

3-11-12: BED AND BREAKFAST AND VACATION RENTAL FACILITIES:

A. Transient Facilities: Bed and breakfast ("BnB") and vacation rental ("VR") facilities are and constitute transient facilities, subject to government regulation, the licensing requirements of chapter 1 of this title, and the transient room tax imposed pursuant to chapter 8 of this title. However, there are substantial differences between the character of BnB and VR facilities and other types of transient facilities, and the degree of regulation necessary to protect against harm to occupants of BnBs and VRs and adjoining properties. Therefore BnBs and VRs:

1. Shall be operated and maintained in general conformity with:

a. The spirit and intent of this chapter.

b. The intent of the city council that such uses be operated and maintained in such a manner as to be compatible with and not adversely affect neighboring permitted uses within the community.

2. Shall be operated and maintained, and otherwise governed, by the terms, conditions, and provisions of sections 3-11-2 and 3-11-10 of this chapter (except that daily inspections shall not be required), this section, and the remedial and penalty provisions of section 3-11-13 of this chapter.

B. Management: Each BnB facility must maintain an office on the premises in the charge and under the immediate supervision of a manager or attendant at all times. Such office shall remain continuously open and staffed whenever there are guests registered or present and whenever the facility is open to receive guests.

C. Disclosure Of Available Rooms:

1. Each BnB and vacation rental (hereinafter "VR") facility shall disclose to the business license officer the current number of rooms available and/or held out for public accommodation, or, in the case of VRs, the total number of people the dwelling can safely accommodate (which number shall first be determined by the city building official, in accordance with the applicable building codes):

a. At the time of initial licensure or license renewal; and

b. Within seventy two (72) hours of any change in the number of such available rooms or accommodation of guests.

2. The occupancy load shall be prominently posted within the BnB or VR facility.

D. Display Of License: A current, valid business license shall be posted in a conspicuous place in each BnB and VR facility.

E. Occupancy: It shall be unlawful for any BnB or VR facility unit to be occupied by a greater number of persons than that which: 1) it is designed or furnished to accommodate and 2) is permitted under the applicable building and building related codes adopted by the city (see title 9, chapter 1 of this code). The requirements of said codes differ for facility occupancies of ten (10) or fewer persons, and for occupancies of greater than ten (10) persons.

F. Responsibility For Minors: No BnB or VR facility unit shall be rented, leased, or registered to any person under the age of eighteen (18) years. Each person to whom a BnB or VR facility unit is rented, leased, or registered shall be responsible for any minors occupying such unit, and shall remain on the BnB or VR facility premises at all times while there are minors occupying such unit.

G. Length Of Stay: No person shall occupy or contract to occupy any unit or combination of units at any one BnB or VR facility for longer than twenty nine (29) consecutive days, and no BnB or VR facility shall permit any person to occupy or contract to occupy any unit or combination of units on the facility premises for longer than twenty nine (29) consecutive days.

H. Sanitary Facilities:

1. Each BnB or VR facility unit held out for public accommodation must comply with the minimum rules established by the Utah department of health.

2. It shall be unlawful to rent, lease, or otherwise hold out for public accommodation any transient lodging facility unit which does not have:

a. A complete operable bathroom, including flush toilet, sink, and bath or shower in working order; and

b. For each guest, an adequate daily supply of at least the following sanitary supplies: hot and cold running water, soap, towels, toilet paper, and clean linen.

3. Each BnB and VR facility shall be cleaned after the departure of each guest and before the arrival of any subsequent guest.

I. Inspections:

1. Each BnB and VR facility shall comply with all applicable building and building related codes, and shall cooperate with any fire, land use, code enforcement, building, health, or other inspection conducted by municipal officials, to ensure compliance.

2. An inspection of a BnB or VR facility/property, for compliance with these regulations, will be performed at the time of business license review. Additional inspections may be performed with twenty four (24) hour notice to the license holder if deemed necessary by the city; provided that, no prior notice is required in situations where emergency conditions exist or the city has a good faith belief that the safety of the occupants is in danger and/or the occupancy load of the facility is being exceeded.

J. Contact Information; Contact Person(s):

1. License holders and owners of BnB and VR facilities shall, at all times that they are operational, provide and maintain with the city up to date and current personal contact information regarding such holder, owner, operator of the facility, and/or other responsible party (known herein as "contact person(s)").

2. Such contact person(s) shall: a) be a resident of Washington County; b) be able to provide information on current occupants to police and/or emergency personnel as needed; and c) respond to complaints and concerns within one hour of any phone call. Failure to respond is a violation hereof and may result in fines to the business license holder and property owner.

K. BnB And VR Facilities In Residential Zones:

1. Restrictions imposed by this subsection are in recognition of the premise that BnBs and VRs provide lodging for a transient population that may or may not honor neighborhood mores or exhibit neighborly consideration to the same extent as permanent residents.

2. A business license for a BnB or VR in a residential zone shall only be approved and issued, or renewed, by the city if:

a. The BnB or VR dwelling unit is located in an existing single- family dwelling.

b. The owner of the BnB or VR facility provides address labels and stamped envelopes for all other residential property owners within three hundred feet (300') of the facility, so that the city may provide to those owners: 1) a copy of the regulations set forth in this subsection, 2) the contact information for the facility owner, and 3) the responsible party contact number for concerns.

3. The BnB or VR facility and property shall be maintained to the following minimum standards:

a. Structures shall be properly maintained, painted and kept in good repair, and grounds and landscaped areas shall be properly maintained and watered, in order that the use does not detract from the general appearance of the neighborhood; and

b. Required parking areas and access to parking areas shall be maintained and available for use at all times. Parking for this use shall be contained on the site, and shall not be allowed on the public rights of way. Parking may not impact more than forty percent (40%) of a front yard.

4. The use of a dwelling as a BnB or VR shall not change the appearance of the dwelling or property for residential purposes.

5. Outdoor pools, hot tubs or spas shall not be used between the hours of eleven o'clock (11:00) P.M. and six o'clock (6:00) A.M.

6. The owner or operator of the BnB or VR facility shall ensure that occupants thereof do not:

a. Create noises that by reason of time, nature, intensity or duration are out of character with noises customarily heard in the surrounding residential neighborhood.

- b. Disturb the peace of surrounding residential property residents.
- c. Interfere with the privacy of or trespass onto surrounding residential properties.
- d. Allow pets to do anything listed in subsections K6a through K6c of this section.
- e. Engage in any disorderly or illegal conduct, including illegal consumption of drugs and alcohol.

7. A sign informing guests of all regulations shown above must be posted in a prominent location in or on the BnB or VR facility.

L. Application Of This Section: The requirements of this section shall be in effect throughout the time a BnB or VR business license is in effect on the property, notwithstanding that such property may be occupied by the owner or nonpaying guests of the owner. The City finds that, given the practical difficulty of determining whether or not the occupants are paying guests, enforcement of the requirements shall be based on whether the property is licensed as a BnB or VR at the relevant time.

M. Violations; Remedies: Owners, operators, and license holders of BnBs and VRs, and owners of the property whereupon such BnBs and VRs are situated, who violate the provisions of this section (herein known as "violators") are subject to the remedies and penalties set forth in section 3-11-13 of this chapter, provided that: (Ord. 2015-05, 7-1-2015)

1. Violation of any subsection of this section shall constitute a separate violation for each day it occurs or continues. Operation of a BnB or VR facility without a current LaVerkin City business license is considered a violation; and each day of operation shall be considered a separate offense. Evidence of operation shall not require verification of the presence of guests, but may be determined by any manner not proscribed by State or Federal law. (Ord. 2018-01, 1-3-2018)

2. Violators shall be issued written citations containing a description of the nature of the violation and the amount of fine levied in accordance with the fee schedule for an infraction, provided that, such fine shall not be less than two hundred fifty dollars (\$250.00).

3. The business license for a BnB or VR facility may be revoked, suspended, or denied renewal if three (3) citations are issued within any twelve (12) month period. (Ord. 2015-05, 7-1-2015)

3-11-13: PENALTY; SUSPENSION OR REVOCATION OF LICENSE:

In addition to a possible denial, suspension, revocation or refusal by the City to renew a business license as outlined in section 3-1-13 of this title, any licensee who shall operate a transient lodging facility in violation of this chapter (and/or any person designated by the licensee as the manager or person in charge of daily operation of said facility, who shall permit or allow said facility to operate in violation of this chapter) shall be guilty of an infraction and shall be punished for each offense by a fine as provided in title 1, chapter 4 of this Code. (Ord. 2013-09, 7-17-2013; amd. Ord. 2015-05, 7-1-2015)

10-7-20: BED AND BREAKFAST FACILITIES AND VACATION RENTALS:

A. In any zone provided for in this title, where bed and breakfast facilities (BnBs) and/or vacation rentals (VRs) are allowed as permitted uses (or permitted uses, with conditions), such BnBs and/or VRs are subject to and shall fully comply with the applicable provisions and conditions of: 1) title 3, chapters 1, 8, and 11, of this Code, 2) title 4, "Public Health And Safety", of this Code (including noise, odor, and nuisance restrictions), 3) title 9, chapter 1, "Building Related Codes", of this Code, 4) section 10-7-17, "Home Occupations", of this chapter, 5) chapter 10, "Off Street Parking", of this title, and 6) chapter 11, "Sign Regulations", of this title, except as otherwise specifically provided herein.

B. Licensed BnBs and/or VRs shall be permitted, in the below- designated zones, as follows, subject to the provisions, conditions, and restrictions provided herein:

Zone	BnB	VR	Specific Limitations
Zone	BnB	VR	Specific Limitations
R-1-8 (One-Family Residential)	X	X	
R-1-10 (One- and Two-Family Residential)	X	X	(single-family dwellings only)
R-3-6 (Multiple-Family Residential)		X	(single-family dwellings only)

R-A-1 (Residential-Agricultural)	X	X	
R-1-14 (Low-Density Residential)	X	X	
MH (Mobile Home)		X	(single-family dwellings only)
Comm-T (Tourist/Resort Commercial)	X	X	(with an approved site plan)

C. The City [excluding the Tourist/Resort Commercial Zone and zones where VRs are not a permitted use (with or without conditions)] shall be divided into four (4) or more areas, as determined and depicted by the City Council, and established by resolution, for the purpose of determining a limitation on the use of residential structures for VR purposes.

D. In order to: 1) maintain neighborhood aesthetics, stability, safety, and cohesion, 2) limit commercial creep, and 3) mitigate the potential negative impacts of transient lodging on residential neighborhoods: VRs and/or BnBs may be allowed in existing single-family dwellings in the above-referenced residential and mobile home zones of the City to the extent that:

1. They are properly licensed under title 3 of this Code.
2. The use of a dwelling as a BnB or VR does not:
 - a. Change the appearance of the dwelling or property for residential purposes; or
 - b. Allow for, facilitate, or otherwise permit the occupancy load (under section 3-11-12 of this Code and this section) or the dwelling limitations of the underlying zone (under this title) to be exceeded.
3. The BnB or VR facility is properly maintained, painted and kept in good repair - and associated grounds and landscaped areas are properly maintained and watered - in order that the use does not detract from the general appearance of the neighborhood.
4. All parking is provided for off-street, and is not to be allowed on the public rights-of-way.
 - a. Required parking areas and access to parking areas shall be maintained and available for use at all times.
 - b. Parking may not consume or otherwise impact more than forty percent (40%) of a front yard.
 - c. The required number of off-street parking spaces shall be as follows:
 - (1) BnBs shall require two (2) parking spaces for the resident family, plus 1.1 spaces for each non-resident living or sleeping unit, plus adequate parking for accessory uses pertaining to the use of the property for a bed and breakfast facility.
 - (2) VRs shall require 1.1 spaces for each living or sleeping unit (defined, for purposes of this subsection, to mean each room in the facility designated for sleeping purposes and offered for such use by guests or patrons), plus adequate parking for accessory uses pertaining to the use of the property for a vacation rental.
5. The occupancy load of the BnB or VR structure, as established or amended (before use by the City's building official), is not to be exceeded, and in no case shall be greater than fifteen (15) (not counting the resident household in a BnB).
6. With regards to VRs:
 - a. The use is subject to the availability of licenses, which licenses and associated right may lapse if not timely used pursuant to subsection D6b of this section (to prevent the speculative acquisition of a VR license in order to preserve the right to use one's residential structure as a VR at some possible future date, and thus negatively impact the right of others to license and use their structures as a VR during such period of nonuse). (Ord. 2018-01, 1-3-2018)
 - b. No more than seven and one-half percent (7.5%) of the residential units, eligible under subsection B of this section, in any given area of the City (established pursuant to subsection C of this section and determined by the City Council) may be licensed and used as VRs.

(1) No new VR use can be permitted and licensed which would cause the 7.5 percent limitation to be exceeded.

(2) Those who license their residential structures as a VR, but fail to use their structure for that purpose and to collect the applicable taxes thereon (including the Transient Tax), at least once before the end of the following calendar year following licensing, or during any subsequent calendar year thereafter, may lose their right to continue said use after the end of that period of nonuse: it shall be considered lapsed and shall not be used in the 7.5 percent limitation referenced above to prevent others from seeking and acquiring the right to have a VR.

(3) A purchaser or grantee of a residential structure, that was properly licensed by the seller or grantor as a VR immediately prior to the purchase or conveyance, may continue to license and operate the residential structure as a VR to the same extent as his or her predecessor in interest, regardless of whether the 7.5 percent limitation has been reached in the area in which the structure is situated, provided that:

(A) The residential unit was licensed as a VR through the date of the sale (in or under the name of the seller); and

(B) The purchaser or grantee, concurrent with or prior to closing on the purchase or recording the deed on the property containing the residential structure that had been licensed as a VR, provides the City's Business License Clerk or City Recorder with a written Notice of Intent (letter), indicating the purchaser's or grantee's intent to license and use the residential unit as a VR; and

(C) The purchaser applies for and receives, within forty five (45) days of the date of the above-referenced closing or recording, a business license to operate the residential unit as a VR. (Ord. 2019-03, 2-20-2019)

c. No new structure shall be built for the immediate purpose of housing a VR use.

d. Absent extenuating circumstances justifying relief (e.g., mobilization, deployment, death, hospitalization, or involuntary loss of the job of an occupant, requiring or resulting in a move from the premises by the applicant), and relief having been granted by the City Council (upon application to the City Council therefor), a structure shall not qualify for use as a VR unless:

(1) It has been properly licensed and operating as a VR or BnB immediately prior to a request by a new applicant for a VR business license.

(2) It has been used as a residence for a period of not less than one year prior to a request being made by the applicant for a VR business license.

7. Notwithstanding the prohibition of signs in subsection 10-7-17A8 of this chapter, one unlighted wall identification sign measuring not more than twenty (20) square feet shall be permitted. (Ord. 2018-01, 1-3-2018)

Brief Presentation to the City Council re the proposed Vacation Rental (VR) and Bed-and-Breakfast (BnB) Zoning and Licensing, S, O, & M ordinances

(Kevin R. Bennett, City Attorney, CC Mtg., 20150520)

8-10 Minutes – Please hold your questions until AFTER the presentation

1. Brief History

- Growing popularity of VRs and BnBs as alt. transient lodging
- Commercials on TV
- All over the Internet
- Kyle's experience; and that of my brother
- Some VRs in town already, but not legal under our current Zoning Code
- Considered by PC: change from "no" to unanimous support

2. 2 Aspects:

- Zoning** – What would now be permitted (what? where?)

- Bus. License** – How would it be regulated

- (1) Start-up; Safety; Operations and Maintenance (O&M)
- (2) Taxes
- (3) Fair and equal treatment with other transient facilities
- (4) Compatibility with zones in which placed

4.

Zoning ordinance:

- (1) Addresses issue of those already operating without authority in the community
- (2) Takes into consideration the small size of our community and business district, as well as their proximity to Zion National Park
- (3) But creates some unusual issues/problems, which we'll briefly address in a moment

- (a) But with conditions to protect residential neighborhoods 
- (b) "laissez faire" (do "whatever") (whatever happens, happens!)

Choice #3:

3. Zoning:

- Three primary approaches:

- (1) Disallowed everywhere (VR and/or BnB)
- (2) Allowed, but only in commercial-type zones
- (3) Allowed (virtually) everywhere in town

- PC Reviewed the proposed Zoning ordinance; then held --

- (1) 1 minute public hearing (all "positive")
- (2) Unanimous PC recommendation to approve regulations

5. Business Licensing (and safety/ops./maint.):

- a. Not within the purview/jurisdiction of the PC
 - b. But PC did briefly raise / provide input re some issues to be addressed (and noted variances needed between VRs/BnBs and hotels)
 - c. Used the hotel regulations (approved by this Council) as a start, and then modified them to make them more appropriate for VRs/BnBs
 - (1) Based largely on State law
 - (2) All (including VRs/BnBs) constitute **regulated transient housing**, and housing subject to the licensing, sales, & transient tax
 - d. Intensive research and discussion:
 - (1) Internet
 - (2) Other communities
 - (3) Internal Staff, particularly those involved with building and zoning
 - (4) Discussions with certain residents
 - e. **Universal concern – PRESERVING RESIDENTIAL NEIGHBORHOODS AND PROTECTING THEM FROM INAPPROPRIATE AND/OR HARMFUL IMPACTS**
 - f. Fashioned the rules accordingly
6. Attempted to fashion the rules of operation to be:
- a. Fair
 - b. Reasonable
 - c. Equitable
 - d. With advance notice
 - e. Consistent with the zones in which the VRs and/or BnBs might locate

- f. Without favoritism, as to –
 - (1) Safety and cleanliness
 - (2) Tax considerations
 - (3) Operational rules and burdens
- g. Consistent with applicable building and building-related codes
7. Such rules are:
 - a. A variation of the hotel rules, but *less* intense
 - b. Designed to specifically address the burdens and impacts that VRs and BnBs might create in residential zones; and hence treat residential VRs and BnBs somewhat differently from commercially-zoned VRs and BnBs
 - c. Designed to be **proactive**
 - (1) Consider the current matter of a local commercial gym (commercial zone) and the residential neighbors (residential zone)
 - (a) Interface – sometimes not pleasant
 - (b) Staff keeps hearing: “Isn’t there SOMETHING we can do about this situation?” - “We need to do something!” - “What CAN we do??”
 - (c) But –
 - (1) The gym is operating in a commercial zone (and the rules DIFFER for commercially-zoned properties)
 - (2) The neighbors (in their residential zone) want to hold the commercially-zoned property to the more-intense standards of a residential zone (which promote peace, quiet, and low intensive uses) which (by and large) DO NOT APPLY to the commercially-zoned gym!

- (d) But now . . . if VRs and/or BnBs are allowed into the residential zones, without appropriate regulation, we are encouraging / SANCTIONING certain commercial uses (and the increased noise and intensity) on your neighbor's property
- (e) Now is the time:
- (1) to be think ahead, be proactive, and address the issues that may erupt or surface down the road . . . NOT after a business owner has made a considerable investment and cries "foul" over any "after the fact" regulation that he/she believes negatively impacts his/her operations or "bottom line" financially
- (2) to avoid possible cries of unfairness and lack of notice (substantive and procedural due process), lack of equal treatment (by them or by local hotels), abuse of (police) power, regulatory "takings", etc.—regardless of any potential merit (or lack thereof) in such claims
- (f) As a Staff, we are trying to help you avoid the "what can we do NOW?" and "can't we do something about this" questions and exclamations that are almost certain to arise and be voiced to Staff down the road (we must think NOW, not LATER, or you'll have an unsatisfactory answer for your residential constituents)
- (g) Please understand, some communities (like the resort community of Moab)—who previously allowed VRs and BnBs in residential zones—have CEASED doing so (because of problems they create)
- (h) Problems include:

8. I have heard it said that a person may "do what he pleases" (or should be able to do so) on or with his property".
- a. First, that is not an accurate statement of the law; and it "flies in the face" of the concept of zoning. No one has the right to "do as he/she pleases" on any property—if it adversely impacts another (or violates the law).
- (i) And if amenities (like pools, etc., are located on the property), the temptation to use the properties for "family reunions", "young adult parties", etc., where individuals not actual patrons of the facilities (but alleged "guests" thereof) *may* swarm the area, party, make noise, consume alcohol (which is NOT illegal on private premises), etc., and do that which isn't even allowed in other transient facilities such as hotels (generally) (who limit the use of their amenities to patrons and—if there is a conference room—conference attendees) . . . and the tenants change every few days (and the process can begin again, unlike where a long-term tenant resides beside you)

* noise, traffic, parking, slow to quick loss of residential zones and commercial "creep" (and/or transient lodging "takeover" of certain areas of the community, aka "loss of neighborhoods")

* concerns by the local residents as to safety for their children (with constant influx of "unknowns" into the neighborhood where the children live and play), loss of property values (for residential purposes), etc.

- b. Second, why (then) wouldn't commercial property owners have the same alleged "UNLIMITED" right to "do as they please" as residential property owners: property is property!
 - c. Consider your own home. What if a factory moved in and started operating next door (in your residential zone)? What if the City had permitted it to so operate? Its owners are just using the property as they please or see fit.
 - d. Zoning has been a recognized police power of community, sanctioned by the U.S. Supreme Court since 1927, and utilized in Utah and by those who migrated here where they were "back east" ("City of Joseph" plat).
 - e. If you allow an activity to be a permitted use in a given zone, then it may (and likely will) occur, *perhaps* limited by the idea of "reasonableness"—although your (or your constituents') idea of "reasonableness" may differ once the use is undertaken. Then, unless it creates a nuisance or violates a specific zoning, business license, or criminal ordinance, you and/or your constituents may be "stuck" with what you/they get "next door."
 - f. No one gets to "do what we want"; that's what ZONING is all about:
 - (1) police power
 - (2) regulation for the public good
 - (3) protection of the whole from the negative impacts of the one
9. We need to:
- a. Respect property rights . . . of ALL involved (those desiring to use their properties for profit, as a VR or BnB; their neighbors; and other regulated transient lodging facilities in town)
 - b. Observe due process (substantive/procedural):

- (1) Give adequate notice
 - (2) Be fair
- c. Treat all equally (equal protection of the laws)
 - d. Protect the integrity and environment of residential neighborhoods
 - e. Encourage and facilitate commerce and industry (the ability to work and make a living), with due regard for the impacts thereof on others
 - f. Facility that which:
 - (1) Builds the community
 - (2) Sustains the community
 - (3) Preserves the community
 - (4) Fills a need of the community and those passing through (e.g., tourists)

10. SUMMARY and CHALLENGE

- a. The Zoning Ordinance came to you unanimously recommended.
- b. But to adopt it and "make legal" the uses provided therein, without adopting the licensing, operational, maintenance, and/or safety rules provided in the second ordinance (or some portion thereof), is to open the "Pandora's box" and allow the potential for chaos and abuse into the neighborhoods.
- c. What do you want to do?
- d. Where do we go from here? Realizing—
 - (1) Some VRs are already in operation
 - (2) VRs and BnBs are a growing business (and need) in the area

- (3) We have people ready and willing to come in and build/operate—including a potential vacation village in or near our downtown area!

(3) If we don't act:

- (a) Those interested in this type of business will either:

- (1) Operate illegally and/or "as they please"

* Airbnb – do not vouch for the legality of the rooms advertised and rented out (sometimes just renting a room out in someone's home)

- (2) Go elsewhere

- (b) Potential vacation developments and business will just go "elsewhere" (or people will do as they please)

e. Please advise.

f. Input?

11. Thank you.

12. Questions?

E. Citizen Comment & Request for Future Agenda Items:

Judith Abraham-Perhaps the \$5,000 listed under Community Development in the tentative budget could be removed and placed into roads. She sees a lot of places in the budget that have been extended that could have been placed in the roads.

F. Business:

3. Discussion and possible action on the Washington County Economic Development Council Executive Committee letter.

Kyle explained Sight Select is the Community Development Council of Washington County. Their job is to draw businesses to Southern Utah. While St. George does benefit more directly from their services, the people working at those businesses affect La Verkin indirectly. The annual fee has increased this year. That fee is based on the population of each community and all of the other cities in the County participate.

Kyle has been contacted by a business in Central Utah who wants to re-locate to Southern Utah and he will be contacting Scott Hirschi from Sight Select to help with that.

Mr. Hirschi has been told we don't feel we are getting enough emphasis placed on us.

They did pay a large part in getting LV Sewers into La Verkin.

Kyle feels removing ourselves from this Council would be taking a step backward because the tax base is based on businesses and that is what supports the budget.

Councilman Hooten feels that La Verkin is not getting their money's worth from the Council and suggested writing a letter to them stating that.

Motion was made by Councilman Ken Hooten to approve the amount of \$3,429.00 to Site Select plus for the 2015-2016 FY membership, second by Councilman Ray Justice. Roll Call Vote: Reeve-yes, Hooten-yes, Justice-yes, Browning-no. Motion passes.

4. Presentation by City Attorney, and possible discussion by and direction from the City Council regarding the proposed Vacation Rentals and Bed-and-Breakfast Zoning and Operations & Maintenance ordinances.

Kevin gave the Councilmembers a handout and pointed out typos in the ordinances that he has corrected and also a change with the Bed and Breakfasts being listed as a conditional use home occupation. It would be a permitted use so that will need to be repealed.

Kevin asked to make this presentation to explain why there are two proposed ordinances and what they are about so the Councilmembers can decide what they would like to do with them.

Vacation Rentals and Bed & Breakfasts are becoming a very popular thing. There are a couple that are already in our town so we need to decide if that is something we want in our community and then provide for it and legitimize the use. The Planning Commission was against the idea at first, but after some research gave it unanimous support.

The first ordinance deals with the zoning, what is permitted and where. Right now, they aren't permitted anywhere.

After researching this topic he found most places that do allow them have them in commercial zones. The ones that we are aware of in La Verkin are located in residential zones. This is something that needs to be handled very carefully because you are allowing a commercial enterprise to be someone's neighbor. The Planning Commission was okay with allowing them in all zones except for the Multiple Family zone and the Industrial zone.

The next ordinance is the operational regulations for vacation rentals and bed and breakfasts, if they are allowed. This would be done by business license and would allow the City to enforce the safety, maintenance, licensing, operations, and necessary taxes for the establishments.

Some cities do not allow them anywhere, some everywhere (with or without conditions), and some only in commercial type zones. The Planning Commission decided to allow them throughout the City with conditions.

LaVerkin City Council May 20, 2015

Page 4 of 8

Kevin has changed the definition of a Bed and Breakfast to say one or more meals on sight as directed by Councilmembers.

In his research, he has found the universal concern with these types of businesses is preserving the residential neighborhoods and protecting them from inappropriate and harmful impacts. The rules need to be fair, reasonable, equitable, and consistent with zoning and building codes.

In the past, there have been issues between residents that neighbor the Commercial Zone and the businesses appropriately located there. The operational ordinance will try to avoid some of the issues that may come from allowing a commercial entity in a residential zone.

Enforcement is the number one complaint he found nationwide. The rules need to be written as guidance for the business but also so we can enforce them when the complaints start coming in. Kevin discussed some of the issues neighbors could have with increased traffic, noise and house amenities.

Councilman Hirschi mentioned La Verkin already has some vacation rentals so we need an ordinance to regulate them and asked if the Councilmembers had any questions about the proposed ordinances.

Councilman Hooten stated La Verkin already has a noise ordinance, he feels that is sufficient and does not need to be included in this ordinance. He also feels the time limit for visitors should be removed and they should be allowed to use the amenities. He likes the ordinance that Hurricane has.

Councilwoman Browning agreed that the proposed ordinance is over-regulating. Many of the rules mentioned will regulate themselves, such as pillows having pillowslips. If the home is not clean, people will comment on the social media and they will not get business. She believes in a "hands off" government and does not want to over-regulate people.

Kevin explained the difference between the proposed ordinances.

Councilman Hooten also has a problem with the proposed 24/7, 20-minute response time.

He approves the zoning ordinance but feels the operational ordinance needs work. He also feels the property owner should be able to do what he would like with his property as long as it's within reasonable laws and regulations.

Mayor Pro Tem Tim Hirschi reported there is a development waiting for the approval on vacation homes and BnB's, so it needs to be decided.

Kevin commented if the property owner has rights it doesn't matter if they are a homeowner or a business owner and yet Council and Staff are still dealing with issues between neighboring residents and business owners of businesses located in a commercial zone. This would be the same thing, only the business will actually be in a residential zone.

The pillow covers and number of towels, etc. are State rules and need to be adopted if you don't want to wait for someone from Salt Lake to come down to enforce them.

Councilman Hooten asked who would enforce the proposed ordinance. He feels the police department is already too busy with things they are required to do without adding this.

Derek stated occupancy is something the Fire Chief is going to propose. There can only be a certain amount of people per square foot of house before a sprinkler system is required. This isn't adding additional restrictions, it is only backing what is already on the books.

Councilman Hooten would like a decision made.

Councilman Justice feels this issue needs to be considered so that neighborhoods are protected, at the same time businesses are treated fairly. Once a home is used for a commercial business, it should abide

LaVerkin City Council May 20, 2015

Page 5 of 8

by different regulations than if it was a personal home. He feels the regulations need to be considered and agrees that some of the wording doesn't need to be as strict as it currently is. The regulations that need to be addressed are the ones that pertain to the health, safety, and welfare of our citizens. He also feels the integrity of the residential areas needs to be maintained so we don't become a complete commercial zone.

Councilwoman Browning feels there is not a lot of difference between a vacation rental and a regular rental and doesn't feel right about putting regulations on vacation rentals when regular rentals have no regulations but many issues. She feels regulations on regular rentals need to be discussed before vacation rentals.

Kevin stated short-term rentals are completely different from long-term rentals.

Chief Lee feels both types of rentals should be monitored by business licenses and have regulations.

Kyle has used vacation rental homes and has talked to the owners; they prefer the short-term renting because they have more power in renovating people, if needed. Short-term rentals also have a way of regulating themselves; if a home receives a bad review, it could seriously jeopardize their business. Having vacation rentals managed by business licenses gives the City one more way to deal with any problems.

Councilman Reeve feels the long-term rentals need to be managed by business licenses but the issue now is short-term.

Councilwoman Browning would like to table the discussion.

Motion was made by Councilman Ken Hooten to table this issue.

Councilman Reeve pointed out there is a developer waiting for the ordinances to be passed. He suggested each Councilmember make a list of what they would like to see in the operational ordinance to discuss at another meeting.

Depending on what changes the Councilmembers would like to see, the zoning ordinance may need to go back to the Planning Commission.

Motion was made by Councilman Ken Hooten to withdraw his previous motion and make a motion to table this discussion until the June 17th meeting with the proviso that the Councilmembers get their requested changes for the operational ordinance to the City Attorney, second by Councilman Randy Reeve.

G. Staff, Mayor & Council Reports:

City Administrator- Kyle Gubler

Kyle emailed his report to the Councilmembers.

Whitewashing the "L" has been rescheduled for Friday, May 29th.

The La Verda City Community Service is a list of hours Mr. Linsley has used.

There are three City Council positions that will be available at the end of the year. Any interested party will need to file a Declaration of Candidacy with the City Recorder June 1st, June 7th. He read the requirements for that.

DIBC meeting was today. Transportation issues were the main topic. Kyle will be giving a presentation to the Council on the B&C Road Fund and the Gas Tax that will go into effect on January 1, 2016. The end of year budget amendment will be one of the meetings in June.

Kyle mentioned the money coming in and going out will be on the first budget amendment in the next fiscal year.

Kevin explained this grant is for culinary water only and Kyle needs the authority to sign the agreement.

Motion was made by Councilman Ray Justice to approve the proposed Water Planning Grant Agreement with the State of Utah and authorize the City Administrator to sign the Agreement on behalf of the City, second by Councilwoman Browning. Roll Call Vote: Browning-yes, Hirsch-yes, Justice-yes, Hooten-yes, Reeve-yes. Motion carried unanimously.

7. Discussion and possible action to approve Resolution No. R-2015-12: A Resolution revising the City's Personnel Policy to establish a Return To Work Policy regarding city employees injured on the job, and providing an effective date, as requested by the Utah Local Government's Trust.

Kyle explained this item is updating what the Trust is requiring to qualify for a grant.

Motion was made by Councilman Ray Justice to approve Resolution No. R-2015-12: a resolution revising the City's Personnel Policy to establish a Return To Work Policy regarding city employees injured on the job, and providing an effective date, second by Councilman Richard Hirsch. Browning-yes, Hirsch-yes, Justice-yes, Hooten-yes, Reeve-yes. Motion carried unanimously.

8. Discussion and direction to City Staff regarding the text of a proposed Bed and Breakfast and Vacation Rentals licensing, operations, maintenance, and safety ordinance.

Councilwoman Browning said it is getting closer but there are still some items she would like to change. Number 3 under section C, she does not have an issue with a guest register being kept current but questioned if it was even legal for a police officer or City official to be able to demand that information. The next item is number 8 under section J, other business owners are not required to post a sign with twenty-four hour contact information. This ordinance requires letters to go out to all surrounding neighbors with that information on them and the City will have the information on file. She also doesn't think a sign in the front yard keeps with the residential look.

Councilman Hirsch agrees with Councilwoman Browning's comments. Those were the only issues he had with the proposed ordinance.

Kevin explained those items came from a code given to him by a Councilmember. He did add to J-8 items a and b. This item is required so if neighbors are having issues with the renters, or if the Sheriff's office responds, the property owner can be contacted.

Councilman Justice pointed out J-8 states "on the exterior of building", not the yard. He suggested adding a minimum requirement to the size of the sign along with the maximum.

Councilwoman Browning feels that if the contact information is required to be posted then J-2 should be removed so the property owner doesn't have to do both.

Kevin would prefer leaving the sign and removing requiring notice to the surrounding property owners.

Councilman Reeve would leave them both commenting the sign will be mainly for the responding police officers.

Councilman Justice mentioned the letter is a one-time only thing. If the house was sold, the new owner would not have the contact information. He would leave in item 8 and remove 2, b.

Chief Lee said if a neighbor has an issue with the business, they would file a complaint with the City and the information will be on file. If police are dispatched to the property, they too will have access to the contact information.

Councilman Hooten doesn't think there will be any issues with vacation rentals, he has a vacation rental on his street and it hasn't caused any problems.

Councilman Reeve said he agreed that most vacation rentals will not be a problem but the neighbors need to be protected if there ever is an issue.

Councilwoman Browning feels the regulations already in place protect the neighbors.

Councilmembers Reeve and Hooten are fine with the proposed ordinance.

Councilwoman Browning asked how the Councilmembers felt about section C number 3, the guest register being kept and immediately available. She is fine with the records being kept and allowing the police department to request them, but they should not be allowed immediate access.

Chief Lee explained he has more experience with the hotel industry, not vacation rentals but when they have been called out to the hotel, the information is given voluntarily to the police. He does see a need for accurate records to be kept if there ever is a crime committed, but as far as a police officer requesting to see the information without probable cause, he is unsure of the law.

Councilman Justice said his understanding is that it is not law that information be provided without a search warrant. Some hotel management will cooperate with the police department for the health and safety of their customers.

Councilman Reeve would add "upon demand of police officers with probable cause or warrant".

Councilman Hooten asked Kevin what City position would be considered City Officials in this item.

Kevin answered he is not sure what the intent was, but to him a City Official is the elected Councilmembers and the Police Department.

Councilman Hooten said he would be fine with removing City Officials but leaving police officer.

Kevin suggested changing it to "the register shall be kept current and available for review by emergency services" and then they can go through the lawful process to get that information so not to infringe on anyone's first amendment rights.

It was decided to change the wording for C-3 to "requiring the record be kept current and available for review by emergency services".

Mayor Gubler asked the Councilmembers opinion on J-8.

Chief Lee explained La Verkin shares their information with the Sheriff's Office. When a business license is pulled for a vacation rental, he will make sure the contact information is put into the system so it will be available to the responding agency. He also suggested requiring the property owner to keep their business license information up to date. That would help with ordinance violations also.

It was decided to remove item J-8 but add the requirement that all vacation rental business licenses need to be kept current or any contact information changes.

Councilman Justice mentioned his biggest concern is that the person renting the home is paying the 1% transient room tax like the person staying in a hotel.

Kyle replied the business owner will be required to get a tax ID number.

Councilmembers Reeve, Justice, Hooten, and Hirschi support the ordinance with the two suggested changes.

Kevin mentioned this is one section out of an entire chapter for Transient Lodging. He wondered if the Councilmembers would like this section to be in lieu of the regulations for the other types of transient lodging or just a more specific section for vacation homes and bed and breakfasts with the transient room tax covering both.

Councilwoman Browning doesn't feel vacation rentals are the same as hotels.

Kevin explained they are the same and mentioned these types of rentals are objectionable to the hotel industry giving the example of the regulations for a restaurant versus a regulations for a food truck. This is transient lodging in a different form.

Councilman Justice agreed, stating he doesn't feel the City should discriminate whether a person is staying in a home or a hotel, they should have the same expectations.

Councilman Hooten would like to see this chapter in context with the other regulations before he gives approval.

Kevin said he tried to do that the last time the proposed regulations were discussed. The issue was, the same regulation will affect the vacation rentals and the bed and breakfast facilities differently. Vacation rentals and bed and breakfasts either need to be treated differently by listing their regulations separately or the first section of the chapter is going to look technical as he is trying to make them apply under the entire chapter.

Mayor Gubler stated Kevin will make the two changes mentioned and the entire Transient Lodging chapter will be included for the Councilmembers to review and decide if this section will need to be separate.

Councilman Hirschi requested having a work meeting.

Mayor Gubler explained Kevin has tried to do that by sending the information to each Councilmember but is not getting a response until the meeting.

H. Staff, Mayor & Council Reports:

City Administrator- Kyle Gubler

Kyle emailed his report to the Councilmembers.

There will be a float in the July 4th parade for the Councilmembers.

Mr. Murselt has agreed to chair the next Founders Day.

Kyle included an updated copy of the Community Service Hours report.

There are six candidates running for three seats for City Council. There will not need to be a primary election. The candidates are: Michael R. Gubler, Richard M. Hirschi, Darshan Joshi, Ray Justice, Debbie Lee, and Randy Leo Reeve.

Chief feels it will be a good partnership.
The District is still working with Washington City on a station in the Coral Canyon area.
The architect has started the process for the La Verkin fire station remodel.
The new ladder truck for the station is included in the proposed 2016 budget, but has not been approved yet.

D. Citizen Comment & Request for Future Agenda Items:
No comments were made.

E. Business:

1. Discussion and possible action to approve Resolution No. R-2015-13, a resolution approving the Cooperative Agreement with Toquerville to provide limited impound and sheltering (dog) services.
Kyle reported Toquerville agreed to everything La Verkin requested.

Councilman Hirschi is in favor of the Agreement, his only concern would be the amount of time our animal control officer will be in Toquerville.

Chief Lee explained the County does not have animal control and Hurricane has not assisted Toquerville in the past so this is more of a proactive approach since La Verkin deals with their animals when they cross over the boundary lines. He feels this agreement is a good thing for both communities.
Chief is hoping to increase the animal control position 6 full time with the extra income.

Councilman Justice asked if this agreement would increase our expenses above what we are paying.

Chief replied with this proposal he doesn't think so but it is hard to tell since it hasn't been done before.
The agreement is written that it is a trial basis.
The fees collected for impound, owner surrender etc. will be kept in La Verkin. There will not be any proactive enforcement in Toquerville, the animal control officer will only respond when contacted by a police officer.

Motion was made by Councilman Ray Justice to approve Resolution No. R-2015-13, a resolution approving the Cooperative Agreement with Toquerville to provide limited impound and sheltering dog services, second by Councilman Randy Reeve. Browning-yes, Hirschi-yes, Justice-yes, Hooten-yes, Reeve-yes. Motion carried unanimously.

2. Discussion and possible action to approve Ordinance No. 2015-03, an ordinance updating La Verkin City criminal law procedure 2015.
Kyle explained this is an annual business item, it is updating our Code to be current with the State's.

Motion was made by Councilman Ken Hooten to approve Ordinance No. 2015-03, an ordinance updating La Verkin City criminal law procedure 2015, second by Councilman Ray Justice. Roll Call Vote: Reeve-yes, Hooten-yes, Justice-yes, Hirschi-yes, Browning-yes. Motion carried unanimously.

3. Discussion and possible action to approve Ordinance No. 2015-04, an ordinance amending Title 10 of the La Verkin City Code, relative to Bed and Breakfast and Vacation Rental Facilities within the City of La Verkin, and making and/or conforming them as Permitted Uses in Certain Commercial and Residential Zones within the City.
Kevin explained this will permit vacation rentals to operate within the City and both vacation rentals and bed and breakfast facilities to be in any zone except for Multiple Family (R-3-6).
The ordinances were passed together so the businesses can be regulated once they are permitted.

LaVerkin City Council July 1, 2015

Page 3 of 5

There is one additional regulation that deals with parking and the one meal only has been taken out of Bed requirements.

Motion was made by Councilman Richard Hirschi to approve Ordinance No. 2015-04, an ordinance amending Title 10 of the La Verkin City Code, relative to Bed and Breakfast and Vacation Rental Facilities within the City of La Verkin, and making and/or conforming them as Permitted Uses in certain Commercial and Residential Zones within the City, second by Councilman Randy Reeve.

Kevin requested the ordinance be approved on the condition that Ordinance No. 2015-05 is passed so the businesses can be regulated once they are permitted.

Motion was made by Councilman Richard Hirschi to approve Ordinance No. 2015-04, an ordinance amending Title 10 of the La Verkin City Code, relative to Bed and Breakfast and Vacation Rental Facilities within the City of La Verkin, and making and/or conforming them as Permitted Uses in certain Commercial and Residential Zones within the City, condition upon approval of Ordinance 2015-05, second by Councilman Randy Reeve. Roll Call Vote: Reeve-yes, Hooten-yes, Justice-yes, Hirschi-yes, Browning-yes. Motion carried unanimously.

4. Discussion and possible action to approve Ordinance No. 2015-05, an ordinance amending Chapter 11 of Title 3 of the La Verkin City Code, providing for the regulation of Operations, Maintenance, Cleanliness, Safety, and Sanitary Conditions in Bed and Breakfast and Vacation Rental Facilities within the City of La Verkin.

Councilwoman Browning commented that during the last meeting it was discussed and decided that City Officials should not be allowed to demand information about patrons staying at the facility. The ordinance should read that police should have probable cause to gain that information, she wondered where that was stated.

Kevin replied probable cause was not said. Many of the issues were already taken care of in Chapter 11 of our current Code and by State and Federal Laws. He removed that item and made it consistent with our hotel requirement, which is, authorized personnel who are authorized by law are allowed access.
The issue was by demand without the consent of the owner of the facility and that has been removed.

Councilwoman Browning referred to page 5, letter J section 2, she feels in (b) "City personnel as needed," as needed is a pretty liberal term as far as the interpretation of it.

Kevin explained that in this case "as needed" means if City personnel need the information the property owner would get that to them, there is no time limitation connected to the word as.

Councilwoman Browning would like to change that wording, she feels it is open to interpretation.

Councilman Reeve agreed that City personnel should not be allowed to request that information, only the police department should be allowed to request it and they need to have a reason.

Kevin will change Letter J, section 2 (b) to read "police and/or emergency personnel"

Motion was made by Councilman Ken Hooten to approve Ordinance No. 2015-05, an ordinance amending Chapter 11 of Title 3 of the La Verkin City Code, providing for the regulation of Operations, Maintenance, Cleanliness, Safety, and Sanitary Conditions in Bed and Breakfast and Vacation Rental Facilities within the City of La Verkin with the change to Section J paragraph 2b so it reads "be able to provide information on current occupants to police and/or emergency personnel as needed", second by Councilman Ray Justice. Browning-yes, Hirschi-yes, Justice-yes, Hooten-yes, Reeve-yes. Motion carried unanimously.

LaVerkin City Council July 1, 2015

Page 3 of 5