

CHAPTER 17
SUPPLEMENTAL USE REGULATIONS

SECTION:

10-17-1: Nonpermitted Uses

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10-17-1: NONPERMITTED USES:

Throughout this title, any use which is neither a permitted use or a conditional use shall be considered a "nonpermitted use". (Ord. 2015.06, 10-8-2015)

10-17-2: RESIDENTIAL FACILITIES FOR PERSONS WITH DISABILITY:

The Planning and Zoning Administrator, in connection with the building official, shall grant a building and occupancy permit for the establishment of a residential facility for persons with a disability in a zone in which residential uses are permitted, if the applicant certifies as follows:

A. Compliance with Utah Code Annotated title 57, chapter 21, the Utah Fair Housing Act, and the Federal Fair Housing Amendments Act of 1988, 42 USC section 3601 et seq.

B. To the extent required by Federal law, provide that a residential facility for persons with a disability is a permitted use in any zone where similar residential dwellings that are not residential facilities for persons with a disability are allowed.

C. Subject to subsection B of this section, the City requires that:

1. Residential facilities for persons with a disability:

a. To be reasonably dispersed throughout the Municipality;

b. To be limited by number of occupants;

c. For residential facilities for persons with a disability that are substance abuse facilities and are located within five hundred feet (500') of a school, to provide, in accordance with rules established by the Department of Human Services under Utah Code Annotated title 62A, chapter 2, Licensure of Programs and Facilities:

(1) A security plan satisfactory to local law enforcement authorities;

(2) Twenty four (24) hour supervision for residents; and

(3) Other twenty four (24) hour security measures; and

d. To obtain permits that verify compliance with the same building, safety and health regulations as are applicable in the same zone to similar uses that are not residential facilities for persons with a disability; and

2. Provides that a residential facility for persons with a disability that would likely create a fundamental change in the character of a residential neighborhood may be excluded from a zone.

D. The responsibility to license programs or entities that operate facilities for persons with a disability, as well as to require and monitor the provision of adequate services to persons residing in those facilities, shall rest with:

1. For programs or entities licensed or certified by the Department of Human Services, the Department of Human Services as provided in Utah Code Annotated title 62A, chapter 5, Services to People With Disabilities; and

2. For programs or entities licensed or certified by the Department of Health, the Department of Health under Utah Code Annotated title 26, chapter 21, the Healthcare Facility Licensing and Inspection Act. (Ord. 2015.06, 10-8-2015)

10-17-3: NIGHTLY RENTAL:

Nightly rentals shall occur only within the City upon the meeting of the following requirements:

A. Nightly Rental Permit Application:

1. An applicant must apply for and obtain a nightly rental permit, which is a special permit and not a conditional use permit and is approved and otherwise regulated by this subsection and chapter. The nightly rental permit is non-transferable to another owner or another dwelling.

2. The nightly rental permit application must include a detailed drawing to standard engineering scale site plan for the lot showing additional parking stalls existing and proposed, buildings, existing streets, and a floor plan of the dwelling. The site plan must identify the required off-street parking to be used in connection with the nightly rental permit.

B. Nightly Rental Permit Application Review Process: A complete nightly rental permit application will be reviewed by City staff at the next regularly scheduled City staff meeting. City staff shall review the application and forward their recommendation to the Planning Commission. The Planning Commission will hear the application at their next regularly scheduled meeting and conduct a public hearing on the same. After said public hearing the Planning Commission will forward their recommendation to the City Council for a final

determination on the nightly rental permit application. The City Council may deny, approve or approve with special conditions the nightly rental permit application.

C. One Structure: Each nightly rental must occur within and under one roof of a dwelling and not in a structure that is temporary. Accessory structures can create multi-family zoning and shall not be used as nightly rentals. More specifically, a detached casita, garage, workshop, mother-in-law building, etc. cannot be used exclusively as a nightly rental without the simultaneous use of part or all of the dwelling as well.

D. Parking: Applicant must have sufficient off-street parking spaces for all guests and residents. There shall be no overnight on-street parking by guests or residents.

E. Maximum Guests: The maximum number of occupants per dwelling being used for nightly rental shall be the lesser of ten (10) (including the owner and his/her family), or that which is allowed by any Safety Code adopted by the City.

~~F. Owner Residency: The City's intent of a nightly rental is to keep the residential feel throughout the community and hold the nightly rental owner (resident) accountable for their occupants. Nightly rental owners (residents) that are absent from Toquerville for periods of times, exceeding fourteen (14) days every calendar month during which nightly rentals are available for occupancy or occurring, and/or do not meet the residency requirement of the city, shall be subject to revocation of their nightly rental permit and/or denied the renewal of their nightly rental permit at annual review. Owner must have an emergency contact on file of a Toquerville resident, in the event that the owner is unavailable or absent. For purposes of this chapter, the term "owner" shall mean:~~

~~—1. A natural person who owns the controlling interest of the dwelling wherein the nightly rental occurs, or~~

~~—2. A business entity of which a natural person principal holding a controlling interest of at least fifty one percent (51%) of the entity shall have a primary residence within the city.~~

G. Nightly Rental Ownership Limitation: Neither a natural person applicant nor a principal of a business entity applying for a nightly rental permit shall have an ownership interest in more than two (2) dwellings wherein nightly rentals occur within the City.

H. Modifications: Any modifications to the appearance and size of the dwelling in order to accommodate and facilitate a nightly rental should be in keeping with the residential character of the neighborhood within which the dwelling is located.

I. Penalties: Upon finding a violation under this chapter and section, the following penalties and requirements shall apply:

1. First Violation: Two Hundred Fifty Dollars (\$250.00).
2. Second Violation: One Thousand Five Hundred Dollars (\$1,500.00).
3. Third Violation: Four Thousand Dollars (\$4,000.00).
4. Fourth Violation: Nightly rental permit automatically revoked.

5. Review: Upon the second or subsequent violation of this chapter and section, there shall be a mandatory review conducted before the City's Planning Commission, who shall have the ability and right to revoke the nightly rental permit in its sole and absolute discretion. Revocation of a nightly rental permit, for any reason, shall result in a minimum twelve (12) month waiting period prior to any new application, which revocation shall run with the land. Upon revocation, there is no guarantee of any future issuance of a nightly rental permit and all applications will be processed under the then current ordinances. Failure to pay a fine within thirty (30) days of its issuance shall constitute grounds for automatic revocation of the owner's nightly rental permit.

6. Enforcement: In addition to the fines set forth in this subsection I, all violations of this chapter and section shall constitute a Class B misdemeanor and shall be enforced in compliance with Chapter 5 of this Title.

J. Revocation Of Permit: The nightly rental permit may be revoked at any time, upon notice and a hearing conducted by the Planning Commission, should the use of a dwelling for nightly rental become a nuisance per title 4, chapter 1 of this Code.

K. Annual Renewal of Nightly Rental Permit - Site Approval: A nightly rental permit has the duration of one year and must be renewed annually. For renewal, an applicant must submit a renewal application in a form set by the city staff along with an updated site plan and floor plan for the lot and dwelling indicating where the nightly rental will occur is limited to. Each renewal application shall be approved, approved with additional conditions, or denied by the city's zoning administrator. If the city has received more than two (2) complaints from neighbors or others regarding a nightly rental permit during the previous twelve (12) months, the zoning administrator shall defer the decision of renewal to the planning commission who shall hear the matter at their next regularly scheduled meeting, giving the applicant/permit holder the opportunity to be present and speak in defense of why the nightly rental permit should be renewed.

L. Log: The holder of the nightly rental permit shall maintain and provide, upon request, the name, address and phone number of all renters.

M. Business License Required; Room Tax: Applicant must apply for and obtain a business license pursuant to title 3, chapter 1 of this Code and pay the current Transient Room Tax applicable to motels and hotels within the City.

N. Fees: Applicant must pay all applicable fees including an annual nightly rental permit fee to maintain their permit. The amount of said annual nightly rental permit fee shall be set and adjusted by the City and set forth in the City's uniform fee schedule.

O. Health Requirements: Applicants/permit holders shall ensure that the dwellings in which a nightly rental occurs complies with all local, State and Federal Health Codes, regulations, and requirements.

P. Notification: Applicant must pay for and provide notification to neighboring property owners within three hundred feet (300) from all exterior boundaries of the lot on which the nightly rental is to be located. This notice shall indicate, and the City's Planning

Commission shall conduct, a public hearing on the application. To comply with this requirement the applicant must submit self-addressed, stamped envelopes for the required notification along with a printed list of the lot owners in the designated notification area.

Q. Signage: Signs for nightly rentals shall conform to the requirements of Chapter 22 of this Title.

R. Exclusions: Hotels, Motels and RV Parks shall not be held to the requirements of this Section. RV Parks shall conform to the requirements of Section 10-29-1 (RV Parks).

S. Exceptions: The Nightly Rental of model homes located within a subdivision or which sales will be made, will be allowed with the following conditions:

1. The subdivision shall be planned for more than one hundred (100) dwellings.
2. No more than ten (10) model homes used a Nightly Rental shall be allowed per subdivision.
3. All other requirements of this Section 10-17-3 shall be met except for 10-17-3(F) and (G).
4. A conditional use permit is issued by the Planning Commission. (Ord. 2018.06, 10-11-2018; amd. Ord. 2020.01, 1-9-2020; Ord. 2020.04, 2-13-2020; Ord. 2022.09, 8-25-2022)

10-17-4: RESERVED:

(Ord. 2018.06, 10-11-2018)

10-17-5: MODEL HOME ALLOWANCES:

Model homes shall be located within the subdivision for which sales will be made. The home may be offered for sale as a subdivision residence at any time, so long as a permanent certificate of occupancy has been obtained from the Building Department. (Ord. 2017.03, 5-11-2017)