

VIRGIN TOWN ORDINANCE

AN ORDINANCE RESTATING CHAPTER TWO AND CHAPTER SIXTY OF THE VIRGIN UNIFORM LAND USE (“VULU”).

RECITALS

WHEREAS, Virgin Town (“Town”) is a municipal corporation duly organized and existing under the laws of the State of Utah, particularly Title 10 of the Utah Code.

WHEREAS, Virgin Town Council (“Town Council”) is both the Town’s governing body and Land Use Authority pursuant to Utah Code § 10-9a- 101 et seq.

WHEREAS, Utah Code provides for the adoption and amendment of Town land use ordinances by the Land Use Authority, which in Virgin is the “Town Council with recommendation by the Planning and Zoning Commission” ; and

WHEREAS, the Virgin Land Use Authority finds that the existing Virgin Town Code (VULU) Chapter 60 is deemed to be inadequate, and fails to provide protections to residence; and

WHEREAS, the Virgin Land Use Authority finds that, to accommodate the towns desire to adopt stronger STR regulations in VULU; and

WHEREAS, the Virgin Land Use Authority finds that, to protect current interests and investments; and

WHEREAS, the Virgin Town Planning and Zoning Commission held properly noticed Public Hearings on these amendments on _____, and voted to recommend its draft amendment ordinance to the Virgin Town Council at a regular meeting on _____ ;

NOW, THEREFORE BE IT ORDAINED by the Land Use Authority of Virgin, Utah acting by and through the Town Council that, in order to provide for the health, safety and general welfare of the citizens of Virgin, Utah, the VULU Ordinance is hereby amended to incorporate the following changes:

Ordinance

Definitions:

Short-Term Rental (STR): a Short-Term Rental House or Short-Term Rental Unit validly permitted by town.

Short-Term Rental House: An entire detached Residential Dwelling Unit (single family home), on its own lot, legally permitted by the town of Virgin as a Short-Term Rental.

Short-Term Rental Unit: An entire residential dwelling, attached or detached, legally permitted by the Town of Virgin as a Short-Term Rental.

60.02 SHORT TERM RENTAL (STR) PURPOSE

The purpose of Section 60.02 of this Chapter is to describe the process and set forth standards for the leasing of entire residential dwelling units for periods of less than thirty (30) consecutive days - also known as “short-term rentals.”

- A. DEFINITIONS. For the purposes of this Chapter all of the definitions contained in VULU Chapter 2 (including the definitions of Short-Term Rentals (STR)) and throughout the various chapters of VULU are incorporated herein. Commonly words or terms that are capitalized are defined in VULU Chapter 2, but they can also be embedded into the body of various VULU chapters.
- B. NATURE OF USE - SHORT-TERM RENTAL OR STR. The lease/rental of an entire Short-Term Rental House or Short-Term rental Unit for a period of less than 30 day, by permit within permitted zones. The Short-Term Rental of all of a residential Dwelling Unit is a Conditional Use in all STR Development Overlay Zones of the Town, subject to the Owner obtaining and maintaining a STR Permit.
 - 01. Short-Term Rental (STR) is prohibited in all residential Zones except within an STR Development Overlay Zone.
- C. STR DEVELOPMENT OVERLAY ZONE. The purpose and intent of this Subsection is to establish procedures for designating an entire subdivision or a phase of a master planned development within the Town where all of the Dwelling Units within the subdivision or phase are capable of being used as a Short Term Rental.
 - 01. Subject to the conditions set forth in this Subsection, an Owner of real property may apply for and obtain simultaneously with the Final Plat approval for a Subdivision or Subdivision phase an overlay zoning designation which, in addition to the permitted and conditional uses allowed in the underlying zone that the property belongs to, the Development (whether it be an entire Subdivision or a phase of a Subdivision) may be developed, constructed, marketed and sold as a Development where Short Term Rentals are allowed. Such approval shall be referred to as a “STR Development Overlay Zone” designation.
 - 02. The right to seek an STR Development Overlay Zone designation ONLY applies to NEW Developments for which a Final Plat is recorded, after the effective date of this Section, that contains more than 5 lots upon which residential Dwelling Units can be constructed and which comprises at least five (5) acres (including dedicated streets, trails and public rights of way).
 - 03. Application/Approval Process.
 - a. At the Subdivision Concept Plan review stage of the approval process described in VULU Chapter 18 (Division of Land), an applicant shall submit with their Concept Plan a narrative indicating that a STR Development Overlay Zone designation is being requested and the Concept Plan shall include (in addition to any other requirements of VULU Chapter 18) the following information:
 - b. Name and address of applicant and property owner;
 - c. The locations, dimensions and setbacks of all existing and proposed uses/activities, buildings, fences and/or walls, and other structures to be included in the proposed development;
 - d. The proposed signage and lighting plan (where applicable);

- e. The locations and dimensions of existing and proposed roads, parking areas and traffic circulation patterns, and roads and driveways adjoining and across from the development;
 - f. The locations and dimensions of existing and proposed drainage facilities, utilities, easements and fire hydrants;
 - g. The proposed area dimensions, existing and proposed elevation contours, and north arrow; and
 - h. Necessary explanatory notes where applicable.
04. The Town shall comply with all provisions of VULU and Utah Code Ann. Title 10, Chapter 9a, Part 5, in noticing and reviewing an application for an STR Development Overlay Zone, just as it would under any other zone change or land use ordinance amendment.
05. The Town Council may (after receiving a recommendation from the Planning and Zoning Commission) approve, modify and approve, or deny any application for a STR Development Overlay Zone designation.
06. In approving any application for STR Development Overlay Zone designation, the Town shall impose such requirements and conditions as required by law and any additional conditions as may be necessary for the protection of adjacent properties and the public health, safety and general welfare and aesthetics of the Town.
07. Such conditions of approval may include, but shall not be limited to, specifications concerning: structures (existing and proposed); landscaping, density; ingress; egress; fencing; parking; lighting; or other possible nuisances.
08. The Town shall not approve a STR Development Overlay Zone designation for a Development unless it finds the following:
- a. That the proposed zoning designation and development of Dwelling Units as STR Units on a Development wide basis, at this particular location, is necessary or desirable to provide a service or facility which will contribute to the general well-being of the neighborhood and community; and
 - b. That a Development wide Short Term Rental use of Dwelling Units will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvement in the vicinity; and
 - c. That the proposed zoning designation and development of Dwelling Units as STR Units on a Development wide basis will comply with all other regulations and conditions specified in this Chapter including individual Owners of STR Units obtaining and renewing a STR Permit; and
 - d. That the proposed zoning designation and the development of Dwelling Units as STR Units on a Development wide basis is expressly authorized by the governing documents of the Development (i.e. CC&Rs and By-Laws of a Homeowners Association); and
 - e. That the governing documents of the Development require Owners of an STR Unit to utilize one singular property management company (determined by the Homeowners Association) to handle all STR renting of the STR Units within the Development. The designated property management company must be licensed

and bonded in the State of Utah and need not have it its principal place of business within the Town, but shall have a physical office and employees located within Washington County. The designated property management company shall maintain current contact information for persons within the company who are capable of being contacted 24 hours a day, 7 days a week, in the event the Town or local law enforcement are notified of an issue or a complaint that needs resolution; and

- f. That the proposed zoning designation and development of Dwelling Units as STR Units on a Development wide basis conforms to, or does not contradict with, the intent of the General Plan.

D. STR PERMIT APPLICATION AND FEES. In order to obtain and maintain an STR Permit an Owner of a proposed STR Unit must do the following:

1. Obtain, complete and provide a STR Permit application and any other required documents to the Town.
2. The owner must submit the following information on a Town approved STR Permit application form:
 - a. All applicable and current contact information of the Owner of the proposed STR Unit.
 - b. The name and current contact information for the management company designated to handle STR renting within the Development where the applicable STR Unit is located. The management company must be given unqualified written authority by the Owner to address and correct all maintenance, day to day operations and nuisance concerns relating to the proposed STR Unit.
 - c. The street address of the proposed STR Unit.
 - d. The number of bedrooms and the applicable occupancy limits of the proposed STR Unit as established by local health and fire safety codes and verified by the Washington County Health Department and the local fire authority (Maximum occupancy is commonly determined by square footage and bedrooms of a Dwelling Unit).
 - e. The Owner's Social Security Number (if an individual/sole proprietorship) or Federal Employer Identification Number (EIN) (if a business entity).
 - f. The Transient Room Tax and Sales Tax Account Number obtained from the Utah State Tax Commission.
 - g. Any other information deemed necessary to inform the Town and the public about the intended use of the property as a Short-Term Rental.
3. All applications for STR Permits must include a set of self-addressed, postage-paid envelopes correctly addressed to all property owners within 300 feet from the exterior boundaries of the parcel upon which STR Unit is proposed. Said envelopes will be used by Town Staff to send written notice to neighbors of the proposed STR Unit and to provide them with contact information for the Owner or the management company for the STR Unit in the event of a problem. The mailing will also include a list of standards and requirements contained in this Section that all STR Units must comply with and information about how problems should first be addressed with the Owner or applicable management company and, if not resolved, then reported to the Town.

4. STR Permit Applications are reviewed and approved by the Town Staff. In the event the Town Staff determines that an application does not comply with the requirements and standards set forth in this Section, it shall deny the same.
 5. A person applying for or holding an STR Permit who receives notice from the Town of denial of their STR Permit application or the non-renewal of their existing STR Permit may appeal said decision to the Town's Appeal Authority in compliance with VULU Chapter 6 and Utah Code Ann. § 10-9A-701 et seq. Said appeal must be made in writing within 10 business days of the adverse decision being issued.
 6. An applicant must pay a STR Permit fee at time of application submittal. The STR Permit fee shall be designated in the Town's Uniform Fee Schedule and established and modified from time to time by resolution. All STR Permit applications will be deemed automatically incomplete until the STR Permit Fee has been paid.
 7. An updated application is required to be provided to the Town if any of the contact information of the Owner or management company handling STR renting for the Development is changed throughout the permit year.
- E. STR PERMIT RENEWAL AND TRANSFER. STR Permits are good for 365 days after the date of issuance. A STR Permit may be renewed upon the occurrence of the following:
1. Payment to the Town of the annual STR Permit fee.
 2. Submittal to the Town of an updated application if:
 - a. The Owner or management company handling STR renting for the applicable Development (or their contact information) has changed,
 - b. The Owner has made modifications to the STR Unit such that a higher number of maximum occupants is requested. In this instance, the Owner shall provide the Town with written current certification from the local health department and the local fire authority indicating the increased maximum number of occupants desired in the STR Unit complies with local health and fire safety codes, or
 - c. The Owner has changed its Transient Room Tax and Sales Tax Account Number with the Utah State Tax Commission.
 3. The Town confirms with the Utah State Tax Commission that the Owner or the management company handling STR rental of the applicable STR Unit is current on the Owner's remittance of transient room tax and sales tax.
 4. In the event of a sale or other transfer (except involuntary transfers such as foreclosure or sheriff's sale) of any property containing a Dwelling Unit with a STR Permit, the purchaser or transferee of the property shall be required to apply for a new STR Permit within forty five (45) days of the date of purchase or transfer. In the event the purchaser or transferee fails to apply for a new STR Permit within said forty five (45) days, the STR Permit will be forfeited and the Owner must re-apply.
- F. STANDARDS AND REQUIREMENTS FOR SHORT TERM RENTALS. In addition to any other requirement of this Section, a Short Term Rental and a STR Permit may be approved by Town Staff only if:
1. The proposed STR Unit is located in a STR Development Overlay Zone, or commercial zone in which STRs are a permitted use.
 2. The proposed STR Unit is an entire Dwelling Unit that has been issued a certificate of occupancy by the Town. Portions of a Dwelling Unit may not be used as a Short Term

Rental with the remainder being occupied by the Owner or a tenant under a long term lease of more than thirty (30) days – this type of use is considered Residential Hosting and the Owner must obtain an RHF Permit pursuant to Section 60.04 of this Chapter.

- a. Within a STR Development overlay Zone an Property management company must be in palace before certificate of occupancy is provided.
3. Standards for number of guests, ~~number of vehicles, parking, noise restrictions,~~ and all other applicable standards already set by the Town, the State of Utah, the local health department and the local fire authority must be complied with by the Owner and/or their management company.
 - a. STR occupancies may not exceed forty (40) persons. Occupancies greater than this will be considered a Hotel/Motel or other commercial lodging.
 - i. Within an STR Development Overlay Zone no more than twenty percent (20%) of properties may have occupancies of more than twenty five (25) persons.
 - b. Within a STR Development Overlay Zone no more than twenty (20%) of properties owned by the same property owner may be permitted as STRs. For example: no more than two (2) STR permits may be issued to the same owner in a ten (10) lot STR Development Overlay Zone.
4. Standards for noise restrictions including quiet hours must be enforced by the owner or Property Manager.
 - a. Decibel meters must be installed at or near the property line of any STR with occupancy over 25 persons.
5. STR Units can not have a footprint larger than 10,000 square feet.
6. There are no “on premise” or “off premises” exterior signage or display advertising the proposed STR Unit or its use as a Short Term Rental regardless of the Town’s regulations found in Chapter 52 of VULU (Sign Regulations).
7. The proposed STR Unit has fully functioning smoke alarms and carbon monoxide detectors which meet the Underwriters Laboratory (UL) 217 standards, installed in the number and location required by the current uniform building, safety and fire codes adopted by the Town.
8. The proposed STR Unit has sufficient Off Street Parking in compliance with Chapter 14 of VULU (Off Street Parking Requirements). Off Street Parking may not be provided within the front yard setback other than the existing driveway.
 - a. A minimum of one (1) parking place is required for every three and a half (3.5) persons.
9. STR Units must comply with applicable commercial lighting standards as found in VULU chapter 8
10. The principal renter of a STR Unit shall be of legal adult age of twenty five years old (~~18~~25 Years Old).
11. The maximum number of paying adult and children guests permitted in a STR Unit shall not exceed local health department and fire authority regulations.
12. The Owner or its management company handling STR renting shall have set up a Transient Room Tax and Sales Tax Account with the Utah State Tax Commission and

agree to be fully responsible for collecting and remitting all applicable room, occupancy, and sales taxes required by Utah law, VULU or other Town Ordinances.

13. The Owner and/or its management company handling STR renting shall agree to provide guests with a summary of all laws and regulations of the Town that is applicable to Short Term Rental uses.
 14. The Owner and/or its management company handling STR renting shall provide a brochure or other alternative publication to guests of the STR Unit containing basic, minimum, standards of personal conduct during their visit to the Town.
 15. The STR Unit may not be comprised of, a part of, or a conglomerate of a Boarding House, Lodging House, Hotel, Motel, Tent, Campground Cabin, Travel Trailer, Recreational Vehicle ("RV"), Mobile Home or a non-tourist based Congregate Living Facility.
 16. The STR Unit is located on a dedicated street that meets all requirements of the current version of the International Fire Code adopted by the Town.
 17. The STR Unit possesses landscaping that is maintained to minimize impact on neighboring properties, to retain residential character, and to provide a visual buffer for on-site parking in relation to adjacent properties and the street. Landscaping may include, but shall not be limited to, planting trees in the park strip.
- G. STR COMPLIANCE AND LIABILITIES. It is recognized that the Owner of an STR Unit shall not be relieved from any personal responsibility or personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and occupancy of their Dwelling Unit as a STR Unit, regardless of whether such noncompliance was committed by the Owner, their management company, or the occupants of the STR Unit or their guests. In furtherance of the above applicants for an STR Permit expressly acknowledge and consent to the following:
1. Owners may be held liable for violation of Town ordinances that happen on their property.
 2. Complaints from adjacent or nearby property owners about the STR Unit must be in writing to the Town office and will be responded to by the Town within a reasonable time period.
 3. A complaint received will not be considered a violation or unresolved complaint to be considered grounds for revocation or non-renewal of the STR Permit until proper notification to the Owner and investigation by the Town or law enforcement authorities have been completed.
 4. ~~Two~~ Three or more adjudicated repeat citations, or a pattern of adjudicated violations that should a clear disregard for laws, issued in violation of Town ordinance, State, County or Federal laws, if they are not resolved in a timely manner by the Owner or their management company may be cause for revocation or non-renewal of the STR Permit in compliance with Subsections 60.02 E,4 & 5 and 60.02 H.
 5. Short-Term Rental of a Dwelling Unit is subject to Virgin's Transient Room Tax Ordinance, therefore Owners, or their management company must collect said tax and all applicable sales tax and remit the same to the Utah State Tax Commission as required by State Law.
 6. This section 60.02 of Chapter 60 (Special Lodging) of VULU does not supersede the CC&Rs or any other privately negotiated restrictive covenants established by private

subdivisions. The Town does not have authority, and will not enforce CC&Rs or any other privately negotiated restrictive covenant.

H. STR ENFORCEMENT. A STR Permit may be revoked or not-renewed by the Town if:

1. The STR Unit that was originally constructed as a residential Dwelling Unit has been repurposed for a use other than that of a residential Dwelling Unit,
2. There is a change of ownership of the STR Unit and a purchaser or transferee fails to apply for a new STR Permit within 45 days of the transfer of title as prescribed by Subsection 60.02 E,6,
3. The Owner or his management company fails to pay any renewal STR Permit fee after sufficient notice,
4. The STR Unit and/or ancillary structures on the property fails to comply with applicable health, safety, or building codes and the Owner will not comply in a timely manner to bring the property into compliance with said code; or
5. Other illegal activities have occurred at, or related to the STR Unit, which the Town reasonably determines is clearly contrary to the purpose and intent of this Section.