

# Memo

To: David Hawker, City Manager  
From: Richard Townsend  
Planning & Community Development Director  
Date: April 6, 2011  
Re: VRD issues

## **Background**

There are a few issues relating to vacation rental dwellings that I would like to bring to the attention of the City Council. The first, relating to capping the number of guests who could stay in a VRD, would help to limit the VRDs impacts on the neighborhood. The second, relating to the existing \$500.00 minimum income requirement, addresses an enforcement problem we are having. The third, relating to grandfathering VRDs in annexed areas, addresses the application of our licensing requirements.

### *Capping the Number of Guests*

Over the years new VRDs have become larger and larger, accommodating higher numbers of people. While most VRDs advertise sleeping 4 to 8 people, many advertise sleeping 10 or more, with some saying they sleep 20 or more. At least one advertises sleeping more than 40.

One way to limit the impacts of a VRD on surrounding properties would be to limit the number of guests allowed. Doing so would not only lower the number of guests at VRDs, it also would tend to lower the number of cars coming to VRDs and reduce the amount of garbage generated. Assuming that the restrictions apply only to new VRDs (which I recommend), and not be retroactive, the full effect of such a limitation would take some time to become apparent. There is a substantial annual attrition rate among VRDs, however, and as time goes on the restriction would become more and more effective.

Enforcement of such a limitation could be done through searching on-line VRD rental listings for those advertising the accommodation of an unpermitted number of guests. We regularly do search listings anyway, and also search for (and find) VRDs that do not have permits. Undoubtedly there would be some we would not find, such as those advertised by word of mouth only, but on the whole the limitation would be a positive step toward keeping VRDs in line with the original intent of the ordinance.

Another alternative would be to cap the allowed size of VRDs. This could be done through placing a limit on, for example, the number of bedrooms or the number of beds. This would be more difficult to enforce, however. Also possible would be a limit on the absolute size of a VRD, perhaps as a maximum allowed floor area that is a function of the lot area. This would address some of the concerns about out-of-scale houses being built and towering over their neighbors.

### Enforcement of the \$500 Minimum Income Requirement

In 2009 the City Council considered a suite of ordinance amendments and new ordinance provisions relating to VRDs. Among them a proposed ordinance that would have created a series of VRD overlay zones that permitted different levels of VRD concentration in different areas of the city. The City Council did not adopt the overlay zones.

Another proposed ordinance considered at the same time created a new VRD licensing structure that is supplemental to but outside of the VRD land use process.<sup>1</sup> The City Council did adopt this ordinance. It established a set of criteria for granting a VRD license, and another set of criteria for annual renewals of the licenses. Among the license renewal criteria is one requiring the property to have “generated at least \$500.00 from rental occupancy during the previous year as demonstrated by transient room tax reports . . . .”

In the course of processing renewal applications for 2011 finance department staff identified seven VRDs that reported less than \$500.00 in income during 2010. But the Municipal Code provisions addressing the transient room tax make clear that people administering the room tax in the finance department are not permitted to provide to others any information on the amount of income reported.

Accordingly, enforcement of the \$500 minimum income requirement is not legally possible. Moreover, since the City Council did not adopt the proposed ordinance provisions that would have limited the number of VRDs, the minimum income requirement does not serve its originally intended purpose.

### Grandfathering VRDs in Annexed Areas

When an area is annexed into the city, lawfully established land uses are allowed to continue, even if they don't meet the city's zoning standards. They are said to be “grandfathered in” and are considered to be lawful, non-conforming uses or structures.

In the land use context, as with any lawful land use, grandfathering of existing VRDs in annexed areas is not an issue. But our approach to VRD regulation includes, in addition to the land use component, a licensing component that is outside the land use process and therefore not subject to grandfathering. I believe it would be appropriate to consider ordinance amendments to the licensing requirements that would allow lawfully established VRDs in newly annexed areas to continue to operate.

The Municipal Code's licensing standards are found at LCMC 5.14.060. In order to operate lawfully the owner of a VRD in a newly annexed area would be required to obtain a VRD license upon annexation. The owner would have to demonstrate the following:

1. They must have a local representative to respond to complaints;

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<sup>1</sup> To be able to operate a VRD a person must get both a VRD land use approval and a VRD license. The land use approval is required before the license may be issued.

2. The VRD must be found to comply with the land use standards for VRDs (these relate to, among other things, landscaping and parking); and
3. That they don't own another VRD in a residential zone anywhere in the city.

The first of these requirements will be easy to comply with. The second is more problematic, since many of the existing VRDs in areas outside the current city limits do not comply with the city's parking or landscaping requirements. I believe we can address this issue as we did with existing VRDs when the new requirements went into effect, and treat them as non-conforming, but legal exceptions to the rule. This is the typical grandfathering approach. There may be difficulties with this that I am not seeing right now, however.

Much more problematic for VRDs in a newly annexed area would be the requirement that no owner of a VRD in a residential zone may have more than one such VRD. It is likely that there are VRD owners in Roads End, for example, that own more than one VRD in Roads End itself, and they or others may also own a VRD in a residential zone within the city's current city limits.

### **Recommendation**

I recommend the City Council make a determination of whether they want to consider any of the following:

1. Limiting the number of guests allowed to be accommodated at a VRD;
2. Repealing the VRD \$500 minimum income requirement;
3. Address grandfathering of VRDs in annexed areas

If so, I recommend the City Council direct staff to initiate the necessary ordinance amendment processes and provide any guidance to staff the Council feels is appropriate.