

VIRGIN TOWN

ORDINANCE # 2018-~~022818~~-03

AN ORDINANCE ESTABLISHING STANDARDS FOR LEASING PORTIONS OF A RESIDENTIAL DWELLING UNIT FOR PERIODS OF LESS THAN THIRTY (30) CONSECUTIVE DAYS WHILE THE OWNER OF THE RESIDENCE STILL RESIDES THEREIN – ALSO KNOWN AS “RESIDENTIAL HOSTING.”

RECITALS

WHEREAS, Virgin Town (“Town”) is an incorporated municipality duly organized under the laws of the State of Utah;

WHEREAS, the Town is authorized pursuant to Utah Code Annotated, Title 10, Chapter 9A, to enact ordinances necessary or appropriate for the use of land within the Town’s municipal boundaries;

WHEREAS, pursuant to Utah Code Annotated, Title 10, Chapter 3b, Section 301, the Virgin Town Council (“Town Council”) is designated as the governing body of the Town.

WHEREAS, the Town has determined that the short-term rental of portions of a residential Dwelling Unit for periods of less than thirty (30) consecutive days while the Owner of the residence still resides therein (“Residential Hosting”) can provide homeowners within the Town an opportunity to hold and retain property as a “Residential Hosting Facility” (or “RHF”) in difficult economic circumstances or as an investment;

WHEREAS, the Town has determined that there is a seasonal market for short-term lodging such as RHF’s in the general vicinity of Zion National Park.

WHEREAS, the Town has determined that there is presently a lack of tourist based short-term lodging within the Town;

WHEREAS, the Town has determined that the impacts of RHF’s is consistent with the general impacts of residential uses in residential and agricultural zones;

WHEREAS, notwithstanding determined needs and impacts of RHF’s, the Town desires to also protect the property rights of all homeowners within the Town while mitigating potential concerns of residents stemming from such a use; and

WHEREAS, presently the Town’s Uniform Land Use Ordinance (“VULU”) prohibit the nightly or short term rental of all or parts residential Dwelling Units for periods of less than thirty (30) days within the residential and agricultural zoning districts of the Town. *See* VULU 16.3.1 in Chapter sixteen (16), and 17.2.2, and 17.3.12 in Chapter Seventeen (17).

WHEREAS, in order to provide for the health, safety and general welfare of the Town and its residents, while protecting individual property rights, the Town, acting by and through the Town

Council desire to conditionally permit Residential Hosting and RHF's within the residential and agricultural zoning districts of the Town and to set standards for the rental or leasing of residential housing.

ORDINANCE

NOW THEREFORE be it ordained by Virgin Town, Washington County, State of Utah, acting by and through the Town Council the following Section 2 of Chapter 30 of VULU (Special Lodging) is hereby enacted:

1. VULU Chapter 30, Section 2 Added. The following italicized Chapter 30, Section 2 is hereby added to VULU:

30.2.1 DEFINITIONS.

For the purposes of this Chapter all of the definitions contained in VULU Chapter 1 (including the definition Residential Hosting Facilities ("RHF")) and throughout the various chapters of VULU are incorporated herein. Commonly words or terms that are capitalized are defined in VULU Chapter 1, but they can also be imbedded into the body of various VULU chapters.

30.2.2 NATURE OF USE - RESIDENTIAL HOSTING OR RHF.

The short term renting of portions of a residential Dwelling Unit (aka Residential Hosting) is a Conditional Use in all Residential (R) and Agricultural (A) zones) of the Town, subject to the Owner obtaining and maintaining a RHF Permit.

30.2.3 RHF PERMIT APPLICATION AND FEES.

In order to obtain and maintain an RHF Permit an Owner of a proposed residential Dwelling Unit where Residential Hosting will occur must do the following:

30.2.3.A *Obtain, complete and provide a RHF Permit application and any other required documents to the Town.*

30.2.3.B *The Owner must submit the following information on a Town approved RHF Permit application form:*

30.2.1.B.i *All applicable and current contact information of the Owner of the proposed RHF.*

30.2.1.B.ii *The street address of the proposed RHF.*

30.2.1.B.iii *The number of bedrooms and the applicable occupancy limits of the proposed RHF 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).

30.2.1.B.iv A diagram of the proposed RHF which clearly depict each bedroom or sleeping area and bathroom (“RHF Guest Quarter(s)”) of the Dwelling Unit where guests will privately reside.

30.2.1.B.v The maximum number of guests that can stay in each RHF Guest Quarter while taking into consideration the overall maximum occupancy of the RHF (10 occupants - including the Owner and his/her family unit).

30.2.1.B.vi The Owner’s Social Security Number (if an individual/sole proprietorship) or Federal Employer Identification Number (EIN) (if a business entity).

30.2.1.B.vii The Transient Room Tax and Sales Tax Account Number obtained from the Utah State Tax Commission.

30.2.1.B.viii Any other information deemed necessary to inform the Town and the public about the intended use of the property as an RHF Unit.

30.2.1.C All applications for RHF 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 the RHF is proposed. Said envelopes will be used by Town Staff to send written notice to neighbors of the proposed RHF and to provide them with contact information for the Owner in the event of a problem. The mailing will also include a list of standards and requirements contained in this Section that all RHF’s must comply with how problems should first be addressed with the Owner of said Unit and, if not resolved, then reported to the Town.

30.2.1.D RHF 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.

30.2.1.E An applicant or Owner holding an RHF Permit who receives notice from the Town of denial of their RHF Permit application or the non-renewal of their existing RHF Permit may appeal said decision to the Town’s Appeal Authority in compliance with VULU Chapter 3 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.

30.2.1.F An applicant must pay an RHF Permit fee at time of application submittal. The RHF Permit fee shall be designated in the Town’s Uniform Fee Schedule and established and modified from time to time by resolution. All RHF Permit applications will be deemed automatically incomplete until the

RHF Permit Fee has been paid.

30.2.1.G An updated application is required to be provided to the Town if any of the contact information of the Owner is changed throughout the permit year

30.2.2 RHF PERMIT RENEWAL.

RHF Permits are good for 365 days after it is issued. An RHF Permit may be renewed upon the occurrence of the following:

30.2.2.A Payment to the Town of a new annual RHF Permit fee.

30.2.2.B Submittal to the Town of an updated application if:

30.2.2.B.i The Owner (or their contact information) has changed,

30.2.2.B.ii The Owner has made modifications to the RHF or re-designation of the RHF Guest Quarters of 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 RHF complies with local health and fire safety codes, or

30.2.2.B.iii The Owner has changed its Transient Room Tax and Sales Tax Account Number with the Utah State Tax Commission

30.2.2.C The Town confirms with the Utah State Tax Commission that the Owner is current on the Owner's remittance of transient room tax and sales tax.

30.2.2.D The Town has not received more than two unresolved complaints stemming directly from the Owner's Residential Hosting during the previous RHF Permit period. If more than 2 unresolved complaints stemming from an RHF exists the Town Staff may deny the renewal request or may place additional requirements upon the issuance of a renewed RHF Permit that reasonably calculated to resolve the existing issues and prevent future problems and that are roughly proportional to the magnitude of the problem.

30.2.2.E If an Owner has had their RHF Permit renewed with additional conditions and/or requirements pursuant to the preceding section, they may appeal the Town Staff's decision to the Town's Appeal Authority in compliance with Chapter 3 of VULU 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.

30.2.3 STANDARDS AND REQUIREMENTS FOR RESIDENTIAL HOSTING FACILITIES.

In addition to any other requirement of this Section, Residential Hosting and an RHF Permit may be approved by Town Staff only if:

30.2.3.A The proposed RHF is located in a Residential or Agricultural Zone of the Town.

30.2.3.B The proposed RHF is a Dwelling Unit that has been issued a certificate of occupancy by the Town.

30.2.3.C There is no other Dwelling Units with an STR Permit or RHF permit located within 300 feet of the exterior boundaries of the parcel which contains the proposed RHF. Notwithstanding the preceding sentence, the 300 foot spacing requirement of this subsection shall not apply to:

30.2.3.C.i Parcels that are larger than three acres, or

30.2.3.C.ii Dwelling Units within a multi-family structure such as a duplex, or fourplex.

30.2.3.D 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 are complied with by the Owner.

30.2.3.E The RHF has no more than four separate RHF Guest Quarters within it and the total number of occupants within the RHF does not exceed 10 persons including the Owner and the Owner's family unit dwelling within and upon the RHF. Maximum occupancy must be posted in each individual RHF Guest Quarter.

30.2.3.F There are no "on premise" or "off premises" exterior signage or display advertising the proposed RHF or its use as Residential Hosting Facility regardless of the Town's regulations found in Chapter 26 of VULU (Sign Regulations).

30.2.3.G The proposed RHF (including all RHF Guest Quarters) has fully functioning smoke alarms and carbon monoxide detectors which meeting 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.

30.2.3.H The proposed RHF has sufficient Off Street Parking on site in compliance with Chapter 7 of VULU (Off Street Parking Requirements). Off Street

Parking may not be provided within the front yard setback other than the existing driveway.

- 30.2.3.I *The principal renter of a RHF Guest Quarter shall be of legal adult age (18 Years Old).*
- 30.2.3.J *The Owner shall have set up a Transient Room Tax and Sales Tax Account with the Utah State Tax Commission and agree to be fully responsible or collecting and remitting all applicable room, occupancy, and sales taxes required by Utah law, VULU or other Town Ordinances.*
- 30.2.3.K *The Owner agrees to provide guests with a summary of all laws and regulations of the Town that is applicable to Short Term Rental and Residential Hosting uses.*
- 30.2.3.L *The Owner shall provide a brochure or other alternative publication to guests of their RHF containing basic, minimum, standards of personal conduct during their visit to the Town.*
- 30.2.3.M *The RHF or RHF Guest Quarter(s) are not 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 Congregate Living Facility.*
- 30.2.3.N *The RHF is located on a dedicated street that meets all requirements of the current version of the International Fire Code adopted by the Town.*
- 30.2.3.O *The RHF 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.*

30.2.4 RHF COMPLIANCE AND LIABILITIES.

- 30.2.4.A *Owners may be held liable for violation of Town ordinances that happen on their property.*
- 30.2.4.B *Complaints from an adjacent or nearby property owners about an RHF must be in writing to the Town office and will be responded to by the Town within a reasonable time period.*
- 30.2.4.C *A complaint received will not be considered a violation or unresolved complaint to be considered grounds for revocation or non-renewal of the RHF Permit until proper notification to the Owner and investigation by the Town or law enforcement authorities have been completed.*

30.2.4.D *Two or more citations issued in violation of Town ordinance, State, County or Federal laws, if they are not resolved in a timely manner by the Owner may be cause for revocation or non-renewal of the RHF Permit in compliance with Subsections 30.2.2.D & E and 30.2.5.*

30.2.4.E *Residential Hosting and RHF's are subject to Virgin's Transient Room Tax Ordinance, therefore Owners must collect said tax and all applicable sales tax and remit the same to the Utah State Tax Commission as required by State Law.*

30.2.4.F *This Section 2 of Chapter 30 (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.*

30.2.5 **ENFORCEMENT.**

An RHF Permit may be revoked or not-renewed by the Town if:

30.2.5.A *The RHF that was originally constructed as residential Dwelling Unit has been repurposed for a use other than that of a residential Dwelling Unit,*

30.2.5.B *The Owner fails to pay any annual RHF Permit fee after sufficient notice,*

30.2.5.C *The RHF 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*

30.2.5.D *Other illegal activities have occurred at, or related to the RHF, which the Town reasonably determines is clearly contrary to the purpose and intent of this Ordinance.*

2. Severability. If any section, clause or portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

3. Conflicts/Repealer. This Ordinance repeals the provisions of any prior ordinance in conflict herewith.

4. Effective Date. This Ordinance shall become effective immediately upon adoption by the Virgin Town Council and execution by the Virgin Town Mayor.

ADOPTED AND APPROVED BY THE VIRGIN TOWN COUNCIL this 28th day of February, 2018 based upon the following vote:

Council Member:

Dan Snyder	AYE___	NAE___
LeRoy Thompson	AYE___	NAE___
Kevin Stout	AYE___	NAE___
Jay Lee	AYE___	NAE___
Matthew Spendlove, Mayor	AYE___	NAE___

VIRGIN TOWN
a Utah municipal corporation

Matthew Spendlove, Mayor

ATTEST:

Monica Bowcutt, Town Clerk