



KANAB
— UTAH —

Kanab City Planning Commission

76 N Main, Kanab, UT 84741

435-644-2534

November 15, 2016 Meeting

Kanab City Planning Commission

Agenda

Facilitator: Chairperson, Joan Thacher

6:30 PM Call to Order and Approval of minutes of previous meeting
Motion; Second; Vote On Minutes

6:35 PM Public Comment Period, Call to the Public

Discussion: Discussion and review information from the November 2, 2016 Public Forum on Short Term Rental. [Commission Members and Staff]

Public Hearings continued from last several meeting and November 2, 2016 Public Forum.

Public Hearing: Continuation of the Public Hearing and Discussion on a proposed amendment to Kanab Land Use Ordinance Chapter 4 dealing with Short Term Residential Rental Property, also referred to as Vacation Rental Property. [Applicant; Staff]

Recommendation: Motion; Second; Discussion; Vote to Recommend an amendment to Kanab Land Use Ordinance Chapter 4 dealing with Short Term Residential Rental Property, also referred to as Vacation Rental Property.

Public Hearing: Discuss and Recommend revisions to the Kanab City Land Use Ordinance Chapter 1-6 [Definition of Bed and Breakfast Inn], and Chapter 4-22 [Temporary Lodging] Section 2 [Bed and Breakfast Inn] redefining to or not require providing breakfast for overnight guest. [Applicant; Staff]

Recommendation: Motion; Second; Discussion; Vote to Recommend revisions to the Kanab City Land Use Ordinance Chapter 1-6 [Definition of Bed and breakfast Inn], and Chapter 4-22 [Temporary Lodging] Section 2 [Bed and Breakfast Inn] redefining to read **May** or **Shall** provide breakfast for overnight guest.

Work Meeting.
-Staff Report
-Commission Member Reports
-Council Member Liaison Report

Times listed for each item on the agenda may be accelerated as time permits, or may be taken out of order as moved upon by the commission. If you are planning to attend this public meeting and due to a

disability need assistance in understanding or participating in the meeting, please notify the City eight or more hours in advance of the meeting, and we will try to provide whatever assistance may be required. Please contact RaeLene Johnson at the Kanab City Offices. **See entire packet online a minimum of 24 hours before the meeting at: <http://www.utah.gov/pmn/index.html>**

Mike Reynolds [Kanab Land Use Coordinator] 435-616-0784

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

Draft #2 (10-24-16 BN)

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.

Kanab City Planning Commission

Staff Report: Mike Reynolds

Planning Commission Meeting: November 2, 2016

Public Forum on Short-term Rental

Several months back the Planning Commission became keenly aware of a national phenomena called vacation rentals which we are referring to as short-term rentals. I noticed an increase in requests for building permits for guesthouses, also referred to as Casitas and Vacation Rentals. It wasn't long before we realized many cities were encountering regulatory issues and concerns.

The following list contains comments provided to me over the course of the Planning Commission's discussions. Some comments have been combined to avoid repetition.

- Preferred alternative to hotel/motel accommodations. Many people are seeking cultural exchange and local information.
- Entry-level business opportunity and spirit of private enterprise allowing local residents to increase their source of income and ability to live in this area; not to mention the local economic stimulation.
- Limiting the number of rentals does not address any perceived or real problem. County residency for owning multiple units may address the absentee owner concerns. Limiting the number of ownerships appears to be a punishment or lack of consideration for those living locally.
- Kanab is a tourist destination and short-term rental is a byproduct of that demand and strengthening the local economy.
- The City has failed to clearly identify the problem it is attempting to solve. Most owners have been paying taxes, avoid nuisance problems, and have proper licensing.
- Stronger enforcement and strengthening existing ordinances will resolve many of the perceived problems and eliminate overregulation in portions of the draft ordinance.
- Short-term rental properties as a general rule are much cleaner and well kept when compared to long-term rentals. A fact verified by nearly 20 years experience of having both operations.
- Setbacks from property lines should be greater than 2 feet. As an owner of several vacation rentals, I feel 2 feet is too close and intrusive and agree with the suggested 10 feet setback.
- Believes (iv) and (viii) will stifle growth from real estate investors and recommend removal from the draft code.
- Vacation Rentals provide a highly desirable and sought after accommodation for tourists worldwide and cannot be provided by the major hotel chains.
- Low income housing will not be solved by eliminating vacation rentals.
- HOA and similar developments should be allowed to apply for a special district designation allowing an exemption to short-term rental restrictions ownership and density.
- Short-term rental properties eliminate affordable long-term rental. Due to the inflated value of vacant homes renting long-term requires seeking other nonrelated people to help in sharing the rent. This is the only way to pay the high rent. The value of homes has been artificially elevated by vacation rentals.

- Single-family residential areas should remain just that and not turn into commercial detached overnight motel rooms. This diminishes and undermines the perception of peace, quiet, and safety.
- Property owners should live on the property for short-term rental. Provides a control mechanism and comfort to the neighbors.
- Avoid over-restrictions such as St. George has, limiting the number of days for vacation rentals. As with life and any business bills continue and taxes must be paid.
- The grandfather clause should be respected and adhered to by the City.
- The 300 foot separation is extreme and should not be considered.
- My experience with Airbnb has been excellent using them for my local vacation rental and my family's personal vacations outside Kanab.
- The City should respect the personal property rights of its residents.
- Solutions should concentrate on compliance and quality and not restricting or discouraging private enterprise.
- Resident/neighbors around a vacation rental should be provided a contact number in the event of a problem.
- Clear and understandable definition of quiet time between 10 PM and 7 AM.

Summary:

Most respondents and their areas of concerns have been positive in nature toward vacation rentals, but apprehensive the City may overreact and be too restrictive.

Let me first address the small amount of negative comments surrounding vacation rentals. They have been few and far between and have not showed a consistent pattern. The significant concern is having neighborhoods taken over by vacation rental properties. One can conclude and understand the apprehension of losing the atmosphere of a single-family residential community ties with one's neighbors and the sense of security. Although rare, more specific concerns such as noise, barking dogs, and loud gatherings can be addressed through law enforcement action.

On the other hand, many respondents were supportive of short-term rental properties and of certain control mechanisms. The major concern of those supporting vacation rentals is overregulation and restriction. Nearly everyone voicing an opinion disagrees with the density regulation of a 300-foot separation, and restricting citizens to ownership of no more than two vacation rentals. Most respondents agreed with licensing and strict enforcement. Overwhelmingly the respondents agreed that short-term rental properties are better kept, cleaner and add significant value to the economy of Kanab. Local respondents clearly believe local ownership is preferred and should be given consideration. Overall, I concluded that the majority of the respondents favor in part the draft code except as noted above.

Kanab City Planning Commission

Public Comment Notes 11/2/16 Forum on Short term Rentals

1. Buy a home because part of home will be used for short term rental
2. Can a local resident own more than 2 Vacation Rentals? 300' rule does not apply if you live on property or in a HOA.
3. Not many problems to date with Vacation Rentals
4. 127 on Airbnb; some regulation needed to prevent problems; Kane County should require proof of license to advertise on Airbnb.
5. Oppose limits on number of Vacation Rentals due to demand from pet owners who travel with pets. About 8% of present homes used for Vacation Rentals. Need to be able to adapt to future conditions. Reporting requirements are too burdensome / unfair if different from hotels.
6. Need affordable housing in order to keep businesses alive.
7. Some neighbors have changed opinion on Vacation Rentals and now enjoy meeting the visitors. Create opportunities to meet Kanab residents. Vacation Rentals will be self regulating to some extent. 300' separation too much.
8. Vacation Rentals are well maintained, clean. Long term Rentals not so much. Small business opportunity. Registration is needed. Don't limit # of Vacation Rentals to only 2 per owner.
9. Current proposal is overly restrictive. Huge demand for Vacation Rentals. Hotel profits go elsewhere. Use nuisance ordinance for problems. 300' & 2 Rentals per owner too restrictive.
10. Regulation needed to prevent big-time investors buying quantities of Vacation homes and converting to Vacation Rentals.
11. Limitation on # of Vacation Rentals a person can own should be dropped
12. Vacation Rentals will help pay mortgage; good experiences hosting visitors. Hotels book solid at some times of year.
13. 300' & other regulations not needed; neighbors will resolve differences.
14. Embrace change.
15. Collecting taxes is fair.
16. Don't limit # to 2 Vacation Rentals.
17. Property managers are scarce in Kanab.
18. HOA exclusion is important; don't like limit on 2 Vacation Rentals / owner. Parking problems can occur with Vacation Rentals. Need level playing field between hotels and Vacation Rentals. Park City has made some mistakes with Vacation Rentals. Property managers needed.

19. Enforce rules already in place. Proof of tax payment is burdensome.
20. Most of people on tours use Vacation Rentals; many are families staying for a week or more.
21. Absentee owners can be a problem.
22. Vacation rental owners have expressed their will; the city has a history of being pro-business; tourism is king in Kanab; agrees with some of the draft ord.
23. Flagstaff has 5X the Vacation Rentals as Kanab.
24. Agree with business license; don't agree with limitation on # renters; & Rentals per property; parking requirement is confusing; no-smoking restriction is discriminatory; not a 600' spacing; spouses should not be considered as the "same owner". Vacation rental business license packet needed which sets forth all requirements for a Vacation rental license. Airbnb will be collecting TRT taxes for Vacation Rentals in Utah. Property managers can manage more than 2 Vacation Rentals.
25. Proximity to Arizona and their lack of restrictions on Vacation Rentals.
26. End of public comments. 8:32 pm.

Taken by Bob Nicholson

Mike Reynolds and Bob Nicholson Staff Report

Mike Reynolds Report;

On November 2, 2016, the Kanab Planning Commission conducted a public forum to discuss and gather information from its citizens regarding short-term rentals and the proposed draft ordinance. The forum was well attended and strongly represented by the proactive short-term rental individuals. Although there may have been several individuals with negative views toward short-term rentals in residential areas, they were reluctant or did not wish to speak out. I have included those rough notes for the Commissioner's review. Over the last several months, I have come to some conclusion from listing to the pro and con comments presented to us by both sides;

1. The con side has not voiced any deep concern with regard present day problems or to the number of current licensed short-term rentals, but rather there is deep concern of future density if the trend continues. Some fear the erosion of the single-family residential community. This fear is based on a perception and sense of less security in neighborhoods with high density short-term rentals.
2. The Pro side has voiced its belief that short-term rentals are a boom to the economic growth of the entire community and should be controlled through licensing only. They hope the Commission would simplify any ordinance and avoid over reaction to non-existing problems. They generally agree the Commission should address the basic concerns in licensing and requiring a local property manager or on-site manager.

In conclusion, I have not identified any specific problem that is not addressed in our nuisance ordinance or criminal law other than licensing and local property management. Density has not been identified as a specific problem at this time, but will need to be dealt with at a future date if not addressed now.

Mike Reynolds

Bob Nicholson Report;

The public forum had a good turnout of residents it seemed to me, and my take away is as follows;

1. Tourism is very important in Kanab, more so than most Southern Utah communities.
Opportunity to participate in the tourist hosting business is important to residents.
2. Many of the present short term rentals are managed by on-site or local owners, similar to a Bed & Breakfast Inn.
3. The short term rentals provide important accommodations to the many visitors and volunteers at Best Friends Animal Sanctuary.
4. Residents who don't want short term rentals in their subdivision can prohibit such with subdivision CC&Rs, although that can sometimes be a tough task when the subdivision is already occupied.
5. The ordinance can focus on licensing, TRT (tax) collection, and requiring a local property manager or on-site manager.
6. The present draft ordinance can be simplified to focus on the main issues and eliminate the restrictions on less important items such as only 2 short term rentals by the same owner.

I think the PC should review the draft in light of the public comments and simplify it to meet basic concerns such as mentioned in #5 above. If problems develop in the future the ordinance can be amended at that time.

Bob Nicholson