



Le Sueur County, MN

Wednesday, January 31, 2018

Worksession

Item 1

Ordinance Amendment

Work session packet

Staff Contact: Joshua Mankowski or Michelle R. Mettler

**LE SUEUR COUNTY
PLANNING COMMISSION ORDINANCE REVISIONS**

AGENDA

Meeting Date: January 31, 2018

Meeting Time: 12:00 p.m. – 3:00 p.m.

Topic: VRBO

1. Zoning Districts
2. Permitted Use vs Conditional Use
3. Performance Standards
 - a. Existing
 - b. New
 - c. Additions or restrictions to existing standards
4. Licensing vs Registration
5. Definition

January 31, 2018

PLANNING COMMISSION WORK SESSION REGARDING ORDINANCE REVISION

VRBO-Short Term Rental.

The issue of VRBO rentals in Le Sueur County has become an issue. The department has received many complaints about different VRBO sites that are causing some conflict.

As you know we have received a request to allow 'VRBO type' use in the Recreational Residential District. Having a work session to address this ordinance revision is essential.

Short-term transient lodging is currently addressed in the Zoning Ordinance and allowed in certain districts. The Zoning Ordinance also states that if a use is not listed as a permitted use or a conditional use it is prohibited.

Enclosed you will find language regarding uses, districts, definitions, conditions, performance standards, etc. to assist with evaluating an ordinance amendment.

Current types of short-term transient lodging uses that are allowed are as follows:

1. Hotel/Motel
2. Resorts
3. Campground
4. Bed & Breakfast
5. Commercial Planned Unit Development

Attached you will find some of the definitions, also found in Section 4 of the Zoning Ordinance.

1. **Zoning Districts**-Which zoning districts to allow this type of use.
 - a. Request was in the Recreational Residential "RR" District.
 - b. We are seeing it in the RR District.
 - c. Can start out minimal at first and allow in more districts if necessary in the future.
2. **Permitted Use vs Conditional Use**
 - a. **Permitted Use**-If listed as a permitted use, the use is allowed in that district. Need to meet setbacks and performance standards. Public Hearing not required.
 - b. **Conditional Use**-If listed as a conditional use, the *may* be allowed with a Conditional Use Permit (CUP) under certain circumstances, conditions can be added, the CUP is filed against the property, requires a public hearing, final decision by the county board.

CONDITIONAL USE - A land use or development as defined by this Ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in this Ordinance exist, the use or development conforms to the comprehensive land use plan of Le Sueur County, and the use is compatible with the surrounding area.

- c. Staff recommends Conditional Use.

3. Performance Standards

a. Existing performance standards for example:

1. Parking Section 19, Subdivision 5, page 19-5.
2. Lighting Section 19, Subdivision 8, page 19-8
3. Signage Section 19, Subdivision 7, page 19-10

b. New performance standards to consider:

1. Limit maximum # of occupants. 2 people per bedroom per rental unit.
2. Limit # of rental units. One rental unit per conforming dwelling unit.
3. Off-street parking only.
4. Allow on conforming lots only or reduce maximum occupancy for non-conforming lots.
5. Sewage Treatment
 - a. Compliant SSTS.
 - b. Sized properly for the use.
 - c. Approval from sewer district if applicable.
 - d. No holding tanks allowed.
 - e. Require monitoring or put under an operating permit.
6. Prohibit additional camper or tents.
7. Dock restrictions.
8. Emergency contact person & number.
9. Quiet hours.
10. Liability Insurance (as a VRBO, not homeowner's insurance).
11. Time of year. For example rental between the months of April and October; or year-round.
12. Property lines clearly marked.
13. No fireworks.
14. Safe entry from road.
15. No impact to site conditions.
16. Normal rental activities shall not diminish values or restrict other lot owners.

POSSIBLE CONDITIONS/CONSIDERATIONS

1. Public health, safety and welfare.
2. Road (type, dead end vs cul de sac, narrow, road maintenance)
3. Traffic
4. Solid Waste plans (i.e. garbage pick up.) Can require additional conditions for example weekly garbage pick up, screening etc.
5. Limit additional facilities provided for example jet skis, pontoon etc.
6. Consider neighborhood
7. Consider water body, if applicable
8. Consider topography of lot.
9. Home Owner's Association covenants.
10. Housekeeping plans or clean up
11. Campfire
12. Pets
13. Additional jet skis, ATV, snowmobiles-allow, restrict or prohibit

4. Licensing vs Registration

- a. Public Health will not be licensing these facilities at this time.
- b. Could require Registration as part of the required performance standards for this type of use.
- c. Registration would help keep track of the operating facilities and who is operating them. CUP goes with the land. Registration could help with making sure the new owner/operator is aware of the ordinance requirements and conditions of the CUP.
- d. Possible registration fee.
- e. Emergency contact person & number.
- f. Manager of facility of landowner does not live in the area.

5. New 'Term' and Definition

- a. Vacation Rental By Owner (VRBO)
- b. Short-Term Transient Rental
- c. Short-Term Vacation Rental
- d. Vacation Rental
- e. Tourist Home
- f. Create definition for new 'term'. Some examples are:
 1. Rental of private homes for the purposes of non-residential, vacation short-term transient rental for 30 days or less.
 2. Vacation home rental means any home, cabin, condominium or similar building that is advertised or held out to the public as a place where sleeping accommodations are furnished to the public on a nightly or weekly basis and is not a bed and breakfast, resort or hotel. (Ottetail County).
 3. A vacation rental includes a house apartment, condominium, manufactured home, vacation home, or similar property rented on a short-term basis. It also includes all structures or other property belonging and accessory to the vacation rental. A vacation rental has basic living accommodations, such as sleeping space, a toilet, and cooking facilities. A vacation rental does not include property, or a part of a property, used solely as a hotel, motel, inn or similar establishment.

6. Amendments to the Ordinance

- a. Ordinance revisions may affect one section or many sections of the Ordinance depending on the change.

SUMMARY OF COMPLAINTS

- A. Summary of the complaints received regarding problems associated with short term rentals.
1. Renting dwellings to the general public has caused tensions between property owners.
 2. Homes on the lake being rented by the day or week has affected the peace and tranquility associated with ownership of lake property.
 3. VRBO type use is changing the residential area to commercial. Population density changing from residential to commercial. Area is zoned Residential, the short-term VRBO is not a residential use. Commercial usage and much like a resort.
 4. Weekly rentals are very high and more often than not several individual parties will combine and split rental fees. Typically results in 2-3 families renting. Encourages more to show up to share the cost.
 5. Roads
 - a. Roads not suitable-narrow, dead end w/o turn around.
 - b. Increased traffic.
 - c. Private roads, privately maintained-is paid for by landowners. Increased traffic volume from VRBO use, cars, trucks, trailers, boats, campers and even a semi with a cab sleeper.
 - d. Safety concerns. Failure to observe safety and speed rules, children playing, speed exceeding posted speed signs.
 - e. Pet litter.
 - f. Private roads and dead-end roads are not routinely patrolled by law enforcement.
 6. Noise complaints to neighboring properties, but also across the lake.
 7. Parking. More cars than parking onsite allows. Parking offsite on roads. Overflow parking on other lots.
 8. Property lines. Property lines not clearly marked, trespassing, kids playing in yard of residence and not the VRBO property.
 9. Lots are too small. Some lots 50 or 60 feet wide.
 10. Absentee landlords/owners not able to observe the problems.

11. Constant revolving door of strangers. Lewd and unacceptable behavior, excessive drinking, drug use, urinating off the dock, RVs and tents. Late night coming/going, outside bonfires left unattended, activities between houses too close together.
12. Additional expenses to Le Sueur County Law Enforcement.
13. Trespassing on neighboring docks.
14. Drop in property value.
15. These types of facilities are not getting taxed.
16. Resorts and campgrounds are required to follow all regulations.
17. VRBOs are not being regulated.

B. Summary of additional suggestions for requirements received regarding problems associated with short term rentals.

1. Promote and protect public health, safety, and general welfare.
2. Inspection of the dwelling and equipment relating to safety for example carbon monoxide detectors, smoke detectors, fire extinguishers, emergency exits, etc.
3. Prohibit use in Floodplain Overlay District.
4. Require a certificate of occupancy from a building inspector.
5. Require current taxes paid.



Short Term Vacation Rentals

What Counties Need to Know:

- Non-traditional options for lodging and overnight stays are becoming more popular. Technology platforms Airbnb, VRBO, and HomeAway, provide platforms for property owners to offer a residence or a portion of a residence to guests for overnight stays.
- Traditional hotels and lodging options are highly regulated and taxed, and can provide a significant revenue stream to local governments while also providing safety protections to guests.
- The Minnesota Department of Revenue has guidance regarding taxation of short-term rentals. These rentals are subject to sales taxes and applicable local and lodging taxes.
- Local governments may have an opportunity to weigh in regarding zoning, regulation, business licenses, and more.
- Counties, cities, and other local governments have authority to impose a local sales tax of up to 3 percent on transient lodging of 30 days or less. About 100 Minnesota jurisdictions impose a local lodging tax under this authority.¹

Current Status in Minnesota Law:

Residential short-term rentals, including homes, a portion of a home, or other temporary places to stay, are subject to general sales taxes and applicable local and lodging taxes.²

The responsibility for the tax is determined by facilitates the sale of lodging (see chart below). Facilitation is defined as brokering, coordinating, or in any way arranging for the use of accommodations, and includes collecting receipts from the customer and transmitting the receipts to the owner of the property whether directly by an intermediary or indirectly.

Rental Situation – Minnesota Residences	Who’s Responsible for the Tax
<ul style="list-style-type: none"> • The owner regularly furnishes lodging directly to customers, and • The customer makes the reservation with the owner and directly pays the owner 	<p>The property owner must register as a retailer to collect, report, and remit taxes on the full sales price of lodging and related services.</p>

¹ <http://www.house.leg.state.mn.us/hrd/pubs/lodgetax.pdf>

² <http://www.revenue.state.mn.us/businesses/sut/factsheets/FS141.pdf>

The property owner uses an intermediary to facilitate the sale of lodging.	The intermediary must register as a retailer to collect, report, and remit taxes on the lodging and related services.
The rental is facilitated by both the owner and an intermediary.	Both the owner and the intermediary are responsible for sales taxes. <ul style="list-style-type: none"> • The property owner must collect, report, and remit taxes on the portion for which they did not use an intermediary. • The intermediary must collect, report, and remit taxes on the portion they facilitated.
The rental of the property is an isolated incident and not in the normal course of business.	The owner is not required to register or collect taxes.

In terms of the income generated by this activity, the Internal Revenue Code provides an exemption for income tax when an owner rents out a property that is also their home for 14 days or less per year. However, this exemption does not apply to the sales tax.

Current Activity in Minnesota:

St. Louis County (northeast Minnesota) studied short-term vacation rentals.³ The report notes an increasing number of properties offered for rental, and cited potential concerns related to neighborhood livability, environmental impacts, and businesses. Additionally, the report cited tax considerations related to inconsistent of state and local taxes and challenging property tax collections.

Crow Wing County (central Minnesota) also studied short-term rentals.⁴

The City of Saint Paul (Ramsey County, Minnesota) is currently studying short-term rentals.⁵ Airbnb found 10,000 guest arrivals in the past year and 70 nights per host annually. City staff use an estimate of 250 hosts. City staff noted that there are few complaints against hosts, though there may be a significant amount of tax revenue going uncollected, and rentals would be subject to fire certificate of occupancy restrictions. Additional information, including the study, staff recommended changes to city code, testimony, written comments, and more are available online:

<https://www.stpaul.gov/departments/planning-economic-development/planning/current-activities/proposed-short-term-rental>.

³ <https://www.stlouiscountymn.gov/Portals/0/library/government/reports-n-publications/planning/0-Vacation%20Home%20Rentals-Emerging-Market-Analysis.pdf>

⁴ [http://www.cityofbreezypointmn.us/vertical/sites/%7B015800BA-D4A6-4AD6-8483-B21AF7FD9977%7D/uploads/H.2\) Vacation Home Rental Study - CWC Land Services.pdf](http://www.cityofbreezypointmn.us/vertical/sites/%7B015800BA-D4A6-4AD6-8483-B21AF7FD9977%7D/uploads/H.2) Vacation Home Rental Study - CWC Land Services.pdf)

⁵ <https://www.stpaul.gov/departments/planning-economic-development/planning/current-activities/proposed-short-term-rental>

The City of Duluth (St. Louis County, Minnesota) differentiates between rentals where the property owner lives in the property during the rental (referred to as accessory home share) versus a rental where the owner is not present and the entire property is rented out (referred to as a vacation dwelling unit).⁶ Generally speaking, the process for a home share permit is less onerous than for vacation dwelling units. The City requires permits for vacation dwelling units⁷ and limits the total number to 60.⁸

What's Happening in Other States:

Local governments across the United States are studying and taking action on short-term rentals. The list below is a short sampling. This information is changing rapidly. This [article from NACo highlights](#) some activity across the country – including state control, local issues, zoning, and more.

San Francisco, CA (both a city and a county) regulates short-term rentals through a local Office of Short Term Rentals.⁹ The host must be the permanent resident of the unit that will be rented (no commercial properties), the host must register as a business and receive a certification from the Office of Short Term Rentals, and the host must limit the number of unhosted rentals (where the property owner is not present) to 90 nights per year.¹⁰ Registering as a business ensures that local taxes are paid appropriately. Rentals for longer than 30 consecutive nights with the same visitor are not subject to short-term rental regulations or hotel taxes, but may be subject to rent control and tenant protections.

Sonoma County, CA (northern California) regulates short-term rentals¹¹, including permits, septic or sewer requirements, limiting where the rentals may occur based on zoning, and limiting the use to prevent weddings or parties in vacation rentals. The County's permitting staff and auditor-controller offer a one-stop-shop for transit occupancy tax and more.¹²

Denver, CO (both a city and a county) regulates short-term rentals.¹³ Hosts are required to obtain a license, and must be legal residents of the U.S. offering a property that is their primary residence with insurance. Landlords, owners, and HOAs must provide written permission, as applicable. Hosts must

⁶ <http://www.duluthmn.gov/media/540783/vacation-dwelling-vs-home-share.pdf>

⁷ <http://www.duluthmn.gov/media/541687/accessory-home-share-regulations-revised-12-20-2016.pdf>

⁸ <http://www.duluthmn.gov/community-planning/land-use-zoning-applications/applications/>

⁹ <https://shorttermrentals.sfgov.org/about>

¹⁰ <https://shorttermrentals.sfgov.org/about>

¹¹ <http://sonomacounty.ca.gov/PRMD/Regulations/Vacation-and-Hosted-Rentals/Frequently-Asked-Questions/>

¹² <http://www.sonoma-county.org/tax/tot/index.htm>

¹³ <http://www.denvergov.org/content/denvergov/en/denver-business-licensing-center/business-licenses/short-term-rentals.html>

obtain a lodger's tax ID number and get a business license, and are responsible for collecting local lodging tax; they must also display their business file number on all online advertisements.

Seattle, WA is in the process of developing regulations for short-term rentals. Operators would have to have a city business license tax certificate and pay all applicable taxes. Operators would also have to obtain a regulatory license, with proof of liability insurance, a local contact number for guests, a declaration that the unit meets building and life safety codes, and other safety information for guests.¹⁴ Under the proposed regulations, platforms facilitating short-term rentals would be required to provide the City with data on a quarterly basis to ensure enforcement. More info is here:

https://www.seattle.gov/Documents/Departments/Council/Issues/RegulatingShortTermRentals/Regulating-Short-Term-Rentals_Summary_2017-09.pdf

¹⁴ <https://www.seattle.gov/council/issues/regulating-short-term-rentals>

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Crow Wing County Board: Nuisance next door

By Chelsey Perkins on Nov 19, 2014 at 10:04 a.m.

3

Who lives next door is becoming increasingly difficult to decipher for many Crow Wing County residents as the popularity of single-family vacation rentals escalates.

For a group of concerned property owners, what goes on at some of these dwellings is likewise becoming increasingly difficult to bear, and in July they asked the Crow Wing County Board for help at a public forum.

Complaints centered on one rental property in particular, located on Lake Hubert in Nisswa, that neighbors say is consistently a nuisance. The home often hosts large groups of people, such as weddings or bachelor parties, and the partying - along with the noise, garbage and traffic that comes with it - is undesirable and frustrating, residents said.



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"(Crow Wing County) has been our favorite place for 34 years, but it has become less so just because of the obnoxious behavior," said neighbor Mike Weber at Tuesday's committee of the whole meeting.

Employees of the land services department presented the promised follow-up on how - or if - the county should regulate the estimated 500 vacation rentals by owner (VRBO) at the meeting.

Although technically regulated by the Minnesota Department of Health (MDH) through lodging permits, this applies only to those properties seeking to rent for less than a week at a time or with more than four bedrooms. This means any property advertising for a minimum stay of one week with four bedrooms or fewer is not subject to these rules.

Study shows regulations vary

Dan Listug, policy analyst for land services, shared an exhaustive study of how cities, counties and states throughout the country treat VRBO. The results showed wildly different approaches to the issue.

Wisconsin, for instance, has what Listug described as one of the most robust systems in the country, requiring a lodging permit for all facilities. Registration is also required in some counties for tax purposes. Florida prohibits local units of government from establishing their own ordinances and the properties are regulated entirely through the state. In Austin, Texas, the rentals are restricted qualitatively, meaning permits are issued based on the location within the city and the number of short-term rentals already existing there.

Closer to home, approaches vary as well. Listug sent a survey to all other Minnesota counties and received 32 responses. Of these, 20 reported no regulation of VRBO, seven would require a conditional use permit if the property was determined to be commercial and four counties - including neighboring counties Aitkin and Mille Lacs - include regulations on VRBO in land use ordinances. One county regulates VRBO under a food and beverage license ordinance.



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VISIT SITE

Despite regulations on the books, only 55 VRBO properties of likely hundreds have been approved among the four counties, which also includes Stearns and Lake counties, and no citations were issued in any of the counties within the past year.

Land use or law enforcement?

Whether a land use ordinance can address concerns with VRBO is at the heart of the matter, according to land services officials. Most complaints associated with the properties are not related to land use, but rather are complaints about the conduct of renters and are in the purview of law enforcement.

Neighbors pointed to the potential for overtaxed septic systems designed for single-family homes creating environmental concerns, considering many of these properties are located on lakes. Chris Pence, land services supervisor, said officials have inspected the septic system at the Lake Hubert VRBO twice and found it compliant both times.

Commissioner Paul Koering, who expressed displeasure at the idea of further regulations when the issue was broached in July, asked Mark Liedl, land services director and recorder-elect, to explain why his department would seek to add more rules.

"I thought we were trying to move in a direction of having less regulations and trying not to lord over everybody all the time," Koering said, noting regulations should not be passed whenever a neighbor complains.

Liedl said he understood Koering's position and the importance of upholding property rights.

"So many problems occur in the world," Liedl said. "People rightly get upset about them. But that doesn't mean that a law needs to be created for every single problem, because we would have no liberty if that's the case."

However, he said, the job of land services was to find the line at which reasonable regulation exists.

"At some point, a use of a property does become commercial," Liedl said.

Finding that line, and balancing the rights of the VRBO owner with the rights of neighbors, was the task ahead, he said.

"The question is, fundamentally, is a zoning ordinance the vehicle to try to address this issue?" said Liedl. "I don't think that's the case."

Residents who spoke in public comment said they were not opposed to VRBO in and of themselves and understood the rights of people to rent out their properties. Several said they have involved law enforcement on numerous occasions, but are also concerned about taking time away from more pressing matters for the sheriff and his deputies.

"Police can come out to deal with an unruly crowd, but that crowd has no interest in being quiet," said neighbor Dianne Wade. "Because next week it's a different crowd. ... If this house hadn't been so obnoxious, we wouldn't be here."

She added, "When the partying gets late ... to avoid it, you have to shut your windows and your doors and stay inside so you don't have to listen to it. That's not a way to live."

Penalty for some or rules for all?

Despite an estimated 500 VRBO properties in the county, the land services department reported receiving complaints on just two of them in the past year - albeit multiple complaints. In Listug's county survey, six counties reported monitoring VRBO only after a logged complaint about the property.

Koering suggested perhaps the issue could be resolved over a cup of coffee with an offending property owner, rather than establishing rules for everyone.

One resident in attendance spoke because he operates a VRBO and was concerned about new rules.

Fred Strohmeier of Fifty Lakes said he has been renting his property out for more than six years with no complaints. His main reason for doing so, he said, was to offset the high cost of his property taxes.

"If you do try to impose some regulations," he said, "don't penalize people like me."

Liedl said a possible path forward would involve looking at duration and frequency requirements for VRBO, which could address land use and nuisance issues at the same time while not having too much effect on good actors.

"If you had longer durations less frequently, you would get a different kind of clientele," Liedl said. "The majority (of owners) are doing it responsibly, so we don't want to throw the baby out with the bath water."

Waiting for the court

For now, speculation on how to handle the VRBO issue will continue. A case pending in the Minnesota Supreme Court involving rental regulations in the city of Winona could change the landscape depending upon the decision. In that case, property owners challenged a restriction - similar to the one in Austin, Texas - on the percentage of rental dwellings allowed in a given area.

The American Civil Liberties Union, Minnesota Association of Realtors and others have contributed briefs arguing the right to rent property is a fundamental right.

"If the right to rent property is determined to be a fundamental right, all regulations limiting the right would be reviewed under the strict scrutiny standard," Listug stated in his report. "Such a ruling by the court would have significant impact upon government's ability to regulate rental property through traditional zoning ordinances."

Oral arguments in the case concluded Nov. 6 and a ruling is expected in February or March.

County Administrator Tim Houle said until a conclusion is reached, devoting time to the issue would not make sense. With a favorable result for Winona, it would still be possible for the county to find a solution in time for next summer's vacation season, he added.

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Chelsey Perkins

Chelsey Perkins grew up in Crosslake and is a graduate of Pequot Lakes High School. She earned her Bachelor's degree in professional journalism from the School of Journalism and Mass Communication at the University of Minnesota - Twin Cities. Perkins has interned at the Lake Country Echo and the Rochester and Austin Post-Bulletins and also worked for the student-run Minnesota Daily newspaper as a copy editor and columnist during college. She went on to intern at Utne Reader magazine, where she was later hired as the research editor. Before joining the Brainerd Dispatch, Perkins worked as a staff writer for the Pineandlakes Echo Journal.

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BED AND BREAKFAST INN - An owner-occupied dwelling unit where short-term lodging rooms with or without meals, are provided for compensation.

CAMPGROUND - An area of property used on a daily, nightly or weekly basis upon which a tent, pickup camper, motor home, pop-up camper, or trailer, made for camping where proper sanitation facilities and spacing of camp units are provided and maintained.

COMMERCIAL RECREATIONAL AREA, OUTDOOR - Recreational uses conducted outdoors, including; golf driving ranges (not associated with a golf course), archery, miniature golf, firing ranges, paintball, laser tag, motorized cart tracks, water parks, amusement parks, and similar uses.

CONDITIONAL USE - A land use or development as defined by this Ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in this Ordinance exist, the use or development conforms to the comprehensive land use plan of Le Sueur County, and the use is compatible with the surrounding area.

MOTEL - A structure or group of structures used primarily for the temporary residence of motorists or travelers.

PLANNED UNIT DEVELOPMENT - A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels and conversions of structures and land uses to these uses.

PLANNED UNIT DEVELOPMENT, COMMERCIAL - Typically uses that provide transient, short-term lodging spaces, rooms or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle, camping parks, and other primarily service-oriented activities are commercial planned unit developments.

PLANNED UNIT DEVELOPMENT, RESIDENTIAL - A use where the nature of residency is non-transient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives and full fee ownership residences would be considered as residential planned unit developments.

RECREATIONAL AREA - Any public park, playground, trail, athletic field, picnic ground, swimming beach, or fairground.

SUBDIVISION 5. USES NOT PROVIDED FOR IN ZONING DISTRICTS

Whenever in any Zoning District a use is neither specifically permitted or conditional use, the use shall be considered prohibited. *In such case the Board of County Commissioners and/or Planning Commission, upon the application of the property owner or Department, may conduct a study to determine if the use is acceptable and, if so, what Zoning District would be most appropriate, and the determination as to conditions and standards relating to the development of the use. The Board of County Commissioners and Planning Commission may also initiate an amendment to the Zoning Ordinance, if appropriate, to provide for the particular use under consideration or shall find that the use is not compatible within certain Zoning Districts.*