



Memorandum

TO: Town Council

FROM: Finance Department

DATE: July 17, 2018

SUBJECT: Short Term Rental Policy Discussion

I. SUMMARY

On July 17, 2018 Town Council agreed to revisit certain terms of the town's ordinance regulating short term rentals. The purpose of this discussion is to review staff recommendations based on learnings from implementation and address concerns voiced by some local property management representatives.

II. BACKGROUND (RESTATED FROM JULY 17, 2018)

Prior to adopting Ordinance No, 15, Series 2017, the town hired research consultants to help identify community issues and concerns, and provide analysis of similar regulations in peer resort areas. Multiple public meetings were hosted, and a large amount of public input was gathered and reported back to Council. Below is a quick recap of initial findings and peer resort comparison, along with recommendations from the consultants.

A summary of results from the **short term rental survey** indicate.d the following:

- 51% of respondents "strongly support" an increase in regulations of short term rentals, with 21% "strongly opposed".
- 66% of survey respondents listed the **licensing, application, and tax remittance** regulations as a priority area to increase regulation.
- 64% of survey respondents listed that **enforcement** is a priority area to increase regulation.
- 64% of survey respondents listed that areas under **quality of life and community** impacts are a priority area to increase regulation.
- 62% of survey respondents listed that **life safety is a priority** area to increase regulation.
- 61% of survey respondents listed that the **effect of short-term rentals on long-term housing** is a priority area.
- 69% of respondents feel that short-term rentals offer community benefits, by allowing Vail to provide diverse lodging options for guests, increase the tax base, and provide additional income for homeowners.

- 53% of respondents have reported that they are currently negatively impacted by the short-term rental of a residential property. The most impactful impacts were identified as parking, traffic, noise and trash.

The **peer resort comparison** identified the Town of Vail as “**passive**” on the level of regulations. Communities such as Durango, South Lake Tahoe, Jackson and Park City not only have individual licensing and permits, but have implemented caps on the number of rentals allowed, zoning restrictions, require land use applications and local contacts for each property. Jackson, Park City and South Lake Tahoe require building and fire code compliance and physical inspections of units for life safety measures. Crested Butte is another example of more aggressive regulations, with caps on the number of rentals, zoning restrictions, owner affidavit, \$750 per year license fee, physical inspection of the unit and parking, and recently implemented a 5% excise tax on vacation rentals.

Town of Vail new regulations remain passive compared to these peer resort communities in that the town did not implement caps on the number of rentals, zoning, land use applications, or physical life safety inspections.

Recommendations provided by the consultant in 2017 stated *“the current state of licensing does not allow for a quick summary or quantification of residential short-term rentals, nor does it provide the ability to quantify, identify, or summarize the licensing data for use by town staff and departments. The rent-by-owner versus professionally managed licensing revealed overlaps between the two categories and does not provide a comprehensive list of units. The town does not have an automated or streamlined licensing process.”*

Town of Vail Regulations

Utilizing all of this information, analyzing best practices for regulatory compliance, and with additional input during Town Council meetings, Ordinance No. 15, Series 2017 was approved. The ordinance requires owners wishing to short term rent their property to obtain an STR license at an annual cost of \$150. Other provisions of the regulation include:

- **Designation of a local agent that resides within a 60 minute distance** of the STR property and is available 24/7. The named agent must provide proof of distance through a driver’s license, property tax record or voting record.
- **Property owner must provide a notarized affidavit that they have specified safety measures in place** such as smoke detectors, carbon monoxide detectors, fire extinguishers and that advertised occupancy limits comply with town code. The affidavit also validates the owner’s agreement to comply with all town regulations and specifically mentions trash, parking, lighting and noise.
- The Property owner must identify who is designated for remitting sales & lodging taxes.

- The property owner must provide proof of written notice to an adjoining residential dwelling unit if the rental is located within a duplex.
- Signed ***acknowledgment of “Good Neighbor Guidelines”***.
- ***Advertisements of the rental must include the STR license number*** immediately following the rental description.
- All sales and lodging taxes must be remitted timely, for each property (not on a lump sum basis).
- ***Complaints (such as noise, trash, parking, etc.) will be directed to the local agent.*** The agent must resolve the issue within 60 minutes (30 minutes between 11pm and 7am). The town’s code enforcement or police may become involved if the property is not licensed, or if the complaint is not resolved. Then a formal complaint can be submitted to the town by the complainant.
- ***Three verified formal complaints may result in revocation of the STR license*** for that property. Once revoked, the license may not be renewed for two years. If a duplex unit, written consent from the neighboring unit must be obtained prior to renewing after revocation.

III. DISCUSSION **(NEW)**

A. Exemption from Short Term Rental (STR) License

As with any new regulation, staff has been fielding many questions. The most common questions have centered on the exemption stated in the ordinance. This exemption was intended to reduce impacts to the established “lodges/condo-tels” that hold a lodging business license and are serviced by a full time onsite manager / front desk operation. “Serviced by” means rentals are exclusively booked through and sales taxes remitted by the condo-tel. Any rental advertisements or bookings outside of that lodge/condo-tel business license would require a unique STR license. Due to the myriad of property types in Vail, this has caused confusion and disagreement.

Some property management companies have requested exemption from STR licenses although they are not eligible under the current ordinance wording:

“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.**

Staff is requesting that Council carefully reconsider the overall need for this exemption to the regulation. The above exemption has created confusion in terms of its potential application with the various types of “condo-tels” and fractional unit properties.

Property management companies may manage units in one property, or manage many units in a variety of locations. There are also condo-tels that operate a front desk on behalf of rentals in a nearby building or other locations in town.

Units rented through a property management company may change often, which makes them difficult to track. **A unique license for each STR enables the town to track a variety of data:**

- impact on ***town-wide housing stock***
- rental by owner ***occupancy data*** as an element of all lodging options for visitors
- tracking of ***complaints and town code violations*** for individual rental units that may ultimately lead to revocation of that license
- ***life safety affidavits*** by unit and acknowledgment of good neighbor guidelines
- tracking of ***sales tax collections*** by individually owned properties to the corresponding tax ID enables town staff to audit reported revenue.

Staff is currently researching options to reduce administrative work required by property managers. Two options that would accomplish that goal include:

- Amending Ordinance No. 15, Series 2017 to allow a designated local agent to represent the property owner for the submission of application forms and notarized affidavits. This would require the local agent to be jointly and severally liable.
- Staff could pursue a more efficient online application process to enable “bulk” application submittals for property managers handling multiple STR licenses.
- Sales tax payment is unique by STR tax ID tied to individual owners, however remittance is quarterly.

B. Enforcement

Staff recommends changing the way the town can enforce the STR ordinance, specifically to increase compliance with licensing. Currently, an un-licensed rental is considered a criminal act as a violation of town code. To enforce the ordinance, staff must issue a summons to court to the property owner. This has proven to be a difficult and time consuming process due to a number of out of state owners, property owned by trusts, and properties that are set up as corporations in identifying who to “serve” the summons to.

Staff’s recommendation to “de-criminalize” the short term rental ordinance violations would allow for established fines or penalties to be administered by designated staff (usually the Finance Director) rather than issue a summons to court. Should the fines not be paid, then the town has the ability to summon to court.

Violation of nonpayment of sales tax as well as other violations of town code (parking, trash, noise, etc.) will continue to be considered criminal acts, subject to the daily maximum fine of \$2,650 per day and up to 180 days jail time.

IV. NEXT STEPS

Any proposed changes to the STR Ordinance will be brought back to Council in the form of a revised ordinance document.

- Does Council wish to adjust the exemption provision?
- Does Council support unique STR licenses for each unit?
- Does Council wish to allow property management companies named as the local agent to sign and notarize on behalf of property owners for applications, life safety affidavits and the Good Neighbor Guidelines?
- Does Council agree with the recommendation to de-criminalize violations of short term rental ordinance?