

# VIRGIN TOWN

## ORDINANCE #2018-~~022818~~-02

AN ORDINANCE ESTABLISHING STANDARDS FOR THE LEASING OF ENTIRE RESIDENTIAL DWELLING UNITS FOR PERIODS OF LESS THAN THIRTY (30) CONSECUTIVE DAYS - ALSO KNOWN AS “SHORT-TERM RENTALS.”

### 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 residential Dwelling Units for periods of less than thirty (30) consecutive days (“Short-Term Rental” or “STR”) can provide homeowners within the Town an opportunity to hold and retain property in difficult economic circumstances or as an investment;

WHEREAS, the Town has determined that there is a seasonal market for short-term lodging 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 STRs are consistent with the general impacts of residential uses in residential and agricultural zones;

WHEREAS, notwithstanding determined needs and impacts of STRs, 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 of residential Dwelling Units for periods of less than thirty (30) days within the residential and agricultural zoning districts of the Town. *See* VULU Section 16.3.1 in Chapter sixteen (16), and Sections 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 STRs within the residential and agricultural zoning districts within the Town on a development wide basis only 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 1 of Chapter 30 of VULU (Special Lodging) is hereby enacted:

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

### **30.1.1 DEFINITIONS.**

*For the purposes of this Chapter all of the definitions contained in VULU Chapter 1 (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 1, but they can also be embedded into the body of various VULU chapters.*

### **30.1.2 NATURE OF USE - SHORT-TERM RENTAL OR STR.**

*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.*

### **30.1.3 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.*

*30.1.3.A 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 zoning district 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.*

*30.1.3.B 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).*

*30.1.3.C Application/Approval Process.*

- 30.1.3.C.i *At the Subdivision Concept Plan review stage of the approval process described in VULU Chapter 9 (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 9) the following information:*
- 30.1.3.C.ii *Name and address of applicant and property owner;*
- 30.1.3.C.iii *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;*
- 30.1.3.C.iv *The proposed signage and lighting plan (where applicable);*
- 30.1.3.C.v *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;*
- 30.1.3.C.vi *The locations and dimensions of existing and proposed drainage facilities, utilities, easements and fire hydrants;*
- 30.1.3.C.vii *The proposed area dimensions, existing and proposed elevation contours, and north arrow; and*
- 30.1.3.C.viii *Necessary explanatory notes where applicable.*
- 30.1.3.D *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.*
- 30.1.3.E *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.*
- 30.1.3.F *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.*
- 30.1.3.G *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.*
- 30.1.3.H *The Town shall not approve a STR Development Overlay Zone designation*

*for a Development unless it finds the following:*

- 30.1.3.H.i 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*
- 30.1.3.H.ii 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*
- 30.1.3.H.iii 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*
- 30.1.3.H.iv 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*
- 30.1.3.H.v 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*
- 30.1.3.H.vi 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.*

#### **30.1.4 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:*

- 30.1.4.A *Obtain, complete and provide a STR Permit application and any other required documents to the Town.*
- 30.1.4.B *The Owner must submit the following information on a Town approved STR Permit application form:*
- 30.1.4.B.i *All applicable and current contact information of the Owner of the proposed STR Unit.*
  - 30.1.4.B.ii *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.*
  - 30.1.4.B.iii *The street address of the proposed STR Unit.*
  - 30.1.4.B.iv *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).*
  - 30.1.4.B.v *The Owner's Social Security Number (if an individual/sole proprietorship) or Federal Employer Identification Number (EIN) (if a business entity).*
  - 30.1.4.B.vi *The Transient Room Tax and Sales Tax Account Number obtained from the Utah State Tax Commission.*
  - 30.1.4.B.vii *Any other information deemed necessary to inform the Town and the public about the intended use of the property as a Short-Term Rental.*
- 30.1.4.C *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.*
- 30.1.4.D *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.*

*30.1.4.E 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 Board of Adjustment 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.*

*30.1.4.F 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.*

*30.1.4.G 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.*

#### **30.1.5 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:*

*30.1.5.A Payment to the Town of the annual STR Permit fee.*

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

*30.1.5.B.i The Owner or management company handing STR renting for the applicable Development (or their contact information) has changed,*

*30.1.5.B.ii 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*

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

*30.1.5.C The Town confirms with the Utah State Tax Commission that the Owner or the management company handing STR rental of the applicable STR Unit is current on the Owner's remittance of transient room tax and sales tax.*

*30.1.5.D The Town has not received more than two unresolved complaints*

*stemming directly from the Owner's Short Term Rental during the previous STR Permit period. If more than 2 unresolved complaints stemming from an STR Unit exists the Town Staff may deny the renewal request or may place additional requirements upon the issuance of a renewed STR Permit that are reasonably calculated to resolve the existing issues and prevent future problems and that are roughly proportional to the magnitude of the problem(s).*

*30.1.5.E If an Owner has had their STR 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 Board of Adjustment 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.*

*30.1.5.F 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.*

### **30.1.6 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:*

*30.1.6.A The proposed STR Unit is located in a STR Development Overlay Zone.*

*30.1.6.B 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 2 of this Chapter.*

*30.1.6.C 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.*

*30.1.6.D 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 26 of VULU (Sign Regulations).*

*30.1.6.E 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.*

- 30.1.6.F The proposed STR Unit has sufficient Off Street Parking 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.*
- 30.1.6.G The principal renter of a STR Unit shall be of legal adult age (18 Years Old).*
- 30.1.6.H The maximum number of paying adult and children guests permitted in a STR Unit shall not exceed local health department and fire authority regulations.*
- 30.1.6.I 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 or collecting and remitting all applicable room, occupancy, and sales taxes required by Utah law, VULU or other Town Ordinances.*
- 30.1.6.J 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.*
- 30.1.6.K 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.*
- 30.1.6.L The STR Unit may 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 non-tourist based Congregate Living Facility.*
- 30.1.6.M 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.*
- 30.1.6.N 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.*

### **30.1.7 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:*

*30.1.7.A Owners may be held liable for violation of Town ordinances that happen on their property.*

*30.1.7.B 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.*

*30.1.7.C 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.*

*30.1.7.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 or their management company may be cause for revocation or non-renewal of the STR Permit in compliance with Subsections 30.1.5.D & E and 30.1.8.*

*30.1.7.E 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.*

*30.1.7.F This Subsection 1 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.*

### **30.1.8 STR ENFORCEMENT.**

*A STR Permit may be revoked or not-renewed by the Town if:*

*30.1.8.A 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,*

*30.1.8.B 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 30.1.5.F,*

*30.1.8.C The Owner or his management company fails to pay any renewal STR*

*Permit fee after sufficient notice,*

*30.1.8.D 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*

*30.1.8.E 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.*

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:

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Monica Bowcutt, Town Clerk