

## Public Service Announcement

The Kanab City Planning Commission will be conducting a Public Forum on Wednesday, November 2, 2016, at 6:30 PM to discuss short-term rentals in Kanab City. The Forum will be held in the multipurpose room at the Kanab City Library located at 374 N. Main St.

The Planning Commission has reviewed a proposed ordinance that regulates short term rentals in residential zones, and is requesting written comments from the public regarding the proposed ordinance. All written comments should be submitted to the City Office by 10 am, on Monday, October 31, 2016. Copies of the proposed ordinance, along with a staff report outlining the issues, can be found at the City Office or online at <http://www.utah.gov/pmn/index.html> .

The Public Forum will be broken into two items: 1) regulating the negative effects (if any) of short term rentals and 2) whether to limit the amount of short term rentals.

Referring to item #1, the Planning Commission desires particular feedback regarding the following proposed regulations:

- i) Any new structure built for the purpose of renting out must have a ten foot minimum set back.
- ii) Any previously built accessory building converted for the purpose of renting must first have a ten foot minimum set back.
- iii) Living space cannot be shared by more than one private renter (no separate bookings for any space that has common/shared living areas).
- iv) There shall be no more than two (2) rentals per property.

Referring to item #2, the Planning Commission desires particular feedback regarding the following proposed regulations:

- v) No non-owner occupied short term rental property shall operate within three hundred (300) feet of an existing non-owner occupied short term rental property. The distance is measured from the entrance door of the existing short term rental to the nearest structural point of the proposed short term rental.
- vi) No more than two separate short term rental properties shall be owned by the same owner. For purposes of this requirement, individuals are considered the same owners if they:
  - a. are spouses
  - b. co-mingle expenses or income regarding any short term rental property
  - c. are business partners

\*For purposes of this requirement, businesses are considered the same owners if they are owned or managed at least in part by the same individual.

## Planning Commission agenda report for Nov 2, 2016

### Discussion regarding Short Term Residential Rentals ( Vacation Rentals).

Issue: What, if any, are the appropriate regulations for Short term rentals in Kanab City.

**Background:** Short term rentals (ie, rentals for 29 days or less) are generally considered to be a commercial use in residential zones. Such rentals are required by state law to collect the sales and transient room taxes applicable to short term guests. Short term rentals in residential zones have the potential to create some negative impacts such as noise, parking, and the prospect of not knowing the “neighbors” next door. In addition to the potential neighborhood impact issue is the issue of “regulatory fairness” between requirements for hotels, and bed & breakfast inns and the requirements placed on short term residential rentals. Because of these potential impacts many cities are trying to adopt regulations that strike a reasonable balance between economic opportunities to rent a dwelling and neighborhood concerns about protecting the character of their residential neighborhoods, and regulatory fairness to other licensed lodging facilities.

**Overview of Regulatory Options:** Kanab City has various alternatives when considering possible regulations for short term residential rentals. Some of the more obvious alternatives include the following;

1. **Allow short term rentals in all residential zones,** simply require the registration or licensing of such units and the submittal of sales and transient room taxes. This option opens the door to all dwelling owners to rent their property on a short term basis. The upside is the opportunity of all residents to benefit in the local tourism industry and to enhance their incomes with short term rental properties. The potential downside is to residents who are seeking traditional, stable neighborhoods where people get to know their permanent neighbors, and children have friends in their neighborhood to play with.
2. **Prohibit short term rentals in residential zones, except for approved Bed & Breakfast Inns.** A broad prohibition on short term rentals in residential zones is the polar opposite to allowing such in all zones. If this approach is considered, there should be some allowance for home exchanges.
3. **Allow short term rentals in residential zones subject to spacing restrictions:** Kanab City could use its zoning authority to regulate short term rentals on a geographic basis. This could entail either allowing such rentals in only certain residential zones and not others, or requiring spacing between short term rentals to avoid a concentration of several short term rentals in the same area. For example some cities allow the short term rentals in a single family zone subject to not being within a certain proximity to another short term rental.

4. **Allow /encourage short term rentals in Resort type developments, and place spacing requirements on short term rentals in single family zones.** This approach allows with few restrictions short term rentals in resort developments that provide recreational amenities such as golf, tennis, swimming, etc, but restricts the rentals in single family zones to certain spacing requirements in order to avoid a concentration of short term rentals in a traditional single family neighborhood.
5. **Other approaches such as restrictions on the number of rental periods.** The City of Santa Fe limits short term rentals to a maximum of 17 rental periods per year, and permits no more than one rental within a seven consecutive day period.

**Regulatory Approaches by other Cities:** There is no one “right” approach for all cities. Each city needs to tailor their regulations based on their unique situation, and objectives. The following cities approaches are provided for information only and not necessarily as a recommended approach for Kanab.

**St George City’s Ordinance:** St George city’s regulations on short term (vacation) rentals is found in section 10-22-14 of their zoning code. In brief the code is very accommodating for vacation rentals in the Planned Development Residential zone which is the zoning for the resort properties such as Entrada, the Ledges, Sunbrook, Sunriver, and Green Valley. Within those PD-Residential zones the code requires recreational amenities such as an 18-hole golf course, or other significant amenity package such as tennis courts, pool & clubhouse, or similar recreational facilities. In these developments the city has approved a few hundred short term rentals with more in the planning stage. However, in traditional single family zones the city is quite restrictive on vacation rentals, requiring the lot size to be 2 acres or larger and front on a major collector or arterial street, have a separation of at least 500’ from another vacation rental, and have written consent from all property owners within 300’ of the dwelling proposed for short term rentals. This restrictive code for single family neighborhoods is based on past complaints from neighbors about vacation rentals, and the city’s desire to protect the integrity of traditional single family neighborhoods. The city also allows Bed & Breakfast inns in historic homes within residential zones, subject to obtaining a conditional use permit.

**Santa Clara City regulations:** Santa Clara City has a somewhat similar approach as St George in that Santa Clara allows vacation rentals in the Planned Development Residential zone where recreational amenities are provided, and subject to a conditional use permit, and also allowed in the Historic District-Mixed Use Zone which extends along Santa Clara Drive in the historic core. In the R-1 zones, vacation rentals are not allowed, but home exchanges are not considered a problem and not restricted.

**Flagstaff, Az:** Flagstaff allows both short term and long term rentals of single family homes. According to Dan Folke, Flagstaff Planning Director, the city gets an occasional complaint about noise or garbage but they use other codes such as the nuisance code to address these problems. Also, the Arizona Legislature in the most recent session passed a new law prohibiting cities from treating short term rentals differently than long term rentals, so Arizona

cities will no longer be able to restrict short term rentals from residential zones. According to another Flagstaff staff planner, short term rentals have not been an issue in the community and no attempt to regulate them has been made. It's also possible that due to their climate and location, the demand for short term rentals has not risen to the level seen in many southern Utah cities.

**A Comment on Bed & Breakfast Inns:** Bed & Breakfast Inns are a form of short term rentals but differ significantly in that a resident manager lives on site to manage and control the rental situation. Because of the presence of an on-site manager Bed & Breakfast Inns typically create few local problems for neighbors. The typical short term rental of a single family homes often does not have an on-site manager, rather the guests obtain house keys from a property management company and occupy the entire house without a manager on-site. Where an on-site manager or owner-manager is present 24/7 the potential for neighborhood problems is greatly diminished.

**Bob Nicholson's Staff Report**

# Draft amendment to the Kanab Land Use Ordinance dealing with Short term residential rental property.

## CHAPTER 4 SUPPLEMENTARY REGULATIONS

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Draft #2 (10-24-16 BN)

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### 4-33. Short Term Leases of Residential Properties.

1. **Purpose:** The purpose of this section is to promote the health, safety and general welfare of the residents of Kanab City by establishing zoning regulations for short term leases of residential property to ensure:
  - a) Protection of neighborhoods and the community, including compatibility with existing residences.
  - b) The peace and quiet of residential neighborhoods, and preservation of property values.
  - c) Promotion of tourism, and the generation of revenue for community members.
2. **Definition:** A Short Term Rental Property, also referred to as a Vacation Rental Property, is property which is used by any person or entity, for hostel, hotel, inn, boarding house, or other transient lodging use where the term of occupancy, possession, or tenancy of the property is for twenty-nine (29) consecutive days or less, for direct or indirect compensation. For this section, compensation means money, rent or other consideration given in return for occupancy, or use of the property.
3. Short Term Residential Rental Properties (also known as Vacation Rental Properties) in residential zones cannot operate until they have met the following terms:
  - i) Must obtain a business license in accordance with Section 9 of the Kanab City General Ordinances.
  - ii) Any new structure built for the purpose of renting out must have a ten foot minimum set back.
  - iii) Any previously built accessory building converted for the purpose of renting must first have a ten foot minimum set back.
  - iv) Living space cannot be shared by more than one private renter (no separate bookings for any space that has common/shared living areas).
  - v) There shall be no more than two (2) rentals per property.

- vi) There must be an additional off-street parking space beyond the number of vehicles already normally parked at the property for every increment of four guests allowed to book.
- vii) Owners are responsible for enforcing the following rules, as well as informing all guests of such rules by posting them on the booking website and by including a physical copy at the rented dwelling:
  - a) Quiet hour from 10 pm to 7 am
  - b) No smoking outside anywhere within 30 feet of adjacent property.
- viii) No non-owner occupied short term rental property shall operate within three hundred (300) feet of an existing non-owner occupied short term rental property. The distance is measured from the entrance door of the existing short term rental to the nearest structural point of the proposed short term rental.
- ix) No more than two separate short term rental properties shall be owned by the same owner. For purposes of this requirement, individuals are considered the same owners if they:
  - a) are spouses
  - b) co-mingle expenses or income regarding any short term rental property
  - c) are business partners

For purposes of this requirement, businesses are considered the same owners if they are owned or managed at least in part by the same individual

**4. Exception to the requirements of this section:**

- a) A single-family owner-occupied dwelling which is part of a Home Exchange where the owners are trading rights or money to use each other's home for a short- term period. The exchange is only for a dwelling which is usually owner-occupied, and the total number of home rentals or exchanges shall not exceed six home exchanges per year, unless a Conditional Use Permit is approved for more than six rental periods per year.
- b) The restrictions in this section do not apply in Planned Unit Developments with an established HOA.

**9-10 Short Term Rental Property**

It is unlawful for any person to keep, conduct, operate or maintain a "short term rental property" as defined in section 4-33 of the Kanab Land Use Ordinance within the city without a business license. The following requirements are in addition to the requirements of this section, and apply to both residential and commercial short term rental properties:

A. License Not Transferable: A short term residential rental property business license is not transferable between persons or structures. When an owner has more than one Short Term Rental, each property address must have its own business license. Any person holding such license shall give written notice within thirty (30) days to the business license official after having transferred or otherwise disposed of legal or equitable control of any Short term residential rental dwelling unit licensed under this article.

B. Transient Room Tax: All short term residential rental properties shall be subject to the collection of the municipality transient room tax as allowed under Utah code.

C. Before a business license can be approved each year, the applicant must show proof of having paid all sales and TRT taxes for the previous calendar year regarding all bookings for each property under the business license. This proof can be shown by offering an accounting of all bookings for each short term rental, and a correlating receipt of paid taxes. (The City Council may elect not to enforce this provision regarding the 2016 calendar year)

D. The business license number shall be included, in plain view, on any marketing or advertising material, and on any booking website.

D. Cleaning Service: Each property shall be cleaned in between tenant occupancy. Each property shall also comply with the sanitary facilities requirements outlined for motels in Kanab City.

E. Local Property Manager Required: All short term residential rental properties shall designate a local property manager. The local property manager shall be available twenty four (24) hours per day to respond to tenant and neighborhood questions or concerns. Each short term residential rental property shall have a clearly visible sign within the unit containing the following information: the name and phone number of the local property manager, and the maximum occupancy of the unit,

F. Owner And Property Manager Responsible: The owner and property manager shall be jointly and severally liable for any violations of this article. Any short term rental which is found in violation of this article or any other requirement of this code may be subject to revocation of the short term residential rental properties business license, as well as any other remedies outlined in this Business License section.