

EXPLORE MINNESOTA TOURISM
STATE OF MINNESOTA



MINNESOTA VACATION HOME RENTAL TASK FORCE REPORT AND RECOMMENDATIONS

2008 Legislative Session Chapter 291 - S.F. 3158

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121 Seventh Place East, Suite 100

St. Paul, MN 55101-2114 USA

Telephone: 800-657-3637

Web sites: www.industry.exploreminnesota.com • www.exploreminnesota.com

Table of Contents

Executive Summary	3
Recommendations	4
Background, Opportunities and Concerns	5
Existing Situation	7
Existing Minnesota Regulations	8
Recommendations	9
Next Steps	11
Appendices:	
Appendix A – Legislative Language Regarding Vacation Home Rental	12
Appendix B – Minnesota Vacation Home Rental Task Force	13
Appendix C – Vacation Home Rental Regulations in Select Cities and States	16
Appendix D – Vacation Home Rental Regulations in Selected Minnesota Counties	21
Appendix E – Stearns County Zoning Ordinance	23
Appendix F – Minnesota Department of Health Statutory Language Recommendations	25
Appendix G – Minnesota Department of Revenue Statutory Language Recommendations	35
Appendix H – Minnesota Seasonal Recreational Properties Owners Coalition Concerns	36

Minnesota Vacation Home Rental Lodging Task Force Report and Recommendations

Executive Summary

- At the direction of the Minnesota State Legislature, Explore Minnesota Tourism led a task force studying vacation home rental lodging.
- This task force of 30 members included representatives of Minnesota state departments including Health and Revenue, planning and zoning organizations, the University of Minnesota Tourism Center, several tourism businesses and tourism industry associations, associations for realtors and vacation home owners and home owners impacted by vacation home rental.
- The primary focus of this task force was to ensure that vacation home rentals operating as businesses are a safe lodging alternative that are managed and regulated on a level playing field with other lodging options, such as resorts and bed and breakfasts. An additional focus was the need to develop a workable means of mixing commercial and residential uses among properties on the same lake, or within the same area or building.
- The rental of privately-owned vacation homes is common throughout the world and is a growing practice in Minnesota. Vacation home rentals are offered through companies that specialize in this business, or directly by the home owners.
- The number of vacation homes offered for rent in Minnesota is unknown, but hundreds of Minnesota homes are promoted on various vacation home rental Web sites. There are more than 100,000 seasonal, recreational or occasional use homes in Minnesota.
- The task force identified current regulations that apply to Minnesota vacation home rentals in the areas of health and safety, taxes, and zoning. The task force also researched vacation home definitions, laws, permits, licenses and related issues in several other states.
- The task force determined that although current Minnesota regulations already apply to vacation home rentals, the language of the regulations does not specifically refer to this type of accommodation. As a result, most people who rent their vacation homes are probably unaware of the regulations that apply to this practice.

Recommendations

- Although Minnesota vacation home rentals are intended to be regulated under existing statutes and rules, the task force recommends that the management and regulation of vacation home rentals in Minnesota be clarified.

Specifically, in Minnesota Department of Health statutes:

- Add the definition of vacation home rental in M.S. 157.15 Definitions;
- Reference the vacation home rental category in M.S. 157.16 Licenses/Required Fees; and
- Add an exemption for charitable donations in M.S. 157.22 Exemptions.

Minnesota Department of Revenue statutes should be revised to:

- Define an isolated and occasional sale of a vacation home rental that would not be subject to sales and use tax in M.S. 297A.67, Subd. 23 Occasional Sales.
- There needs to be coordination among state and local jurisdictions and departments regarding regulations related to vacation home rentals.
 - Proactive communication of the rules and regulations must be implemented, so those who offer vacation home rentals provide safe accommodations in compliance with state and local laws and regulations and also maintain a positive relationship with their neighboring homeowners and businesses.

Note: The Minnesota Seasonal Recreational Property Owners Coalition, represented on the Task Force, disagreed with recommendations in this report. (See Appendix H.)

Background

The rental of vacation homes is growing throughout the world. Spurred by the ease of Internet marketing, the need of owners to cover increasing costs including utilities and property taxes, and overall consumer interest in savings and demand for lodging alternatives outside of the traditional hotel/motel offerings, Minnesota's second-home owners are becoming active operators in the vacation home rental market.

On a national level, in Hawaii, "individual vacation units" made up 7.9% of total visitor units (5,786) for 2007. The North Carolina Vacation Rental Managers Association recently studied their vacation home rental industry and identified 23,000 vacation home rental units with a total of 92,000 bedrooms and an average length of stay of 4.6 nights.

The potential exists for vacation home rental to become a significant business operation in Minnesota. The 2000 U.S. Census found that Minnesota had 105,609 housing units classified as "for seasonal, recreation, or occasional use," out of 2,065,946 total housing units (5%). These types of housing, although traditionally thought of as cabins by a lake, also include options such as condominiums in metro areas, or "scrapbooking" houses throughout the state. (Scrapbooking houses are accommodations that have been developed specifically for gatherings of people who scrapbook as a hobby.) They are commonly located in areas surrounded by seasonal and year-around residences that are not used for commercial purposes.

Opportunities and Concerns

Minnesota's lodging options are evolving. The number of resorts is steadily declining, largely due to increasing costs of operation and the overall value of lakeshore property. Within the last 20 years, Minnesota has added about 200 bed and breakfast operations that offer unique lodging alternatives to the traditional hotel/motel in communities large and small throughout the state.

In more recent years, vacation home rentals have been emerging in Minnesota. One characteristic of vacation home rental that further distinguishes it from most other types of lodging is that there is not an on-site manager. To make this a safe, viable, and economically beneficial development, there is a need to provide both guidance and regulation to these entrepreneurs. The opportunity to address a consumer market interested in this lodging option can generate economic benefits throughout an area.

These new lodging options need to operate on a level playing field with other businesses that offer sleeping accommodations. Specific legal and regulatory concerns include:

- Payment of federal, state and local taxes
- Licensing by the Minnesota Department of Health
- Building code requirements such as the Americans with Disabilities Act
- Septic, plumbing and water quality compliance
- Fire safety
- Capacity issues
- Zoning compliance (commercial or residential)
- Identifying and posting contact information on management
- Insurance requirements

In addition to legal concerns, operating a commercial business venture alongside neighboring residences (many of which are converting from seasonal to year-round homes as their owners retire), can lead to conflict. These conflicts, if not addressed on a voluntary basis, will lead to a need for additional regulation. These types of issues include:

- Overcrowding/maximum occupancy
- Maintenance
- 24-hour-per-day contact availability with local manager for guests and neighbors
- Noise
- Business signage
- Parking capacity/RV parking
- Driving responsibly
- Garbage
- Responsible use of recreational equipment
- Outside camping
- Trespassing
- Malicious complaints
- Licensing process
- Enforcement

Existing Situation

Initially, the task force, through the University of Minnesota Tourism Center, looked at other states and communities that have addressed the development of vacation home rental. The Tourism Center gathered information on:

- Arizona, including Sedona
- Colorado, including Steamboat Springs and Estes Park
- Florida
- Hawaii
- North Carolina
- South Carolina
- South Dakota
- Texas
- Wisconsin
- Palm Springs

All of these areas have existing but varied vacation home rental regulations, definitions, licensing, fees and taxes. Regulations deal with issues from safety to parking, as well as enforcement fines. *See Appendix C for a summary.*

The Tourism Center also looked at a sampling of Minnesota counties:

- Cass
- Cook
- Crow Wing
- Hennepin
- Goodhue
- Lake
- Olmsted
- Stearns - has existing regulations regarding vacation home rental (Ordinance 204 enacted in June, 2008. *See Appendix E for a summary.*)
- St. Louis

Explore Minnesota Tourism used these same counties to search a sample of the vacation home rental Web sites. Within these counties, www.vrbo.com listed 344 Minnesota homes; www.alwaysonvacation.com listed 67 and www.homeaway.com listed 141. *See Appendix D for a summary.*

Although only three Web sites were examined, based on a Google search, there are at least 816 listings of Web sites that promote vacation home rentals. It is unknown how many list Minnesota properties. Listing services also do not usually bear legal responsibility for the information.

Existing Minnesota Regulations

Many of the legal and regulatory issues related to vacation home rental are currently covered in state statute. According to the Minnesota Department of Health (MDH), Minnesota Statutes Chapter 157 and Minnesota Rule Chapter 4625 (although not specifically defining vacation home rental) would apply to a facility offering sleeping accommodations to the public. Currently, businesses renting for a week or more with five or more units are included in MDH licensing requirements.

Licensing by MDH would require verification of a number of issues including building code requirements such as the Americans with Disabilities Act; septic, plumbing and water compliance; fire safety; capacity issues and posting contact information about management. In this process, MDH also requires verification of local zoning compliance as well as a tax identification number.

Within Minnesota Department of Revenue oversight, for sales and use tax requirements, short term rentals of lodging are taxable under Minnesota Statute 297A.61 subd. 3 unless the sale qualifies as an occasional sale under Minnesota Statute 297A.67 subd. 23 Occasional Sales. Vacation home rental is not specifically defined, but included under the more general intent of the occasional sales statute. Property tax and individual income tax statutes would also apply.

Real Estate licensees, who provide property rental and management services as licensed under chapter 82, are allowed to operate vacation home rental management businesses without an additional license. The vacation home rental unit or units themselves require additional licensing, which may be provided by the unit owner or the rental management company or broker.

Shoreland rules are currently being updated by the Minnesota Department of Natural Resources through a stakeholder committee review process. Vacation home rental has been identified for consideration in this revision process.

Cities, counties and townships have their own zoning and nuisance ordinances. There are 87 counties and 853 cities in Minnesota with planning and zoning authority. Zoning decisions are made at the local level. Education and communication are the overall key to developing workable local implementation. Tools or model ordinance language can be provided to assist in local decisions.

Regardless of the existing laws and statutes that govern vacation home rental, it was a group consensus that these requirements for vacation home rentals are not known, communicated and/or commonly followed at this time.

Recommendations

1. Regulation of Minnesota vacation home rental properties needs to be clarified in state statute and rules.

Minnesota Department of Health Regulations:

Specifically, three changes are recommended to statutes regarding licensing by the Minnesota Department of Health:

- Amend M.S. 157.15 Definitions, by adding a definition for vacation home rental; the recommended language would appear under Subd. 20 Vacation Home Rental.

“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, hotel or motel.”

- Add references to the vacation home rental category to M.S. 157.16 Licenses Required; Fees.
- Add a licensing exemption for one donation annually for eligible charitable donations of weekend stays or periods of a week or less for fundraising in M.S. 157.22 Exemptions.

See Appendix F for language.

Minnesota Department of Revenue Regulations:

One change in statute is recommended by the Minnesota Department of Revenue:

- Amend Minnesota Statutes 2008, section 297A.67 subd. 23, to define an isolated or occasional sale of a vacation home rental that would not be subject to sales and use tax. The definition adopts the "number of days" used for federal income tax purposes for the purpose of consistency and familiarity.

See Appendix G for language.

2. Communications Regarding Vacation Home Rental

A proactive communication plan needs to be implemented to ensure awareness of the regulations, licenses, taxes and operational courtesies that need to be addressed when renting vacation home properties.

Currently, requirements for licensing, fees, taxes, inspections and enforcement for the operation of a vacation home rental property in Minnesota are neither clearly defined nor widely known. Lacking clear direction, unlicensed and unregulated vacation home rentals are growing throughout Minnesota. Following the outcome of the 2009 Legislative session, communicating this information is critical to compliance.

Target audiences for the communication of vacation home rental operation requirements include:

- Vacation home rental property owners
- Vacation property owners associations
- Vacation home management and rental companies
- Nearby residents
- Lake associations

Organizations and mediums to potentially use in communicating include:

- Governing agencies at a state, local and county level
- Tourism and hospitality trade associations
- Realtors and realtor associations - CEU's and desk top reference guides
- Continuing education sources for realtors
- Promotional organizations - chambers of commerce, convention and visitors bureaus, state tourism office
- Annual licensing and permitting processes
- Law enforcement agencies
- Insurance agencies
- Electric utility companies serving vacation rental areas
- Property tax statements for recreational property
- Vacation rental websites

Communications must be clear, concise, and consistent and have contacts for further information, both phone and Web based. Explore Minnesota Tourism will create a Web site or Web page that includes all current information about requirements for vacation home rentals. Both public relations and public information meetings need to be utilized to reach the targeted audiences.

Next Steps

Recommendations for statutory changes will be initiated by tourism industry associations and pursued in the Minnesota Legislature. Following the 2009 legislative session, Explore Minnesota Tourism will coordinate with the task force to implement needed communications efforts.

APPENDIX A: LEGISLATIVE LANGUAGE REGARDING VACATION
HOME RENTAL

CHAPTER 291--S.F.No. 3158

An act

relating to commerce; requiring Explore Minnesota Tourism to study
vacation rental lodging; creating definitions; requiring a report.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **MINNESOTA VACATION RENTAL LODGING STUDY.**

Explore Minnesota Tourism shall conduct a study of vacation rental lodging in Minnesota and report to the legislature any recommendations needed to protect consumers, ensure tax compliance, promote safe rentals, and promote tourism in Minnesota. Explore Minnesota Tourism shall consult with the Minnesota Department of Revenue, Minnesota Department of Health, political subdivisions, and representatives of the tourism industry including resorts, bed and breakfast establishments, cabin owner associations, conventions and visitor bureaus, and others to determine and recommend regulations or legislation to define and promote the vacation rental lodging. Explore Minnesota Tourism shall report by January 15, 2009, to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over any recommendations developed from the study, including any proposed legislation.

EFFECTIVE DATE. This section is effective the day following final enactment.

Presented to the governor May 8, 2008

Signed by the governor May 12, 2008, 1:09 p.m.

APPENDIX B: MINNESOTA VACATION HOME RENTAL TASK FORCE

Tim Aarsvold
Geneva Beach Resort
105 Linden Avenue
Alexandria, MN 56308
320/763-3200
TJA@GenevaBeachResort.com

Jane & Gary Bales
18 Harbor View Lane
Federal Dam, MN 56641
218/654-3030
jgbales@means.net

Angie Berg
Stearns County Administration Center
705 Courthouse Square
St. Cloud, MN 56303
320/656-3600
Angie.berg@co.stearns.mn.us

Christine Berger
MN Association of Realtors
5750 Lincoln Drive
Edina, MN 55436
952/215-8471
cberger@mnrealtor.com

Joel Carlson
Legal Research - Government Affairs
6 West Fifth Street Suite 700
St. Paul, Minnesota 55102
651/223-2868
jdcresearch@aol.com

Chuck Dougherty
Minnesota Bed & Breakfast Assn.
101 Water Street South
Stillwater, MN 55082-5150
chuck@waterstreetinn.us

John Edman
Explore Minnesota Tourism
100 Metro Square
121 7th Place East
Saint Paul, MN 55101
651/296-4783
John.edman@state.mn.us

Gary Edwards
MN Dept. of Health
625 North Robert Street
St. Paul, MN 55155-2516
651/201-4513
Gary.edwards@state.mn.us

Tom Ellerbe
MN Dept. of Revenue
600 N. Robert St., M.S. 2230
St. Paul, MN 55146-2230
651/566-6136
Tom.ellerbe@state.mn.us

Henry Erdman
MN Seasonal Recreational
Property Owners Coalition
331 Winona Street West
Saint Paul, MN 55117
651/247-1701
Herdman4890@earthlink.net

Jeff Forester
MN Seasonal Recreational
Property Owners Coalition
Two Appletree Square, #235
Bloomington, MN 55425
952/854-1317
jeff@msrpo.org

Minnesota Vacation Home Rental Task Force
Report and Recommendations

Jim Franklin
Minnesota Sheriffs Association
1951 Woodlane Drive
Woodbury, MN 55125
651/451-7216
jfranklin@mnsheriffs.org

Annalee Garletz
Association of Minnesota Counties
125 Charles Avenue
Saint Paul, MN 55103
651/789-4322
Garletz@mncounties.org

Mike Grove
Twin Springs Resort
3837 North Pleasant Lake Dr NW
Hackensack, MN 56452
vacation@hackensackmn.com

Kent Gustafson
University of MN Tourism Center
120 BioAgEng
1390 Eckles Avenue
Saint Paul, MN 55108
612/625-8274
kgustaf@umn.edu

Ken Klos
Greenwood Township/Lake Vermilion
7595 Timberlore Trail West
Cook, MN 55723
218/666-0359
Kklos@2z.net

Mark Lauderbaugh
3861 59th Street NW
Maple Lake, MN 55358
320/963-2017
mark@tridentprocess.com

Joe Mathews
Association of MN Counties
125 Charles Avenue
Saint Paul, MN 55103
651/224-3344
mathews@mncounties.org

Kevin Matzek
Hospitality Minnesota
305 Roselawn Avenue East
Saint Paul, MN 55117
651/778-2400
Kevinm@hospitalitymn.com

Mark Novotny
Hyde-A-Way Bay Resort
3489 Ford Drive NW
Hackensack, MN 56452
218/675-6683
hydeawaybay@tds.net

Jennifer O'Rourke
League of Minnesota Cities
145 University Avenue West
Saint Paul, MN 55103
651/281-1261
jorourke@lmc.org

Marissa Papineau
MN Department of Revenue
600 N. Robert St.
Saint Paul, MN 55101
651/556-6974
Marissa.papineau@state.mn.us

Julie Ring
Local Public Health Association of MN
125 Charles Avenue
Saint Paul, MN 55103
651/789-4354
ring@mncounties.org

Gretchen Sabel
Pollution Control Agency
520 Lafayette Road
Saint Paul, MN 55155
651/296-6300
Gretchen.sabel@state.mn.us

Heather VanValkenburg
Director of Government Affairs
MN Association of Realtors
5750 Lincoln Drive
Edina, MN 55436
952/912-2661
hvanvalkenburg@mnrealtor.com

Ingrid Schneider
MN Tourism Center
University of MN Tourism Center
120BioAgEng
1390 Eckles Avenue
Saint Paul, MN 55108
612-624-2736
ingridss@umn.edu

Cathy Wicks
Sales and Use Tax Division
Department of Revenue
600 North Robert Street
Saint Paul, MN 55146-6300
651/556-6818
Cathy.wicks@state.mn.us

Dave Siegel
Hospitality Minnesota/Associations
305 Roselawn Avenue East
Saint Paul, MN 55117
651/778-2400
dave@hospitalitymn.com

Kent Sulem
General Consul
Minnesota Association of Townships
805 Central Avenue East
P.O. Box 267
St. Michael, MN 55376
763/497-2330
ksulem@mntownships.org

Colleen Tollefson
Explore Minnesota Tourism
100 Metro Square
121 7th Place East
Saint Paul, MN 55101
651/297-2635
Colleen.tollefson@state.mn.us

APPENDIX C: Vacation Home Rental Regulations in Select States and Cities (August 2008)

	Arizona	Colorado	Florida	Hawaii	North Carolina	South Carolina	South Dakota	Texas	Wisconsin
Existing vacation home regulations	Yes	Yes	Yes – Chapter 509 & 721	Yes – County ordinances – vary county to county	Yes – Chapter 42A	Yes – Chapter 45	Yes – SS 34.18 amended to include separate licensure category	Yes	Yes – SS 254.74 Health Department Regulation 195
Definitions	less than 30 days “transient”	less than 30 days “room”	“transient public lodging” Any unit within single complex rented three or more times for periods of less than 30 days Exemption: any place renting four units or less	Some ordinances define vacation home rental as less than 30 days; others are less than 90 days. Transient Accommodations Tax Law = less than 180 days	Rental of residential property for vacation, leisure or recreation for less than 90 days	“Lodging establishment” – any rooms furnished to transients for consideration	Rental for more than 14 days in a calendar year and not occupied by owner/manager during time of rental		“Tourist Rooming House” Any sleeping accommodation offered for pay to tourists or transients

**Minnesota Vacation Home Rental Task Force
Report and Recommendations**

APPENDIX C: Vacation Home Rental Regulations in Select States and Cities (August 2008)

	Arizona	Colorado	Florida	Hawaii	North Carolina	South Carolina	South Dakota	Texas	Wisconsin
Detail	Brochure for hotels		Inspections when department determines necessity to ensure public health & safety	County code specifies rental arrangement, not allowed in residential districts without condominium use permit	Create agreement with tenant Meet current building & housing codes, safe condition	Regulations cover all aspects of lodging including food safety, general health safety, fire safety	Minimum fire safety standards (alarms/egress windows/extinguishers)	Require conditional use permit for vacation home rental's in residential neighborhoods	Law/regulations cover health, safety, fire, food requirements
Fee/License			Based on number of units		Follow current local building/housing license fees	Accommodations tax except: if live in house being rented or; if house has less than six rooms	\$30/house/year		Initial pre-inspection fee: \$125.00 Annual renewal: \$85.00

**Minnesota Vacation Home Rental Task Force
Report and Recommendations**

APPENDIX C: Vacation Home Rental Regulations in Select States and Cities (August 2008)

	Arizona	Colorado	Florida	Hawaii	North Carolina	South Carolina	South Dakota	Texas	Wisconsin
Enforcement			Inspected two-three times/year. Warnings/corrective action order and return visit (additional time or administrative complaint issued with time extensions)	Counties becoming more assertive in investigating illegal TVR's. Maui County issues written warnings as well as cease & desist orders before citations. \$1000 fine for first offense & up to \$1000/day for each day of violation		Local governments responsible. Violators face fines up to \$100 and license revocation	Department of Health Initial inspection and annual license renewal inspection		Health Department process: written notification of problem with timeline to comply
Tax		Sales tax, local tax, & local marketing district	Transient rental: depends on locale (1-5%)		General state sales tax & use tax (4%) county 2.5% tax	8% + local option tax (1-2%)	Lodging tax (4%) Tourism tax (1%)	6% occupancy tax	

**Minnesota Vacation Home Rental Task Force
Report and Recommendations**

APPENDIX C: Vacation Home Rentals in Select States and Cities
(August 2008)

	Sedona, AZ (2007)	Steamboat Springs, CO	Estes Park, CO (2004)	Palm Springs, TX? (2008)
Existing vacation home regulations	Yes – Article 6 of Land Development Code	Yes	Yes	Yes – Chapter 5.25
Definitions	Rental of single family or mobile home for less than 30 days	Vactain Home Rental to a single party. Not more than two occasions for not more than 29 consecutive days.	Leasing, renting any unit for a total duration of less than 30 days vacation home rental – residential unit leased or occupied on a unit basis	More than one residential buildings rented for less than 28 consecutive days to the same renter
Detail	Prohibits rental more than 30 days	Maximum of 16 people/ 200ft. Two parking spaces/four vehicles. No unreasonable noise, outdoor sleeping, commercial kitchens, advertising	Need to operate within residential character (noise/traffic/design) Two guests/room with maximum of eight people; one parking lot per three guest cars NO RV, local manager required	Compliance with all city fire, noise, building, & health codes. 24-hour/day contact with local manager.
Fee/License		\$500 application fee, \$50 annual renewal	Business license fee: varies by number of units	Initial fee: \$25.00
Enforcement	\$2500 fine & six months in jail	\$1000 fine/day operate without license (three months to transition) Inspection with 24-hour notice	Inspection with reasonable notice License revocation after warnings	Misdemeanor for each day of violation. Fifteen days allowed to complete compliance. After fourth violation, license can be revoked
Tax	Lodging tax		Commercial sales tax	11.75% lodging tax

Notes:

- Sedona ordinance has become subject of court challenges
- Hawaii (2007): “Individual vacation units” made up 7.9 % of total visitor units (5,786)
- Maui County, Hawaii, VHR policies part of bed and breakfast ordinance (Chapter 19.64)
- North Carolina VHR profile completed for North Carolina Vacation Rental Managers Association
 - Total number of VHR’s: 23,000
 - Total value: \$9.6 billion
 - Total number of bedrooms: 92,000
 - Average length of stay: 4.6 nights
 - Total number of VHR management companies: 142

University of Minnesota Tourism Center – August 2008

**Minnesota Vacation Home Rental Task Force
Report and Recommendations**

**APPENDIX D: Vacation Home Rental Regulations in Selected
Minnesota Counties**

	Cass	Cook	Crow Wing	Hennepin	Goodhue	Lake	Olmsted	Stearns	St. Louis
Existing vacation home rental regulations	No	No	No	No vacation ordinances There is a "lodging establishment" ordinance	No (P & Z Department reports no problems)	No Lodging more than 30 days requires commercial & conditional use permit	No P & Z Department Indicate vacation home rentals not a problem)	Yes (6/17/08) Ordinance 204	No – Possibly township
Definitions				"Lodging house" – (sleeping rooms furnished to public/ five+ beds)		More than 30 days		Any group of rooms forming a single habitable area	
Details				License required; fees set; inspection standards; construction plan reviews; penalties set		Any use may be allowed as conditional use when it can be regulated to preserve the stated general purpose of the district		Application requires water test, sewage inspection, to scale drawing Max. 12 people, or one person/50 gallons water/day sewage can handle. No signs or RV's No more than two/parcel	
Fees/License						Cond. Use =\$200; Recording fee=\$46		License required based on number of rooms	

**Minnesota Vacation Home Rental Task Force
Report and Recommendations**

Many vacation home rental property owners advertise their properties on the Internet. The following chart lists the totals for rentals in selected counties on three popular Web sites. Although only three Web sites were examined, based on a Google.com search, there are at least 816 listings of Web sites that promote vacation home rental.

	www.vrbo.com	www.alwaysonvacation.com	www.homeaway.com	All three Web Sites
County				
Cass	33	4	3	40
Cook	110	23	82	215
Crow Wing	95	15	23	133
Goodhue	2	0	1	3
Hennepin	27	1	8	36
Lake	22	4	5	31
Olmsted	2	0	0	2
St. Louis	51	19	17	87
Stearns	2	1	2	5
TOTAL	344	67	141	552

- All Ely properties are listed in Lake County
- In some cases, it is difficult to determine whether a property is in Cass or Crow Wing County

The 2000 U.S. Census data, and found that Minnesota had 105,609 housing units classified as "for seasonal, recreation, or occasional use" (i.e., seasonal) out of 2,065,946 total housing units (5%).

University of Minnesota Tourism Center – August 2008

APPENDIX E: Stearns County Zoning Ordinance

(This Section last amended June 17, 2008)

6.49 Vacation/Private Home Rental

6.49.1 Performance Standards

A Vacation/Private Home Rental shall be subject to the administrative requirements of Section 4.18 of this Ordinance and the following performance standards:

- A. Submittal of an application signed by the property owner and including the following: a current water test from an accredited laboratory with test results for nitrate-nitrogen and coliform bacteria, a compliance inspection of the existing sub-surface sewage treatment system and a to-scale drawing of the location and dimensions of the structure intended for licensing and all associated accessory structures, parking areas, shore recreation facilities and sewage treatment systems.
- B. The occupancy of a Vacation/Private Home Rental shall be limited to no more than two persons per bedroom plus two additional persons per building, not to exceed a maximum of 12 persons; or no more than 1 person for every 50 gallons of water per day that the building's sub-surface sewage treatment system is designed to handle, whichever is less.
- C. Parking shall meet the requirements of Section 7.15 of this Ordinance. Designated parking areas shall be off-street parking.
- D. On premise signs are prohibited.
- E. The Vacation/Private Home Rental shall be connected to an approved subsurface sewage treatment system. The sub-surface sewage treatment system shall be designed and constructed with a design flow of 50 gallons of water per person per day to handle the maximum number of guests for which the facility is permitted. The sub-surface sewage treatment system shall include a flow measurement device. Flow measurement readings and monitoring of the sub-surface sewage treatment system shall be recorded monthly and records shall be made available to the Department upon request. The use of holding tanks for Vacation/Private Home rental units shall be prohibited.
- F. Rental of recreational vehicles shall not be allowed.
- G. The Planning Commission may impose conditions that will reduce the impact of the proposed use on neighboring properties and nearby waterbodies. Said conditions may include but not be limited to a fence or vegetative screening along a property line or a native buffer along the shoreline.
- H. The owners of Vacation/Private Home Rentals shall ensure that the noise standards of Minnesota Rules, chapter 7030; or successor rules, are met. The Planning Commission may impose a quiet hours standard in order to assist in achieving this goal and to reduce the potential impacts on neighboring properties.

- I. The owners of Vacation/Private Home Rentals shall, at a minimum, comply with Minnesota Statutes, chapter 504B; or successor statute and make available to all tenants the Minnesota Attorney General’s annual statement summarizing the significant legal rights and obligations of landlords and residential tenants, as described in Minnesota Statutes, section 504B.275; or successor statute.
- J. The licensee shall keep a report, detailing use of the home by recording, at a minimum, the name, address, phone number and vehicle license number of all guests using the property. A copy of the report shall be provided to the Department upon request.
- I. No more than two Vacation/Private Home rentals will be allowed on a parcel. Construction of more than one single family dwelling unit or Guest Cottage shall only be allowed on a parcel that meets the requirements of Sections 10.2.8 and 10.2.12 of this Ordinance. More than two Vacation/Private Home rentals on the same parcel or on contiguous parcels under common ownership shall constitute a resort and must meet the standards set forth in Section 10.2.23 of this Ordinance.

6.49.2 License Required

A Vacation/Private Home Rental shall be licensed by the County and shall meet the requirements of Stearns County Ordinance Number 204; or successor ordinances.

APPENDIX F: MINNESOTA DEPARTMENT OF HEALTH STATUTORY LANGUAGE RECOMMENDATIONS

157.15 [Repealed, [1959 c 592 s 29](#)]

157.15 DEFINITIONS.

Subdivision 1. **Application.**

The definitions in this section apply to sections [157.011](#) and [157.15](#) to [157.22](#).

Subd. 2.

[Repealed, [1996 c 451 art 4 s 71](#)]

Subd. 3. **Commissioner.**

"Commissioner" means the commissioner of health.

Subd. 4. **Boarding establishment.**

"Boarding establishment" means a food and beverage service establishment where food or beverages, or both, are furnished to five or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more.

Subd. 5. **Food and beverage service establishment.**

"Food and beverage service establishment" means a building, structure, enclosure, or any part of a building, structure, or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.

Subd. 6. **Food cart.**

"Food cart" means a food and beverage service establishment that is a nonmotorized vehicle self-propelled by the operator.

Subd. 7. **Hotel or motel.**

"Hotel or motel" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.

Subd. 8. **Lodging establishment.**

"Lodging establishment" means a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public.

Subd. 9. Mobile food unit.

"Mobile food unit" means a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, operating no more than 21 days annually at any one place or is operated in conjunction with a permanent business licensed under this chapter or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.

Subd. 10. Person.

"Person" has the meaning given in section [103I.005, subdivision 16](#).

Subd. 11. Resort.

"Resort" means a building, structure, enclosure, or any part thereof located on, or on property neighboring, any lake, stream, skiing or hunting area, or any recreational area for purposes of providing convenient access thereto, kept, used, maintained, or advertised as, or held out to the public to be a place where sleeping accommodations are furnished to the public, and primarily to those seeking recreation for periods of one day, one week, or longer, and having for rent ~~five or more~~ cottages, rooms, or enclosures.

Subd. 12. Restaurant.

"Restaurant" means a food and beverage service establishment, whether the establishment serves alcoholic or nonalcoholic beverages, which operates from a location for more than 21 days annually. Restaurant does not include a food cart or a mobile food unit.

Subd. 12a. Seasonal permanent food stand.

"Seasonal permanent food stand" means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 21 days annually.

Subd. 13. Seasonal temporary food stand.

"Seasonal temporary food stand" means a food and beverage service establishment that is a food stand which is disassembled and moved from location to location, but which operates no more than 21 days annually at any one location.

Subd. 14. Special event food stand.

"Special event food stand" means a food and beverage service establishment which is used in conjunction with celebrations and special events, and which operates no more than three times annually for no more than ten total days.

Subd. 15.[Repealed, [1998 c 407 art 2 s 109](#)]

Subd. 16.Critical control point.

"Critical control point" means a point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

Subd. 17.HACCP plan.

"Hazard analysis critical control point (HACCP) plan" means a written document that delineates the formal procedures for following the HACCP principles developed by the National Advisory Committee on Microbiological Criteria for Foods.

Subd. 18.Hazard.

"Hazard" means any biological, chemical, or physical property that may cause an unacceptable consumer health risk.

Subd. 19.Statewide hospitality fee.

"Statewide hospitality fee" means a fee to fund statewide food, beverage, and lodging program development activities, including training for inspection staff, technical assistance, maintenance of a statewide integrated food safety and security information system, and other related statewide activities that support the food, beverage, and lodging program activities.

Subd. 20, Vacation Home Rental.

"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, hotel or motel.

History:

[1995 c 207 art 9 s 41](#); [1996 c 451 art 4 s 47-55,70](#); [1997 c 203 art 2 s 19-21](#); [1998 c 407 art 2 s 87-91](#); [1Sp2005 c 4 art 6 s 43](#)

157.22 EXEMPTIONS.

This chapter shall not be construed to apply to:

- (1) interstate carriers under the supervision of the United States Department of Health and Human Services;
- (2) any building constructed and primarily used for religious worship;

(3) any building owned, operated, and used by a college or university in accordance with health regulations promulgated by the college or university under chapter 14;

(4) any person, firm, or corporation whose principal mode of business is licensed under sections [28A.04](#) and [28A.05](#), is exempt at that premises from licensure as a food or beverage establishment; provided that the holding of any license pursuant to sections [28A.04](#) and [28A.05](#) shall not exempt any person, firm, or corporation from the applicable provisions of this chapter or the rules of the state commissioner of health relating to food and beverage service establishments;

(5) family day care homes and group family day care homes governed by sections [245A.01](#) to [245A.16](#);

(6) nonprofit senior citizen centers for the sale of home-baked goods;

(7) fraternal or patriotic organizations that are tax exempt under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(10), or 501(c)(19) of the Internal Revenue Code of 1986, or organizations related to or affiliated with such fraternal or patriotic organizations. Such organizations may organize events at which home-prepared food is donated by organization members for sale at the events, provided:

(i) the event is not a circus, carnival, or fair;

(ii) the organization controls the admission of persons to the event, the event agenda, or both; and

(iii) the organization's licensed kitchen is not used in any manner for the event;

Such tax exempt organizations listed above may accept donations from private property owners at cabins or homes in recreational areas for weekend stays or periods of a week or less for fund raising efforts. Neither the property owner nor the tax exempt organization will be required to obtain a vacation home rental license or other lodging license for that donated period of time when limited to one donation annually.

(8) food not prepared at an establishment and brought in by individuals attending a potluck event for consumption at the potluck event. An organization sponsoring a potluck event under this clause may advertise the potluck event to the public through any means.

Individuals who are not members of an organization sponsoring a potluck event under this clause may attend the potluck event and consume the food at the event. Licensed food establishments other than schools cannot be sponsors of potluck events. A school may sponsor and hold potluck events in areas of the school other than the school's kitchen, provided that the school's kitchen is not used in any manner for the potluck event. For purposes of this clause, "school" means a public school as defined in section [120A.05, subdivisions 9, 11, 13, and 17](#), or a nonpublic school, church, or religious organization at which a child is provided with instruction in compliance with sections [120A.22](#) and [120A.24](#). Potluck event food shall not be brought into a licensed food establishment kitchen; and (9) a home school in which a child is provided instruction at home.

History:

[1995 c 207 art 9 s 48](#); [2000 c 378 s 1](#); [2001 c 65 s 1](#); [1Sp2001 c 9 art 1 s 55](#); [2002 c 379 art 1 s 113](#)**157.16**

LICENSES REQUIRED; FEES.

Subdivision 1. **License required annually.**

A license is required annually for every person, firm, or corporation engaged in the business of conducting a food and beverage service establishment, hotel, motel, lodging establishment, public pool, **vacation home rental** or resort. Any person wishing to operate a place of business licensed in this section shall first make application, pay the required fee specified in this section, and receive approval for operation, including plan review approval. Seasonal and temporary food stands and special event food stands are not required to submit plans. Nonprofit organizations operating a special event food stand with multiple locations at an annual one-day event shall be issued only one license. Application shall be made on forms provided by the commissioner and shall require the applicant to state the full name and address of the owner of the building, structure, or enclosure, the lessee and manager of the food and beverage service establishment, hotel, motel, lodging establishment, public pool, **vacation home rental** or resort; the name under which the business is to be conducted; and any other information as may be required by the commissioner to complete the application for license.

Subd. 2. License renewal.

Initial and renewal licenses for all food and beverage service establishments, hotels, motels, lodging establishments, public pools, **vacation home rentals** and resorts shall be issued for the calendar year for which application is made and shall expire on December 31 of such year. Any person who operates a place of business after the expiration date of a license or without having submitted an application and paid the fee shall be deemed to have violated the provisions of this chapter and shall be subject to enforcement action, as provided in the Health Enforcement Consolidation Act, sections [144.989](#) to [144.993](#). In addition, a penalty of \$50 shall be added to the total of the license fee for any food and beverage service establishment operating without a license as a mobile food unit, a seasonal temporary or seasonal permanent food stand, or a special event food stand, and a penalty of \$100 shall be added to the total of the license fee for all restaurants, food carts, hotels, motels, lodging establishments, public pools, **vacation home rentals** and resorts operating without a license for a period of up to 30 days. A late fee of \$300 shall be added to the license fee for establishments operating more than 30 days without a license.

Subd. 2a. Food manager certification.

An applicant for certification or certification renewal as a food manager must submit to the commissioner a \$28 nonrefundable certification fee payable to the Department of Health.

Subd. 3. Establishment fees; definitions.

(a) The following fees are required for food and beverage service establishments, hotels, motels, lodging establishments, public pools, **vacation home rentals** and resorts licensed under this chapter. Food and beverage service establishments must pay the highest applicable fee under paragraph (d), clause (1), (2), (3), or (4), and establishments serving alcohol must pay the highest applicable fee under paragraph (d), clause (6) or (7). The license fee for new operators previously licensed under this chapter for the same calendar year is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for operators opening on or after October 1 is one-half of the appropriate annual license fee, plus any penalty that may be required.

(b) All food and beverage service establishments, except special event food stands, and all hotels, motels, lodging establishments, public pools, **vacation home rentals** and resorts shall pay an annual base fee of \$150.

(c) A special event food stand shall pay a flat fee of \$40 annually. "Special event food stand" means a fee category where food is prepared or served in conjunction with celebrations, county fairs, or special events from a special event food stand as defined in section [157.15](#).

(d) In addition to the base fee in paragraph (b), each food and beverage service establishment, other than a special event food stand, and each hotel, motel, lodging establishment, public pool, **vacation home rental** and resort shall pay an additional annual fee for each fee category, additional food service, or required additional inspection specified in this paragraph:

(1) Limited food menu selection, \$50. "Limited food menu selection" means a fee category that provides one or more of the following:

- (i) prepackaged food that receives heat treatment and is served in the package;
- (ii) frozen pizza that is heated and served;
- (iii) a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;
- (iv) soft drinks, coffee, or nonalcoholic beverages; or
- (v) cleaning for eating, drinking, or cooking utensils, when the only food served is prepared off site.

(2) Small establishment, including boarding establishments, \$100. "Small establishment" means a fee category that has no salad bar and meets one or more of the following:

- (i) possesses food service equipment that consists of no more than a deep fat fryer, a grill, two hot holding containers, and one or more microwave ovens;
- (ii) serves dipped ice cream or soft serve frozen desserts;
- (iii) serves breakfast in an owner-occupied bed and breakfast establishment;
- (iv) is a boarding establishment; or

(v) meets the equipment criteria in clause (3), item (i) or (ii), and has a maximum patron seating capacity of not more than 50.

(3) Medium establishment, \$260. "Medium establishment" means a fee category that meets one or more of the following:

(i) possesses food service equipment that includes a range, oven, steam table, salad bar, or salad preparation area;

(ii) possesses food service equipment that includes more than one deep fat fryer, one grill, or two hot holding containers; or

(iii) is an establishment where food is prepared at one location and served at one or more separate locations.

Establishments meeting criteria in clause (2), item (v), are not included in this fee category.

(4) Large establishment, \$460. "Large establishment" means either:

(i) a fee category that (A) meets the criteria in clause (3), items (i) or (ii), for a medium establishment, (B) seats more than 175 people, and (C) offers the full menu selection an average of five or more days a week during the weeks of operation; or

(ii) a fee category that (A) meets the criteria in clause (3), item (iii), for a medium establishment, and (B) prepares and serves 500 or more meals per day.

(5) Other food and beverage service, including food carts, mobile food units, seasonal temporary food stands, and seasonal permanent food stands, \$50.

(6) Beer or wine table service, \$50. "Beer or wine table service" means a fee category where the only alcoholic beverage service is beer or wine, served to customers seated at tables.

(7) Alcoholic beverage service, other than beer or wine table service, \$135. "Alcohol beverage service, other than beer or wine table service" means a fee category where alcoholic mixed drinks are served or where beer or wine are served from a bar.

(8) Lodging per sleeping accommodation unit, \$8, including hotels, motels, lodging establishments, **vacation home rentals** and resorts, up to a maximum of \$800. "Lodging per sleeping accommodation unit" means a fee category including the number of guest rooms, cottages, or other rental units of a hotel, motel, lodging establishment, **vacation home rental** or resort; or the number of beds in a dormitory.

(9) First public pool, \$180; each additional public pool, \$100. "Public pool" means a fee category that has the meaning given in section [144.1222, subdivision 4](#).

(10) First spa, \$110; each additional spa, \$50. "Spa pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 9.

(11) Private sewer or water, \$50. "Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(12) Additional food service, \$130. "Additional food service" means a location at a food service establishment, other than the primary food preparation and service area, used to prepare or serve food to the public.

(13) Additional inspection fee, \$300. "Additional inspection fee" means a fee to conduct the second inspection each year for elementary and secondary education facility school lunch programs when required by the Richard B. Russell National School Lunch Act.

(e) A fee of \$350 for review of the construction plans must accompany the initial license application for restaurants, hotels, motels, lodging establishments, **vacation home rentals** or resorts with five or more sleeping units.

(f) When existing food and beverage service establishments, hotels, motels, lodging establishments, **vacation home rentals** or resorts are extensively remodeled, a fee of \$250 must be submitted with the remodeling plans. A fee of \$250 must be submitted for new construction or remodeling for a restaurant with a limited food menu selection, a seasonal permanent food stand, a mobile food unit, or a food cart, or for a hotel, motel, resort, **vacation home rental** or lodging establishment addition of less than five sleeping units.

(g) Seasonal temporary food stands and special event food stands are not required to submit construction or remodeling plans for review.

Subd. 3a. Statewide hospitality fee.

Every person, firm, or corporation that operates a licensed boarding establishment, food and beverage service establishment, seasonal

temporary or permanent food stand, special event food stand, mobile food unit, food cart, resort, hotel, motel, **vacation home rental** or lodging establishment in Minnesota must submit to the commissioner a \$35 annual statewide hospitality fee for each licensed activity. The fee for establishments licensed by the Department of Health is required at the same time the licensure fee is due. For establishments licensed by local governments, the fee is due by July 1 of each year.

Subd. 4. Posting requirements.

Every food and beverage service establishment, hotel, motel, lodging establishment, public pool, **vacation home rental** or resort must have the license posted in a conspicuous place at the establishment.

History:

[1995 c 207 art 9 s 42](#); [1996 c 451 art 4 s 56](#); [1997 c 203 art 2 s 22](#); [1998 c 397 art 11 s 3](#); [1998 c 407 art 2 s 92](#); [1Sp2001 c 9 art 1 s 54](#); [2002 c 379 art 1 s 113](#); [1Sp2005 c 4 art 6 s 44-47](#); [2007 c 147 art 9 s 34](#); [2008 c 328 s 8](#)

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APPENDIX G: Minnesota Department of Revenue Statutory Language Recommendations

Minnesota Statutes 2008, section 297A.67, subdivision 23 is amended to read:

Subd. 23. **Occasional sales.** Isolated and occasional sales in Minnesota not made in the normal course of business of selling that kind of property or service are exempt. The storage, use, or consumption of property or services acquired as a result of such a sale is exempt. This exemption does not apply to sales of tangible personal property primarily used in a trade or business.

The rental or lease, for a consideration in money or by exchange or barter, of a residential dwelling, including any home, cabin, condominium or similar building which is not made in the normal course of business of selling that kind of property or service as defined in subdivision 21 as a place for sleeping accommodations and which is not licensed or required to be licensed as a bed and breakfast, hotel, motel, resort or campground, is exempt as an occasional sale provided the dwelling is leased or rented for 14 or less days in a calendar year.

[EFFECTIVE DATE.] This section is effective for rentals and leases after June 30, 2009.

APPENDIX H: Minnesota Seasonal Recreational Properties Owners Coalition Concerns

To the Members of the Vacation Home Rental Task Force:

Colleen has asked us all to weigh in on the Draft Report to the Legislature. MSRPO spent much time working on this committee, and we supported the concept of determining if there were a lot of people who were renting out cabins as a business, but not paying the related taxes, fees or obtaining appropriate permits. This Task Force, we believe, has moved far beyond that original goal.

As an organization we concur with the resort community that like businesses should be treated similarly in state law.

MSRPO does not represent vacation home rental owners – we represent cabin owners and hunting land owners. From time to time some of these owners rent out their places to friends, family or acquaintances. This legitimate use of their property, based on our conversations with our 6,000 members is very infrequent and rare. We had hoped that this task force would illuminate the issues involved in these occasional rentals, and that we could pass this valuable information on to those who own cabins and hunting lands in the state.

That being said, here are our thoughts on the report in its current format:

- 1) We have no idea if there is a problem or if there is, how widespread it might be. At every single meeting we have raised the issue of how big a problem are we talking about. This report does not answer that question. Instead it goes ahead and proposes a legislative change to solve a problem that we do not even know for certain exists.
- 2) The Task force was to look at those involved in vacation home rental as a business, recognizing that some property owners may, from time to time, rent out their place to friends, family or acquaintances. This is not vacation home rental as a business, but a legal and perfectly fine use of a property by an owner. Yet the proposed regulations do little to differentiate between those who are in the business of renting vacation homes, and those owners who occasionally rent out their places to help make ends meet.
- 3) Definition suggestion in M.S. 157.15 - We strongly believe that this definition is far too narrow and encroaches on private property rights. Property Owners who occasionally rent out their properties did not buy their properties as a business investment; they are not depending on these properties for their income.

In conclusion, the changes suggested in this report do not "level the playing field" between cabin or hunting land owners who occasionally rent out their places and resort owners, who are in the full time business of renting out access to the great outdoors. These changes harm cabin and hunting land owners unfairly – they did not buy their properties as businesses and are not using them as a business and should not be treated as such.

We believe the recommendations made in this report to be an unfair targeting of ALL seasonal property owners and a taking of property rights from them. We cannot support the recommendations as they are currently presented in this report. However we stand ready work with interested parties at the legislature to correct these and other issues.

Sincerely,

Jeff Forester
Executive Director, Minnesota Seasonal Recreational Property Owners, MSRPO

