



Memorandum

TO: Vail Town Council

FROM: Finance Department, Economic Development Department

DATE: December 5, 2017

SUBJECT: Short Term Rental Regulations

I. SUMMARY

Attached is the first reading of Ordinance No. 15, Series 2017, establishing a short term rental license and accompanying regulations.

II. BACKGROUND

On November 21, Council approved the first reading on the proposed regulations. Staff has added suggestions highlighted below which would apply to the implementation of the attached ordinance.

While this ordinance addresses regulations supported by Council over a series of meetings and public sessions, the evolving landscape of the short term rental market will require that the town continue evaluating and adjusting our process to keep pace.

III. DISCUSSION

The attached ordinance establishes a unique license for short term rentals which will override the prior regulation requiring issuance of a business license. Short term rental (STR) will entail a new application process. Staff recommends an effective date of March 1st to allow for adequate notification and education of owners and property managers, implementation of a software solution, and creation of a process to manage complaints and administrative hearings. Staff also requests that Council consider a grace period of potentially several months in gaining duplex consent requirements due to existing bookings for future stays.

The ordinance also identifies criteria a homeowner must meet to obtain (and renew) a short term rental license:

- STR licenses have an application process and must be renewed each calendar year. STR licenses will be issued to the owner of the property and are not transferrable. With the sale of a property, a new license would need to be applied for by the new

owner. A transfer of property will only qualify for a new license if fair market value is exchanged and the town's Real Estate Transfer Tax is paid. The intent behind this rule is to prevent a new STR license being granted to a previously-revoked license holder when the ownership is in "form" the same.

- Properties with full time onsite property managers will be exempt from this type of license. They will retain the lodging business license currently used today. Examples of these properties include hotels, lodges, "condo-tels", fractional fee club units, etc. However, if an owner rents their unit on their own, and not through the lodge/condo-tel management company, they would be required to obtain their own individual STR license.
- **Joint Ownership terms:** If a duplex unit has **shared common property accessible to occupants of both units**, STR applicants must provide proof of written consent from the record owner of the adjoining residential dwelling unit. If a duplex does **not** have shared common property, then the adjoining neighbor must be notified of intent to short term rent. Should a rental's license be later revoked, written consent from a duplex neighbor must be provided in order to re-instate the license after a two year waiting period.
- An **affidavit** for each rented unit must be signed by the licensee to acknowledge trash, noise and parking regulations as well as verifying life safety precautions are in place. The affidavit also includes an agreement to comply with "Good Neighbor Guidelines". In response to Council's direction on November 7th, the affidavit has been updated to include a checkbox indicating compliance with applicable Homeowner Association (HOA) rules. Please see Attachment B for a draft affidavit and Attachment C for a draft of the "Good Neighbor Guidelines".
- Each owner shall appoint a person or a licensed property manager to serve as a **property contact** who has access and authority to assume management of the unit and take remedial measures. The contact information must be posted in the **interior** of the rented unit for renters, as well as documented with the town. Initial complaints will be directed to the property contact for an opportunity to respond. The property contact shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns. Please see Attachment D for a sample form assigning a property contact.
- Require posting of license number within all rental **advertisements** (this requirement currently exists). Online advertisements must post the license number on the landing page, immediately following the property description.
- Require a **visible interior posting** of license number, street address, property contact and owner information for the short term rental unit.
- Applicable Health and Safety Standards are outlined within the ordinance, in accordance with town code. Violations of the town's current noise, trash/recycling, building code, fire code, parking, pet and occupancy regulations will be documented and tracked by staff. If an initial complaint is not resolved by the local property

contact, a formal complaint may be filed with the town. Owners will then receive written notification from town staff regarding the complaint.

- If there are three or more notices of complaints issued for the same short term rental property within a consecutive 12 month period, the town may revoke the STR license upon written notice to the owner. The owner may appeal and request an administrative hearing. Criteria for the determination of revocation will be defined in the near future.
- Staff is currently working to define a complaint workflow and tracking mechanism. Implementation of a complaint process will coincide with the effective date of STR licensing on March 1st, 2018.

IV. REQUEST OF COUNCIL

Approve, deny or amend the second reading of Ordinance No. 15, Series 2017.

**ORDINANCE NO. 15
SERIES 2017**

**AN ORDINANCE AMENDING TITLE 4 OF THE VAIL TOWN CODE BY
THE ADDITION OF A NEW CHAPTER 14, ENTITLED SHORT-TERM
RENTAL PROPERTIES, AND REPEALING SECTIONS IN CONFLICT
THEREWITH**

**NOW BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF VAIL,
COLORADO:**

Section 1. Title 4 of the Vail Town Code is hereby amended by the addition of
a new Chapter 14 to read as follows:

**CHAPTER 14
SHORT-TERM RENTAL PROPERTIES**

4-14-1: PURPOSE AND APPLICABILITY:

A. The purpose of this Chapter is to establish comprehensive licensing regulations to safeguard the public health, safety and welfare by regulating and controlling the use, occupancy, location and maintenance of short-term rental properties in the Town.

B. This Chapter shall apply to short-term rental property only, as defined herein. This Chapter shall not apply to the furnishing of lodging services in hotels, motels, lodges or bed and breakfast establishments, or to properties with long-term leases.

C. This Chapter shall not supersede or affect any private conditions, covenants or restrictions applicable to a short-term rental property.

4-14-2: DEFINITIONS:

For purposes of this Chapter, the following terms shall have the following meanings:

OWNER: The record owner of a residential dwelling unit in the Town who intends to lease or leases the unit as a short-term rental property.

LEASE: An agreement or act by which an owner gives to a tenant, for valuable consideration, possession and use of property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property.

RESIDENTIAL DWELLING UNIT: A building or group of rooms with kitchen facilities designed or used as a dwelling by a family as an independent housekeeping unit, excluding the following, as defined in Title

12 of this Code, if serviced by a full-time on-site property manager: accommodation unit, bed and breakfast, employee housing unit, fractional fee club unit, lodge dwelling unit, limited service lodge unit, or timeshare unit.

SHORT-TERM RENTAL PROPERTY: A residential dwelling unit, or any room therein, available for lease for a term of less than thirty (30) consecutive days.

4-14-3: LICENSE REQUIRED:

A valid license is required for each short-term rental property in the Town.

4-14-4: APPLICATION:

A. At least thirty (30) days prior to any advertising for or lease of a short-term rental property, the owner shall file a written application for a short-term rental license with the Finance Director or designee, on forms supplied by the Town. The application shall not be deemed complete until all required information is submitted.

B. The application fee shall be set by resolution of the Town Council.

C. If the proposed short-term rental property is located within a duplex, the application shall include a copy of a written notice provided by the owner to the last known address of the record owner of the adjoining residential dwelling unit. The written notice shall include a copy of the completed application, and shall be sent by first-class United States mail at least seven (7) days prior to the filing of the application. If the duplex has shared common areas that can be accessed by occupants of both units, including without limitation parking areas, walkways, stairs, patios or driveways, the application shall include written consent of the record owner of the adjoining residential dwelling unit.

D. No license shall be issued without an affidavit, signed by the owner under penalty of perjury, certifying that the short-term rental property is in habitable condition and complies with the health and safety standards set forth in Section 4-14-7.

E. Within thirty (30) days of receipt of a complete application for a short-term rental license, if the Finance Director or designee finds that the application complies with this Chapter, the Finance Director or designee shall issue a short-term rental license. The license shall be issued in the name of the owner, and shall not be transferable.

4-14-5: LICENSE TERM:

A. A short-term rental license shall expire on December 31 of each calendar year, or when title of the short-term rental property transfers to a new owner, whichever occurs first. Each change in ownership of a short-term rental property shall require a new license.

B. An application for renewal of a short-term rental license shall be submitted at least thirty (30) days prior to expiration of the existing license.

4-14-6: LOCAL AGENT REQUIRED:

Each owner shall appoint a natural person who is available 24 hours per day, 7 days per week, to serve as the local agent for the short-term rental property. The owner shall notify the Finance Director or designee in writing of the appointment of a local agent within five (5) days of such appointment or modification of any such appointment.

4-14-7: HEALTH AND SAFETY STANDARDS:

Each short-term rental property shall comply with all of the following standards, at a minimum, at all times while the property is being leased:

1. Buildings, structures or rooms shall not be used for purposes other than those for which they were designed or intended.

2. Roofs, floors, walls, foundations, ceilings, stairs, handrails, guardrails, doors, porches, all other structural components and all appurtenances thereto shall be capable of resisting any and all forces and loads to which they may be normally subjected, and shall be kept in sound condition and in good repair.

3. Smoke detectors, carbon monoxide detectors and fire extinguishers shall be installed and operable, and all wood-burning fireplaces and stoves shall be cleaned on an annual basis.

4. An operable toilet, sink, and either a bathtub or shower shall be located within the same building, and every room containing a toilet or bathtub/shower shall be completely enclosed by walls, doors, or windows that will afford sufficiency privacy.

5. There shall be a sufficient number of trash receptacles to accommodate all trash generated by those occupying the short-term rental property, and all receptacles shall comply with Chapter 9 of Title 5 of this Code.

6. Occupancy of a short-term rental property shall comply with Chapter 2 of Title 12 of this Code.

7. The use of portable outdoor fireplaces is prohibited.
8. Electrical panels shall be clearly labeled.
9. All pets shall be subject to Title 6, Chapter 4 of this Code.

4-14-8: PARKING:

Parking shall comply with all applicable provisions of this Code. All vehicles shall be parked in designated parking areas, and parking is prohibited in any landscaped area.

4-14-9: SIGNAGE:

An owner shall post a sign conspicuously inside the short-term rental property. The sign shall include the local agent's current contact information, the owner's current contact information, the street address of the short-term rental property and the short-term rental license number.

4-14-10: ADVERTISING:

All advertising for a short-term rental property shall include the short-term rental license number, immediately following the description of the short-term rental property.

4-14-11: TAXES:

The owner shall collect and remit Town sales and lodging taxes on each short-term rental property.

4-14-12: NOTICE:

Any notice required by this Chapter to be given to an owner is sufficient if sent by first-class mail to the address provided by the owner on the most recent license or renewal application. Notice given to the local agent, by first-class mail to the address provided by the owner, shall also be sufficient to satisfy any required notice to the owner under this Chapter.

4-14-13: INITIAL COMPLAINTS:

Initial complaints concerning a short-term rental property shall be directed to the local agent. The local agent shall resolve the issue that was the subject of the complaint within sixty (60) minutes, or within thirty (30) minutes if the problem occurs between 11:00 p.m. to 7:00 a.m., including visiting the site if necessary.

4-14-14: FORMAL COMPLAINTS AND REVOCATION:

A. If an initial complaint is not resolved, a formal complaint may be filed with the Town Manager or designee, on forms provided by the Town. The formal complaint shall describe in detail the violation(s) of this Chapter alleged to have occurred on the short-term rental property. Within three (3) days of receipt of such a complaint, the Town shall provide a copy of the formal complaint to the owner. Formal complaints shall be signed by an individual and subject to public inspection; no anonymous formal complaints shall be accepted.

B. If there are three (3) or more formal complaints issued for the same short-term rental property within any consecutive twelve-month period, the Town Manager or designee may revoke the license for that short-term rental property upon written notice to the owner. The Town Manager or designee may also revoke any short-term rental license that was issued in error. The Town shall notify an owner, in writing, of any revocation and the reasons therefor.

C. The owner may appeal any revocation by filing a written appeal with the Town Manager or designee within ten (10) days of the date of the revocation notice. In the written appeal, the owner shall describe the reason for the appeal, and may request a hearing before the Town Manager or designee. The hearing shall be informal, and may be conducted in person or by telephone, at the discretion of the Town Manager or designee. At the hearing, the owner shall have the opportunity to be heard on the revocation. Within ten (10) days of the hearing, the Town Manager or designee shall either uphold or reverse the revocation, in writing. The decision of the Town Manager or designee shall be final, subject only to review under C.R.C.P. 106(a)(4) by a court of competent jurisdiction.

D. For a minimum of two (2) years following revocation of a short-term rental license, the Town shall not accept an application for a new license for the same short-term rental property, unless the ownership of the short-term rental property has transferred and a real estate transfer tax has been paid for such transfer pursuant to Chapter 6 of Title 2 of this Code. Following such two-year period, a new short-term rental license shall only be issued for a short-term rental property within a duplex if the record owner of the adjoining residential dwelling unit consents in writing to the issuance of such license.

4-14-15: VIOLATION AND PENALTY:

A. It is unlawful for any owner, local agent or occupant of a short-term rental property to violate any provision of this Chapter or any other applicable provision of this Code.

B. In addition to any revocation proceedings pursuant to Section 4-14-13, violations of this Chapter shall be subject to the penalties set forth in Section 1-4-1 of this Code. Each separate act in violation of this Chapter, and each and every day or portion thereof during which any separate act in violation of this Chapter is committed, continued, or permitted, shall be deemed a separate offense. Any remedies provided for in this Chapter shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Section 2. The definition of "short term rental" contained in Section 4-1-2 of the Vail Town Code and Section 4-1-4.B. of the Vail Town Code are hereby repealed in their entirety.

Section 3. The Town Council hereby finds, determines and declares that this ordinance is necessary and proper for the health, safety and welfare of the Town and the inhabitants thereof.

Section 4. The amendment of any provision of the Vail Town Code, as provided in this ordinance, shall not affect any right which has accrued, any duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision amended. The amendment of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

Section 5. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, theretofore repealed.

Section 6. Effective Date. This ordinance shall take effect on March 1, 2018.

INTRODUCED, READ ON FIRST READING, APPROVED, AND ORDERED PUBLISHED ONCE IN FULL ON FIRST READING this 21st day of November, 2017 and a public hearing for second reading of this Ordinance is set for the 5th day of December, 2017, in the Council Chambers of the Vail Municipal Building, Vail, Colorado.

Dave Chapin, Mayor

ATTEST:

Patty McKenny, Town Clerk

READ AND APPROVED ON SECOND READING AND ORDERED PUBLISHED
this 5th day of December, 2017.

Dave Chapin, Mayor

ATTEST:

Patty McKenny, Town Clerk



Short-Term Rental (STR) Self-Compliance Affidavit

STR Property Address: _____

Parcel ID: _____

Check One: ☐ Existing STR – TOV License Number: _____ ☐ New STR

Is this property a deed restricted affordable housing unit? ☐ Yes ☐ No

Is the property subject to a homeowners association or private covenant? ☐ Yes ☐ No

If Yes, please select a statement below that applies to the property:

- ☐ The property is subject to a homeowners association or private covenant and the operation of a short-term rental does not require approval by the homeowners association or covenant beneficiary.
- ☐ The property is subject to a homeowners association or private covenant and the operation of a short-term rental has been approved by the homeowners association or covenant beneficiary.

Is this address a duplex unit? ☐ Yes ☐ No

If Yes, does the property have a shared common area that is physically accessed or used by all occupants? ☐ Yes ☐ No

If Yes, has written consent been provided by the owner of the adjoining residential unit? ☐ Yes ☐ No

(Attach copy of letter of consent from owner of adjoining residential unit)

If No, has written notification been provided to the owner of the adjoining residential unit? ☐ Yes ☐ No

(Attach copy of notice sent with proof of mailing to the owner of adjoining residential unit)

Owner's Name: _____

Mailing Address: _____

City: _____ State/Zip: _____

Preferred Telephone: _____ Email: _____

Occupancy: Occupancy limits of 2 per bedroom, plus 2 will be adhered to and appropriately listed in rental advertisements

Number of Bedrooms: _____ Total Overnight Occupancy Advertised: _____

*Please Note: All statements listed below must be initialed.
Failure to initial any question will delay your license issuance.*

Life Safety:

- ☐ The street address, license number, and property contact information is posted conspicuously in the interior of property.
- ☐ The operation of the short-term rental will comply with all town ordinances that apply to a residential dwelling.
- ☐ Smoke detectors are installed outside of each sleeping area, in each room used for sleeping purposes, and on each level of a living area including basements.
- ☐ Carbon monoxide detectors are installed within twenty feet of sleeping areas, within twenty feet of fuel fired appliances (including wood/ gas fireplaces), and within 10 feet of the doorway of an attached garage.
- ☐ Fire extinguishers are located within thirty feet of the kitchen, on each level of a living area, and garage; and is readily available for immediate use.
- ☐ Wood Burning Fireplaces / Stoves - Fireplaces and flues are maintained in accordance with recognized standards and have been inspected and cleaned on an annual basis. Proof of inspection and cleaning are required to be available upon request.
- ☐ Outdoor Fires – Portable outdoor fireplaces are prohibited.
- ☐ Portable electric space heaters shall not be operated within 3 feet of combustible materials and shall not be plugged into extension cords. Space heaters must be plugged directly into outlets.
- ☐ The use of outdoor heating appliances is prohibited on balconies. Outdoor heating appliances shall not be operated beneath or closer than 5 feet to buildings, overhangs, awnings, sunshades or similar combustible attachments

Community Impacts:

- ☐ Renters will be informed that on-street parking is not allowed.
- ☐ Adequate parking spaces will be provided for renter's use.
- ☐ Renters will be informed of the noise ordinance. No excessive or unreasonable noise will be permitted at any time.
- ☐ Renters will be informed of trash / recycling regulations and scheduled trash pickup times.
- ☐ Night lighting ordinances will be complied with to reduce exterior light usage after dark.
- ☐ If pets are allowed, renters will be informed of leash laws, pet waste disposal, and barking/noise considerations.
- ☐ The operation of the short-term rental will comply with the "Good Neighbor Guidelines" and a copy of the guidelines will be provided to the renters in the rental agreement or by posting it in a prominent location within the property.

By completing and signing this affidavit I (we) affirm that, under pains and penalties of perjury, that I have inspected this property and that it complies with all applicable laws, and codes.

Owner Signature

Printed Name

Date

Owner Signature

Printed Name

Date

Subscribed and affirmed before me in the county of _____,

State of Colorado, this _____ day of _____, 2017.

(Notary's official signature)

(Commission Expiration)

Notary Seal



Short-Term Rental Good Neighbor Guidelines

The Good Neighbor Guidelines were created to educate short-term rental owners and guests on the beliefs of promoting respect for Vail neighborhoods.

Property Contact Information. If at any time you have concerns about your stay or in regards to your neighbors, please call the 24-hour contact number listed in the unit. In the event of an emergency, please call 911.

General Respect for Neighbors. Be friendly, courteous, and treat neighbors like you want to be treated. Respect neighbors and their property.

Noise. Be considerate of the neighborhood and your neighbor's right to the quiet enjoyment of their home and property, especially after 11 p.m.

"5-1-7: NOISE PROHIBITED

A. Prohibited Act: The making and creating of an excessive or unusually loud noise at any location in the town heard and measured in a manner hereinafter set forth shall be unlawful except when made under and in compliance with a permit issued ..."

Trash & Recycling. Place trash and recycling containers at the appropriate place and time for pickup. Return trash and recycling containers to the designated area after pickup. Cigarette butts should be properly extinguished and disposed of properly.

"5-9-3: RESIDENTIAL REFUSE DISPOSAL:

A. All residential refuse containers which receive "refuse" or attractants as defined by this chapter must be either wildlife resistant refuse containers or wildlife proof refuse containers, or be securely stored within a house, garage or wildlife resistant enclosure at all times.

B. Residents with curbside pickup shall place only wildlife resistant refuse containers or wildlife proof refuse containers at the curb, alley, or public right of way at or after six o'clock (6:00) A.M. on the morning of scheduled pick up. After pick up, all containers must be removed from the curb, alley or public right of way by seven o'clock (7:00) P.M. on the same day."

Parking & Traffic Safety. Please park in the designated spaces. Do not park on lawns or in a manner which blocks driveways, sidewalks, alleys or mailboxes. Drive slowly through neighborhoods and watch for pedestrians and children playing.

"7-3A-1: PARKING TO OBSTRUCT TRAFFIC:

No person shall park any vehicle upon a street or at any other place within this municipality in such a manner or under such conditions as to interfere with the free movement of vehicular traffic or proper street or highway maintenance."

"7-3B-1: RESTRICTIONS:

It is unlawful for any person to park or cause to be parked any vehicle upon any private parking lot or any other private property within the town without consent of the owner or the tenant or the person in possession or control of the private parking lot or the private property."

Occupancy. Occupancy is limited within zoning regulations to 2 people per bedroom plus 2 additional.

"12-2-2: DEFINITIONS (FAMILY):

FAMILY: Family shall be deemed to be either subsection A or B of this definition:

B. A group of unrelated persons not to exceed two (2) persons per bedroom plus an additional two (2) persons per dwelling unit used as a single housekeeping unit."

Pets. Promptly clean-up after your pets. Prevent excessive and prolonged barking, and keep pets from roaming the neighborhood. Control aggressive pets, and be sure to abide by the local leash laws. Pet food should be stored indoors and in a secure container to reduce the likelihood of encounters with wildlife.

Tenant/Guest Responsibility. Approved guests and visitors are expected to follow the Good Neighbor Guidelines. Be sure to read your rental agreement for additional terms and restrictions which may include consequences for violating the Good Neighbor Guidelines.

As the contact, and due to the language “assume management of the unit and take remedial measures”, you are responsible for contacting the renters when you have been notified of a complaint. You may be contacted by the Town of Vail Police Department to secure the property as needed. Therefore, your phone number will be available to police staff, and will be listed under the short term rental license and posted for renters within the interior of the unit.