6.26).M.3. The off-street parking space(s) shall be entirely on the STR property. STR owners/managers 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 as long as they maintain their STR license, unless the City explicitly modifies or withdraws the parking exception. 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.

7. Water Use.

To prevent overloading of septic systems, each STR shall be operated in a manner to ensure that the occupancy and use of an STR shall not result in annual domestic water use greater than that associated with the non-STR 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 STR License and application materials to allow for verification that the STR water use did not exceed allowable volumes as described above.

If the City determines that the STR use has exceeded the appropriate average annual water usage, as described above, during the preceding year, the STR 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 STR.

8. Septic System.

Each STR's owner or property manager must provide proof that the septic system for the structure in which the STR 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 kitchen and bathroom in the STR.

9. Appearance and Visibility.

The outside appearance of the STR 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 STR 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.

10. 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 STR structure or placed immediately adjacent to the front of the STR structure. The purpose of the sign is to notify the public that the structure is or contains an STR. The sign must provide a 24-hour emergency telephone contact number for complaints, and a business telephone number for persons seeking information on the STR. The signage shall comply with all applicable standards of the Zoning Ordinance's sign regulations.

11. 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 STR.

12. Traffic.

Vehicles used and traffic generated by the STR 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.

13. Tenancy.

The rental of an STR shall not be for less than two successive nights.

14. Minimum Activity.

A Full-time STR shall be rented for a minimum of 60 nights per year in order to maintain an STR 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.

15. 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.

17.56.190 (6.26).N Tourist Occupancy Tax

The letting, leasing, or other contractual use of an STR is subject to a Transient Occupancy Tax ("TOT") and any other mandated taxes. Each STR 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).O Audit & Inspection

Each owner and agent or representative of any owner shall provide access to each STR for inspection and any records related to the use and occupancy of the STR to the City at any time during normal business hours with at least 24 hour notice, 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).P Dispute Resolution

By accepting an STR License, STR owners agree to engage in mediation and act in good faith to resolve disputes with neighbors arising from the use of a dwelling as an STR. 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).Q Administrative Standards and Rules

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 Section. In particular, the City Manager will establish administrative procedures for complaints. A copy of such administrative rules and regulations shall be on file in the Office of the City Clerk and posted on the City's website.

17.56.190 (6.26).R Violations

1. Penalty

It is unlawful to violate the provisions of this Section. Violations of this Section are punishable as either infractions or misdemeanors, pursuant to the provisions of Section 17.76.050 (7.20) 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 STR regulations by way of nuisance abatement action pursuant to Chapter 8.12 of the Municipal Code. 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. Fines

- (a) The City Manager shall be authorized to impose administrative penalties for the violation of any provision of this section or ordinance in an amount not to exceed a maximum of \$1000 per day for each continuing violation, except that the total administrative penalty shall not exceed \$100,000 exclusive of administrative costs, interest and restitution for compliance re-inspections, for any related series of violations.
- (b) In determining the amount of the administrative penalty, the City Manager may take any or all of the following factors into consideration:
 - (i) The duration of the violation;
 - (ii) The frequency, recurrence and number of violations, related or unrelated, by the same violator;
 - (iii) The seriousness of the violation;
 - (iv) The effect the violation may have upon adjoining properties;
 - (v) The good faith efforts of the violator to come into compliance;
 - (vi) The economic impact of the penalty on the violator; and/or
 - (vii) The impact of the violation on the community.
- (c) In most cases, initial fines will start at \$200, with higher amounts reserved for exceptional situations like repeated violations, failures to promptly correct violations, or deliberate violations of this Section.

3 Property Watch List

Upon a determination of good cause including but not limited to one or more significant violations, 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.

4. Revocation

If the STR owner or property manager is deemed by the City Manager to be negligent in responding to an 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 STR License may be revoked.

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 STR application. Revocation may be temporary or permanent depending on the nature and number of the violations.

5. Appeals

Determinations on violations, penalties and fines may be appealed to the City Council.

6. Significant 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.

As used in this subsection, significant violation is a situation where the Local Contact Person is either unable or unwilling to rectify the situation within 30 minutes, and / or when public safety personnel must be called to assist in resolving the situation, or that causes substantial disturbance to the neighbors or neighborhood. 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 30 minutes.
- (ii) The inability of City staff or the Sheriff's Dispatch to reach a contact person.
- (iii) Failure to maintain or provide the required guest registry.
- (iv) Violation of the STR maximum occupancy, parking, noise and other requirements as set forth in Section 17.56.190.H (6.26.H).
- (v) Failure to notify City staff when the contact person or contact information changes.
- (vi) Failure to pay fees or TOT in accordance with this Section.
- (vii) Providing false or misleading information on an STR License application or other documentation as required by this Section.
- (viii) Violations of state or County, or City health regulations
- (ix) Repeated minor violations and / or complaints

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 STR
- (iv) Signed affidavits and / or photographic evidence from neighbors or other witnesses
- (v) Other documents which substantiate allegations of significant violations.

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.

7. False Reports and Complaints

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

17.56.190 (6.26).S 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.

17.56.190 (6.26).T Severability

Should any subsection or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, that decision shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.

ORDINANCE 2016-03, SECTION 3:

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 (6.06) 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:...



MEMORANDUM

TO: Trinidad Planning Commission

FROM: Trever Parker, City Planner

DATE: November 8, 2017

RE: Detached Living Space Agenda Item

I don't have a lot of new information to present on this issue. However, with two new Commissioners, and the amount of time that has passed since the previous discussion, it's not a bad idea to revisit this item from the beginning anyway.

However, one of the main reasons that I don't have more information, is because it is difficult to find other examples. I have provided you with a few that I did run across. The majority of regulations that I did find may define these spaces on how they are used, but the restrictions and regulations are based mostly on physical properties.

At the last meeting, the Planning Commission expressed a preference to regulate and enforce policies and provisions for detached living spaces based on how they are used, or possibly based on performance standards such as septic capacity or water use. As I explained at the last meeting, I think both of these options are problematic. Policies regulating how detached living spaces are used (such as rental contracts, number of people or families, etc.) are very difficult to monitor, prove or enforce. There are also legal limitations on how a City can (or can't) define a "family" or put restrictions on rental contracts or options.

Performance standards are appealing because they would limit the potential impacts of using detached living spaces inappropriately. Depending on how they are written, they could also be quantitative and enforceable. However, this approach would not be a simple policy fix. It would require analyses to determine the appropriate levels to set those standards at. It would also require an LCP amendment, because the performance standards, as discussed at the last meeting, could allow the creation of second units, which would conflict with the density restrictions in the City's certified LCP. This option could be reconsidered as part of the ongoing LCP update, but would not be in place for several years.

In the meantime, staff still recommends that the best approach for now is to develop policies that would restrict the improvements that can be made to them. That approach would be similar to the examples from Sonoma County provided for the August discussion. The few other examples I found also tend to follow this reasoning.

Please bring your materials for this item from the August meeting. If you need another copy, let me know; it is also available online. The new Commissioners have been provided a copy with this month's packet. In addition, for this meeting, I have provided an example from St. Petersburg. In particular, §16.50.010.5.5 provides special restrictions for "accessory living spaces." I also provided an example of what looks like part of a staff report from Crook County, OR on a very similar issue. I also included a table summarizing the requirements for "detached residential accessory structures" from Sonoma County, which may help to clarify some of the policy documents I gave you last time. Finally, as requested at the last meeting, I included a copy of the City's adopted, but not certified, ADU Ordinance so you can compare those regulations to this discussion.

One last example I found was from Sunnyvale, but their regulations were not in one document. I copied the definition below, but the regulations for them mostly had to do with maximum square footage, height, lot coverage, etc.

"Detached Habitable Spaces. An accessory structure which is detached from the main structure and meets the minimum requirements of the building code for human occupancy. For the purposes of this subsection, detached habitable spaces do not have cooking and/or eating facilities and may not qualify as accessory living units. If a detached habitable space has cooking and/or eating facilities, it is regulated as an accessory living unit."

Section 16.50.010 - Accessory Dwelling & Accessory Living Space

Sections:

- 16.50.010.1 Applicability
- 16.50.010.2 Generally
- 16.50.010.3 Purpose and Intent
- 16.50.010.4 Establishment
- 16.50.010.5 Development Standards
- 16.50.010.5.1 Lot Requirements
- 16.50.010.5.2 Building Requirements
- 16.50.010.5.3 Visual Buffering
- 16.50.010.5.4 Parking & Accessibility
- 16.50.010.5.5 Accessory Living Spaces; Additional Restrictions

16.50.010.1 Applicability

This Section applies to accessory dwelling units and accessory living space as defined in the Matrix: Use Premises and Parking Requirements and to the construction of a single-family dwelling unit as a principal use on a lot where an accessory dwelling unit already exists.

16.50.010.2 Generally

Common names for accessory dwelling units and accessory living space include garage apartment, ancillary apartment, mother-in-law unit, guest house, carriage house or granny flat. For the purposes of these regulations, all of these building forms shall be referred to as an “Accessory Dwelling Use” unless otherwise specified in this Section.

16.50.010.3 Purpose and Intent

Traditional neighborhoods in the City are under increasing development pressure. Redevelopment has occurred in a manner that is not consistent with the development pattern that makes these areas attractive and desirable. Appropriately channeling the form of redevelopment is critical to maintaining the character and viability of our traditional neighborhoods. Reintroducing the accessory dwelling use as a permitted use in these areas is intended to guide reinvestment and redevelopment in a manner that reinforces and protects the traditional pattern. This Section is also intended to address the establishment of accessory living space which can be used in a manner that creates impacts similar to an accessory dwelling use. Protecting that pattern requires strict and complete compliance with all of the applicable development standards.

1. Strict Compliance with Standards for a New Accessory Dwelling Use. The development standards in this Section have been crafted within the context of an urban environment. The accessory dwelling use will be constructed either at the same time as a new house is built or as an addition where a principal dwelling unit already exists. In either case, strict compliance with the standards of this Section shall be required. Where the accessory dwelling use is proposed in addition to an existing principal single-family use, compliance may require significant modification to the current configuration of the site. This Section is not intended to prioritize one standard over another; all are equally important and necessary. Strict compliance with the criteria is critical to adequately and effectively mitigate the impacts and achieve the desired outcome. A variance from any of the standards in this Section to establish an accessory dwelling use would be inconsistent with the purpose and intent of this Section; therefore, no variance to any provision of this Section may be granted.

2. Reinstatement of an Abandoned Accessory Dwelling Use. The development standards of this Section shall also be used to evaluate the merits of an application to reinstate the grandfathered status of an abandoned accessory dwelling unit. Reinstatement, if approved, shall remove the grandfathered status and make the accessory dwelling unit lawful pursuant to the current zoning regulations. Although no variances are allowed for new accessory dwelling uses, some relief from the standards of this Section may be necessary in the context of a reinstatement because the principal and accessory structures already exist.

16.50.010.4 Establishment

Establishment or expansion of a lawful accessory dwelling use shall be subject to the following requirements:

1. Not more than one (1) accessory dwelling use shall be permitted for each single family dwelling in the districts where allowed by the Matrix: Use Permissions and Parking Requirements, subject to all requirements of this Section.
2. An accessory dwelling use shall not be permitted before construction of the principal building has commenced or a lawful principal use is established.
3. An accessory dwelling use shall be subordinate to the principal use as to location, height, square footage, and building coverage.
4. An accessory dwelling use shall not be utilized as a Transient Accommodation Use as defined and regulated by this Chapter.

16.50.010.5 Development Standards

16.50.010.5.1 Lot Requirements

- A. Establishment of a new accessory dwelling use shall only be allowed if:
 1. The lot area shall be at least 5,800 square feet. There is no minimum lot area requirement for accessory living space
 2. If the lot is below the current minimum lot area requirements for the zoning district, the original platted lot or lawfully established lot of record has not been subdivided and remains under common ownership;
 3. The legal front and rear of the lot are consistent with the front and rear yards of lots on the same block face. An accessory dwelling unit shall not be permitted where lots have been refaced such that the legal front yards face a different direction than the rest of the lots in the block or where refacing has eliminated alley access for a lot.
- B. A lot containing an accessory dwelling use shall not be subdivided to separate the accessory dwelling use from the principal use.

16.50.010.5.2 Building Requirements

Site plans for the establishment of any new accessory dwelling use shall be subject to the following design standards for buildings:

1. The floor area of any accessory dwelling use shall be no less than 375 square feet and shall not exceed 750 square feet.

2. For a multi-story, accessory building, the floor area of the portion of the building used for an accessory dwelling unit shall not exceed 50 percent of the gross floor area of the multi-story, accessory building. If the entire area used for the accessory dwelling unit is on the second floor of the building (not including the stairs) then the accessory dwelling unit may exceed 50 percent of the gross floor area of the building. The remaining floor area shall be used only as garage, utility (washer, dryer, work room) or storage space. For a one-story, accessory building, the accessory dwelling use may use 100 percent of the gross floor area of the one-story, accessory building.
3. Where the rear yard of the lot abuts the front yard of an adjacent lot, a detached building shall be set back at least 25 feet from the street side property line.
4. The portion of the building containing an accessory living space may be attached to the side or rear of the principal structure and shall comply with the setbacks of the zoning district.
5. Sides of buildings containing second floor porches, or unenclosed staircases which face the interior side yard of an adjacent property shall comply with the minimum setback of the zoning district or ten (10) feet, whichever is greater. This requirement shall not apply to completely enclosed staircases.
6. A paved walkway at least two (2) feet in width shall connect the main entrance of the accessory use with the off-street parking spaces and the public sidewalk.
7. The building containing an accessory dwelling use shall comply with the architectural standards for the zoning district and be compatible with the style of the building containing the principal use, including paint scheme.

16.50.010.5.3 Visual Buffering

Given the compact urban form of traditional neighborhoods, it is necessary to establish minimum standards for visual buffering between uses to afford residents a reasonable level of privacy in rear yards. Each lot is different. Certain design solutions may be more effective or appropriate in some circumstances than others. The intent is to prioritize privacy for adjacent properties over the privacy between the principal and accessory use on the lot. Buildings for a new accessory dwelling unit shall comply with the following requirements:

1. Where an accessory dwelling use is proposed at a second story level, all exterior doorways and outdoor living areas such as porches or balconies, shall be oriented toward the interior of the property.
2. Sill heights for second story windows facing interior side yards shall be at least 48 inches above the finished floor elevation for the second story level.

16.50.010.5.4 Parking & Accessibility

New or redeveloped accessory dwelling uses shall be subject to the following design standards:

1. Paved off-street parking spaces shall be provided as required in the Matrix: Use Permissions and Parking Requirements.
2. No variances shall be granted to the number of required parking spaces for a new accessory dwelling use permitted after September 10, 2007.

3. The addition or reinstatement of an accessory dwelling unit shall require compliance with all of the parking requirements for the entire property.
4. All off-street parking spaces shall be provided in the rear yard where the rear yard is adjacent to an alley. If no alley access exists, parking shall be contained within the rear portion of the site accessed by a driveway from the side street. Driveway access from the primary street shall only be permitted where there is no alley or side street and shall be no larger than a single lane wide.
5. The parking of vehicles in front of the principal structure is prohibited. Parking a vehicle on the street in front of the principal structure is not prohibited at a location where street parking is otherwise lawful.
6. Driveways for off-street parking areas shall comply with the design and location restrictions for the zoning district. Nonconforming driveways shall be modified to comply or shall be eliminated. The requirement to eliminate a nonconforming driveway or parking area in order to make a property eligible for an accessory dwelling use shall not be deemed to constitute a hardship justifying a variance.
7. At least one (1) of the required parking spaces shall be an unobstructed, unenclosed surface space for exclusive use by occupants of the accessory dwelling use.
8. Surface parking areas capable of accommodating more than three (3) vehicles shall incorporate decorative pavement treatments throughout at least 10 percent of the paved area, including the driveway. Plain asphalt or concrete shall not be permitted.
9. A storage area shall be reserved along the property line adjacent to the alley to provide storage of solid waste collection containers.
10. Storage areas shall be at least five (5) feet wide and may be divided between two adjacent properties.
11. Storage areas shall be required along both sides of an alley, regardless of which side is currently used for solid waste collection service.

16.50.010.5.5 Accessory Living Spaces; Additional Restrictions

In addition to the restrictions applicable to accessory dwelling units, new accessory living spaces shall be subject to the following restrictions:

1. An accessory living space shall operate as an extension of and be dependent upon the principal use and shall not be a separately functioning dwelling unit.
2. Cooking facilities are prohibited within an accessory living space.
3. Separate mailing addresses are prohibited for an accessory living space.
4. Separate utility meters for electricity, gas, water, and other utility services are prohibited.

County requirements relating to “Habitable space” – accessory living space (“mother-in-law” dwellings, “casitas”)

Issue: Under what conditions should the County allow additional living spaces (mother-in law dwellings, space for other family members)?

Currently, we’ve allowed additional living spaces as long as they do not include a full kitchen (generally, we’ve stated that applicants can’t have a stove). We’ve also approved “casitas” in Brasada – dwelling units that are connected to the main dwelling by a breeze way or other structural connection.

We are trying to determine whether or not we need to be more specific regarding if these uses should be allowed and what conditions could be applied.

Note – we also allow temporary hardship manufactured homes in County zones which allow additional dwellings in limited situation in conjunction with medical hardships.

Current definitions from Crook County Code 18.08

“Dwelling, single-family” means a detached building containing one dwelling unit and designed for occupancy by one family only.

“Dwelling unit” means one or more rooms in a building designed for occupancy by one family and having not more than one cooking facility (emphasis added)

State building code – Residential specialty code 2014

“Dwelling unit” – A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Here are examples of other County language:

Clackamas County allows “accessory kitchens” in some of their residential zones (but not in exclusive farm use zones). The provision states that only one accessory kitchen is permitted in each side-family dwelling or manufactured home. This provision is used to accommodate houses with “wet bars” and to provide living spaces for family members.

Clackamas County is considering allowing these uses in rural zones but has not yet adopted language. They adopted the language in late 2014 so don’t have a lot of information on implementation. Although the code is not specific, Clackamas County requires that the accessory kitchen is “incidental to the dwelling” and requires that the house still is designed as a single family dwelling (all spaces are accessible to each other, not separate distinct entrances, etc.

Washington County's approach to allowing "habitable space" without approval of a second dwelling is to allow separate living/sleeping/bathing quarters if connected by a breezeway or carport to the lawful (primary) dwelling AND the planners review the building plans to ensure the attached quarters do not have separate (complete) cooking facilities. Washington County allows "wet bars" (under counter fridge, small sink) but stop short of authorizing 220-W electric service, and natural/propane gas piping for permanent cooking appliances. All plug-in appliances, such as 110-W microwaves/hot plates to prepare food are not regulated.

This is very similar to what Crook County currently allows although we don't have the explicit cross-walk between planning and review of building plans.

The concern expressed by other counties is the potential for conversion to rental units and later installation of full kitchen facilities

Options:

1. Clarify what is allowed:
 - a. Living quarters without 220-W electric service and without natural gas piping
 - b. No entrance separate from primary dwelling
 - c. Approval for use by family members only – no rental use as explicit condition of approval
2. Limit zones in which these uses are approved (e.g., not allowed in EFU zones unless the use is consistent with a farm help dwelling or other use that is explicitly allowed in an EFU zone).
3. Address through administrative procedure – have applicant sign form stating that they recognize that they are only allowed one dwelling on the property at any time; make explicit in land use decision. Ensure that approvals state that no rentals (or other commercial uses) are allowed.
4. Continue with current policy.

SUMMARY OF REQUIREMENTS FOR DETACHED RESIDENTIAL ACCESSORY STRUCTURES

FEATURES	2 ND UNIT	GUEST HOUSE	MISCELLANEOUS RESIDENTIAL OCCUPANCIES: OFFICE, GYM, YOGA, ART STUDIO, REC OR MEDIA ROOM, ETC.	POOL HOUSE	GARAGE, WORKSHOP OR AGRICULTURAL STRUCTURE ⁸	STORAGE
Building Code Occupancy	R-3 ¹	R-3 ¹	R-3 ¹	R-3 ¹	U	U
Kitchen²	Required	Not Allowed	Not Allowed	Outdoor Only	Not Allowed	Not allowed
Wet bar³	Allowed	Not Allowed	Allowed	Allowed	Not Allowed	Not allowed
Bedroom⁴	Required	Required	Not Allowed	Not Allowed	Not Allowed	Not allowed
Bathroom⁵	Full Required	Optional ½ or full bath	Optional ½ bath only interior; Shower w/ exterior access only ⁵	Optional ½ bath only interior; Shower w/ exterior access only ⁵	Optional ½ bath only interior; Shower w/ exterior access only ⁵	Not allowed
Allowed above Garage	Yes	Yes	Yes	No	No	Yes
Septic System Clearance	Code Compliant System Required ⁶	Class I System Required	Class III if ≤640 sf total aggregate of additions and accessory structures combined Class I if >640 sf total aggregate of additions and accessory structures combined	Class III if ≤640 sf total aggregate of additions and accessory structures combined Class I if >640 sf total aggregate of additions and accessory structures combined	Class III for primary dwelling required	Class III for primary dwelling required
Conditioned Space⁷	Required	Required	Allowed	Allowed	Not Allowed	Not allowed
Size limit	840 sf	640 sf	Must be secondary and incidental to primary residence Size limit applies if meets 2 nd unit, guesthouse or bedroom definition ⁴ Not to exceed 3,000 sf	Must be secondary and incidental to primary residence Size limit applies if meets 2 nd unit, guesthouse or bedroom definition ⁴ Not to exceed 3,000 sf	Garages and agricultural structures ⁸ are not to exceed 3,000 sf Workshops are not to exceed 1,000 sf	Not to exceed 1,000 sf
Other Requirements	a) Recorded Covenant is required b) Must meet all code requirements for 2 nd units c) Location cannot impact primary or potential septic reserve area	a) Must meet all code requirements for guesthouses b) Location cannot impact primary or potential septic reserve area	a) Only allowed accessory to residential use; may require home occupation permit b) Location cannot impact primary or potential septic reserve area	a) Must have a permitted pool existing or under construction b) Location cannot impact primary or potential septic reserve area	a) Floor must be concrete or similar non-combustible floor with garage/barn door b) High heat uses such as welding and kilns allowed c) Location cannot impact primary or potential septic reserve area	a) Only allowed accessory to residential use b) Location cannot impact primary or potential septic reserve area

1. Sprinklers are required for R occupancy R-3 = residential occupancy U= Utility/Misc
2. **Kitchen** is any area designed or used for preparation or cooking of food, with either cooking appliances/rough-ins; or sink and refrigerator > 5 cu ft or space w/outlet (See PRMD Policy 1-4-5, *Definition of a Kitchen*)
3. **Wet bar** is limited to 2 sq ft sink w/drain ≤ 1.5 in, 5 cu ft under-counter refrigerator, and ≤ 6 lineal ft of counter and cabinets (See PRMD Policy 1-4-5, *Definition of a Kitchen*)
4. **Bedroom** is any room >70 sf along exterior wall. Exempt if cannot reasonably function as a bedroom, i.e., no closet AND permanent features prevent use as a bedroom, i.e., built ins such that the room cannot accommodate a bed; 4-ft opening with no doors, or 4-ft half wall separates from another room such that there is no privacy. (See PRMD Policy 1-4-1, *Definition of a Bedroom*)
5. **Full bath** contains a toilet, sink and shower or bathtub; **Half bath** contains a toilet and sink (See PRMD Policy 1-4-6, *Detached Residential Accessory Structures*)
6. Class I septic system may be allowed on sites previously developed with a dwelling. Bedroom swap with primary dwelling may be permitted with Class I system and building permit to verify conversion and recorded covenant. (See PRMD Policy 9-2-12 *OWTS Guidelines for Remodeling and Additions*)
7. **Conditioned space** is any area, room or space being heated or cooled directly or indirectly for the comfort of occupants or for other reasons such as preserving temperature-sensitive goods. (See PRMD Policy 1-4-1, *Definition of a Bedroom*)
8. **Size limit** does not apply to agricultural structures when accessory to a permitted agricultural use as allowed by the base zone.

CHAPTER 17.54
ACCESSORY DWELLING UNITS

FINDINGS

1. Government Code §65852 encourages accessory dwelling units (ADUs) and limits jurisdictions' ability to restrict them.
2. Government Code §65852.2.a.1.A allows jurisdictions to limit ADUs to certain areas based on limitations such as water and sewer service or traffic.
3. Government Code §65852.2.a.3 requires applications for ADUs to be considered ministerially without discretionary review or a public hearing if they meet adopted, standard, objective criteria or development standards
4. These State housing regulations do not supersede the CA Coastal Act except that public hearings are not required in issuing a Coastal Development Permit for an ADU.
5. Trinidad has a Local Coastal Plan certified by the CA Coastal Commission in 1980.
6. Trinidad is a very small City, with only around 300 residents and encompassing an area of approx. 0.5 sq. mi with only approx. 200 parcels, most of which are already developed.
7. The ocean waters surrounding Trinidad are a State designated Area of Special Biological Significance. The CA Ocean Plan prohibits all discharges into these areas unless an Exception is granted by the State Water Resources Control Board.
8. The entire City is served by onsite wastewater treatment systems (OWTS) on average urban lot sizes of 8,000 sq. ft.
9. There is enough evidence of, and concern over, OWTS pollution that the City has / will adopted an OWTS Management Program to ensure all systems are inspected, maintained and functioning properly.
10. There are many existing ADUs, both illegal and legal nonconforming
11. Trinidad desires to promote ADUs as affordable housing, while protecting the environment and community values.
12. Trinidad General Plan and Zoning Ordinance place a strong emphasis on private coastal view protection.
13. The Coastal Act and Trinidad LCP protect public views.

Section 17.54.010 – PURPOSE AND INTENT

The City recognizes the importance of a suitable living environment for all residents. The State Legislature has declared that accessory dwelling units (ADUs) are a valuable form of housing in California. It is the intent of the City to permit ADUs, in conformance with state law, subject to standards that will ensure the units contribute to a safe living environment for all residents while protecting the water quality in and around Trinidad. The purpose is to provide flexibility in housing options, an opportunity for the development of small rental units, to provide relatively affordable housing for low- and moderate-income individuals and families, to provide economic support for resident property owners and to provide rental units for the elderly or disabled while still maintaining the small town, residential character of the City.

Section 17.54.020 – DEFINITIONS

- A. "Accessory dwelling unit" or ADU means any residential dwelling unit which provides complete independent living facilities on the same building site as a legal single-family

residence, including permanent provisions for living, sleeping, cooking, eating, and sanitation, as defined in Government Code Section 65852.2(i)(4).

- B. "Primary unit" means the primary, existing legal single-family residential dwelling unit which provides complete independent living facilities for one or more persons.

Section 17.54.030 – LOCATION

One ADU may be located on any residentially zoned site which either contains a primary unit or which is undeveloped, but there is a concurrent application for a primary unit. ADUs are not required to meet the density requirements of the General Plan or zoning ordinance. A detached ADU is not considered an accessory building or accessory use.

Section 17.54.040 – PERMITS REQUIRED

- A. Establishment of an ADU requires a permit from the City
- B. Any application for an ADU that meets all standards in §17.54.070 of this chapter shall be approved ministerially without discretionary review or public hearing.
- C. A use permit shall be required in accordance with this Chapter and Chapter 17.72 of the Trinidad Zoning Ordinance for establishment of an ADU which does not meet all the development standards contained or referenced in this chapter.

Section 17.54.050 – PERMITTING PROCEDURES

- A. Step One – Submittal. Applications for ADUs shall be submitted to the City Clerk's Office on a City of Trinidad ADU Application. The City shall provide information on submittal requirements along with the Application.
- B. Step Two – Noticing. Notification for any pending ADU permit shall be provided to neighboring properties and interested persons in accordance with §17.72.130. Notice shall be provided at least seven days prior to any determination by the City Planner on a ministerial permit or Planning Commission on a use permit. If anyone submits evidence that shows that the project will not meet the development standards of §17.54.070 herein to the satisfaction of the City Planner, then a use permit shall be required to be granted by the Planning Commission.
- C. Step Three – Issuance. A ministerial permit shall only be issued for an ADU if the application conforms to all the specific standards contained in Section 17.54.070 and only after making the three findings below. For ADUs that do not meet the standards contained in §17.54.070, in addition to the findings required for granting a use permit in §17.72.070 of the Trinidad Zoning Ordinance, the following findings shall also be required from the Planning Commission. The decision of the City Planner and / or Planning Commission may be appealed in accordance with §17.72.100 of the Trinidad Zoning Ordinance.
1. The ADU is compatible with the design of the main unit and the surrounding neighborhood in terms of landscaping, scale, height, length, width, bulk, lot coverage, and exterior treatment, and will not cause excessive noise, traffic, or other disturbances to the existing neighborhood or result in significantly adverse impacts on public services and resources.
 2. The ADU will not tend to change the character of or cause a concentration of such units sufficient to change the characteristic of the residential neighborhood in which it is located.
 3. The ADU is consistent with the Trinidad Zoning Ordinance and policies of the General Plan, including that it will not cause significant blockage of coastal views from public viewing points and has been designed to minimize view blockage from adjacent residences.

Section 17.54.060 – EXISTING ADU’s**A. Nonconforming ADU’s**

1. Legal, nonconforming ADU’s, those established prior to the certification of the City’s Zoning Ordinance in 1980, shall maintain their nonconforming status and shall be subject to all the nonconforming regulations in Chapter 17.64 (Nonconforming Uses and Structures) of the Trinidad Zoning Ordinance, unless a permit application for an ADU is approved by the City Planner or Planning Commission for that unit. If such permit is granted, then the ADU shall no longer be considered nonconforming and shall be subject to all the regulations of this Chapter.
2. Units that can not meet all the development standards of §17.54.070 may be granted an exception if, in the opinion of the Planning Commission, findings 1 and 2 of §17.54.050.B can be made and all feasible measures to meet the development standards have been made. A use permit is required to be approved by the Planning Commission.
3. Legal, nonconforming ADU’s are required to maintain their Onsite Wastewater Treatment System at a level of Satisfactory or better according to the City’s OWTS Management Program. If the OWTS receives a performance rating of less than Satisfactory, then restrictions on water use and occupancy should be enacted through a formal agreement with the property owners. Monitoring wells shall be installed to ensure that effluent is being adequately treated to prevent water pollution.

B. Illegal ADU’s

1. Owners of illegal ADU’s, those that were constructed or converted after 1980 without Planning Commission approval, have a three year grace period in which to apply for an ADU permit from the City. In addition to meeting the development standards of §17.54.070 or receiving approval of a use permit, they must also conform to the following requirements:
 - (a) Units must be inspected by the City Building Official for and upgraded to compliance with health and safety requirements, which may include building permits and fees.
 - (b) Registered ADU’s are required to maintain their Onsite Wastewater Treatment System at a level of Satisfactory or better according to the City’s OWTS Management Program. If the OWTS receives a performance rating of less than Satisfactory, then restrictions on water use and occupancy should be enacted through a formal agreement with the property owners. Monitoring wells shall be installed to ensure that effluent is being adequately treated to prevent water pollution.
 - (c) Units that can not meet all the development standards of §17.54.070 may be granted an exception if, in the opinion of the Planning Commission, findings 1 and 2 of §17.54.050.B can be made and all feasible measures to meet the development standards have been made.
2. If an illegal ADU is not registered within the timeframe set forth above, then when discovered, whether by an OWTS inspection or other means, the City may immediately begin Nuisance Abatement against the property.

Section 17.54.070 – DEVELOPMENT STANDARDS

An ADU permit will be issued only if it complies with all the following development standards:

- (a) Existing Development: A single-family dwelling must exist on the site or shall be constructed on the site in conjunction with the construction of the ADU.

- (b) Number per Building Site: A maximum of one ADU shall be permitted on any one parcel or lot. ADU's may not be permitted on residential lots already having two or more dwelling units thereon.
- (c) Unit Size: The second unit must be either attached to the primary unit and located within the living area of the primary unit, or detached from the primary unit and located on the same lot as the primary unit. The floor area of an attached second unit shall not exceed 30% of the existing living area of the primary unit or 800 square feet, whichever is less, except that a minimum size of 150 sq. ft. shall be allowed. The total area of floor space of a detached second unit shall not exceed 1000 square feet.
- (d) Setbacks: The setback requirements of the zoning district in which the ADU is located shall apply; however, ADUs may be permitted in legally constructed structures located within required rear and side setbacks. A detached ADU shall be at least ten feet from any building. Rear yard setbacks for ADUs on alleys shall be measured from the centerline of the alley.
- (e) Height: An attached ADU shall not be greater in height than the primary unit. A detached ADU shall be no greater than 15 feet in height.
- (f) Lot Coverage and Floor Area: An ADU shall be included in the lot coverage and floor area requirements applicable to the site. Floor area is measured to the outside surface of exterior walls the walls of the living space. Total floor area of both units shall not exceed 2,600 sq ft. or 30% floor-to-area ratio and 25% lot coverage.
- (g) Off-street Parking: The ADU shall provide one off-street parking space per unit. The parking space may be covered or uncovered, must be of standard size. Required parking may be located within required setbacks, and can be tandem.
- (h) Permanent Foundation: A permanent foundation shall be required for all ADUs.
- (i) Architectural Compatibility:
 - (1) The ADU shall incorporate the same or similar architectural features and building materials as the main dwelling unit or dwellings located on adjacent properties and shall be consistent with the city of Trinidad Design Review and View Protection findings.
 - (2) Any exterior alteration or addition to a dwelling on the Historic Resources Inventory shall be consistent with the Secretary of the Interior's *Standards and Guidelines*.
- (j) Privacy: The entrance to the accessory unit shall face the interior of the lot unless the accessory unit is directly accessible from an alley or a public street, or if it utilizes the same entrance as the primary unit. Windows which face an adjoining residential property shall be designed to protect the privacy of neighbors; alternatively, fencing or landscaping shall be required to provide screening.
- (j) Utilities. All utilities for detached units shall be installed underground. All ADUs shall have separate utility meters from the primary residence.
- (k) Onsite Wastewater Treatment System (OWTS): Prior to issuance of a building permit, the applicant shall submit certification by the Health Department, that the existing OWTS is of adequate size and condition to support projected sewage flow for the primary unit and ADU. If the capacity or condition of the existing OWTS is found to be inadequate to serve the existing and proposed units on the property, OWTS shall be replaced or upgraded to meet current standards, at the expense of the applicant.
- (l) Accessibility. All newly constructed first-floor ADUs shall be adaptable for use by persons with ADA-defined disabilities as follows:

- (1) The bathroom shall provide minimum clearances as specified for accessible units per California state accessibility requirements, and grab bar blocking shall be installed in the walls.
 - (2) Entry doors shall have a minimum width of three feet.
 - (3) Interior doors shall have a minimum width of 2 feet 10 inches
 - (4) Thresholds shall meet California state accessibility requirements
 - (5) The kitchen shall meet the minimum clearances specified in the California state accessibility requirements
- (m) Occupancy.
- (1) The principal place of residence of the property owner shall be either the ADU or the primary unit.

Section 17.54.080 – DEED RESTRICTIONS

Before obtaining an ADU building permit, the property owner shall file with the county recorder a declaration or an agreement of restrictions, which has been approved by the city attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner and stating that:

- (a) The ADU shall not be sold separately from the primary unit.
- (b) Any conditions required by the City's OWTS Ordinance.
- (c) The restrictions shall be binding upon any successor in ownership of the property and lack of compliance shall result in legal action against the property owner.