

BRIGHTON, UTAH

ORDINANCE NO. 2023-O-2-1

AN ORDINANCE ENACTING TITLE 5 BUSINESS LICENSES AND REGULATIONS
CHAPTER 5.19 SHORT TERM RENTAL SECTIONS 15, 16 AND 17 TO LIMIT SHORT-
TERM RENTALS IN THE SILVER FORK AND PINE TREE COMMUNITIES AND
IMPLEMENT A WAITLIST WHEN THOSE CAPS ARE MET

WHEREAS, certain areas of the Town are less compatible for short-term rental uses and the Town wishes to designate only specific areas where the uses should be limited; and

WHEREAS, where short-term rentals are allowed, they should be subject to reasonable regulations to address health and safety needs of guests and to prevent and abate nuisance conditions; and

WHEREAS, the Council formed a Short Term Rental Subcommittee to discuss and receive feedback on short term rentals, including placing limits on the number of short term rentals in different communities within the Town; and

WHEREAS, the Short Term Rental Subcommittee (“Subcommittee”) met several times from 2020 to 2023 and gave feedback to the Council on short term rental limits; and

WHEREAS, in December 2022 and January 2023, the Council received public input and discussed the feedback from the Subcommittee. The Council finds that limiting the number of short term rentals is in the public interest to preserve the peace, safety, health, and community character of some communities; and

WHEREAS, the Silver Fork and Pinetree communities consist primarily of single family residences and a cap of 15% would allow future growth of short term rentals while still maintaining a sense of community by promoting full time residency and fewer transient commercial uses within these specific single family residential areas; and

WHEREAS, the Utah legislature has granted welfare power to the Town Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the Town to pass ordinances which are reasonable and appropriate to the objectives of that power, i.e., providing for the public safety, health, morals, and welfare; and

WHEREAS, the forgoing legitimate governmental objectives are achieved by reasonable means, in that any adverse impact on private property value or use has been carefully balanced against the corresponding gain to the public; and the regulations have been calculated, on recommendation of Town planning staff to permit property owners to beneficially use their properties for the practical purposes to which the property is reasonably adaptable; and procedures have been established by the Brighton Town Code and Utah Code Ann. Whereby appeals can be heard and decided if it is alleged that there is legislative or administrative error, or where a special exception or variance to the ordinance is required

WHEREAS, The Town Council will review these limits two years from the passage of this Chapter.

NOW, THEREFORE, BE IT ORDAINED by the Brighton Town Council that:

Section 1. Enactment. Title 5, Chapter 19, Sections 015, 016, 017 of the Brighton Town Code are hereby enacted as follows:

5.19.015 Short Term Rental Limits

Short term rental properties are limited in the following areas of the Town:

- A. Silver Fork Community—[See Map in Town General Plan attached as Exhibit 1]

No more than 15% of residential properties within this area as of January 1, 2023, may be used as short term rentals, rounded up to the nearest natural number.
- B. Pine Tree Community—[See Map in Town General Plan attached as Exhibit 2]

No more than 15% of residential properties within this area as of January 1, 2023, may be used as short term rentals, rounded up to the nearest natural number.

5.19.016 Wait List for New License Applications

When issued and pending applications for short term rental license numbers reach the caps described in 5.19.015, the Town Clerk or designee shall create a waitlist of property owners applying to receive a short term rental license. The procedure for creating and maintaining the waitlist is as follows:

- A. Property owners applying for a short term rental license will be placed on the waitlist if the number of all issued and pending applications equal the maximum allowable for that community.
- B. A property owner's position on the waitlist will be based on the date the Town receives a completed short term rental application. Incomplete applications will not be placed on the waitlist until completed.
- C. Only the current owners of a property can apply to be placed on the waitlist. A property owner's position on the waitlist is not transferrable except under conditions described in 5.19.017(B).
- D. The Town Clerk or designee will notify property owners of their position on the waitlist and will provide a copy of the waitlist upon request.
- E. As new licenses become available in a community, the owner at the top of the waitlist in that community will be contacted by the Town Clerk or designee and will have fourteen (14) business days to submit a completed application to the Town.
- F. If, after receiving notice, a property owner on the waitlist fails to submit a completed license application to the Town within the fourteen (14) business day period, or if such owner notifies the Town that it declines to proceed with an application, the Town shall promptly notify the next property owner on the wait list and shall continue on the list until the available license is issued.

5.19.017 Licenses Nontransferable

- A. Except as otherwise provided in this section, a license granted pursuant to this chapter is subject to the transfer limitations in 5.05.060.
- B. Exceptions to Nontransferable License: If the real property for which a valid short term rental license has been issued is transferred pursuant to a deed meeting any of the following conditions, the Town may issue a new short term rental license to the grantee named in such deed:
 - 1. The transfer of title to real property when there is no consideration if the grantee is a member of the grantor's family.
 - 2. The transfer of title to real property from a grantor to a trust established by the grantor.
 - 3. The transfer of title to real property from a grantor to a limited liability company or another form of business entity recognized by Utah law so long as the grantor has a controlling interest in such limited liability company or other business entity.
 - 4. Any transfer of the property between the same parties creating or terminating a joint tenancy in such property.
 - 5. The transfer of title or change of interest in real property by reason of death, pursuant to a will, the law of descent and distribution, or otherwise.
 - 6. The transfer of title to make effective any plan confirmed or ordered by a court of competent jurisdiction under the bankruptcy code or in an equity receivership proceeding.
 - 7. The transfer of title without consideration for the purpose of confirming, correcting, modifying, or supplementing a transfer previously recorded; making minor boundary adjustments; removing clouds of titles; or granting rights-of-way, easements, or licenses.
 - 8. The transfer of title pursuant to any decree or order of a court of record quieting, determining, or vesting title, including a final order awarding title pursuant to a condemnation proceeding.
 - 9. The transfer of title between spouses or former spouses made pursuant to a separation agreement, decree of legal separation, or dissolution of marriage.
- C. Temporary License for Pending Reservations: Upon transfer of title of the property which had a License for a short term rental, a subsequent owner may request a temporary license for no longer than six (6) months from the date of the transfer only to allow such owner to honor reservations for the property that existed on the date of the transfer of legal title to the real property that was the subject of the previous license.

Temporary Licenses are not included in the license cap calculations.

Section 2. Amendment. Title 5, Chapter 19, Sections 20 of the Brighton Town Code is hereby amended as follows:

5.19.020 License - Required

It is unlawful to conduct or operate a short-term rental without having obtained a license therefor.

- A. A license issued under this chapter may be suspended or revoked pursuant to 5.19.040.
- B. If a license is suspended, the license may be reinstated after the suspension time passes and the property complies with all requirements of Town code and Utah law.
- C. If a license is revoked, the property owner is ineligible to reapply for one year from the date of the revocation and will be placed on the waitlist, if one exists, pursuant to 5.19.016.
- D. If a license holder fails to renew the license or pay the required fees, the license will expire and treated as a denial subject to appeal under 5.02.140 through 5.02.180.

Section 3. Effective Date. This ordinance shall go into effect upon publication.

PASSED AND APPROVED THIS 14th Day of February, 2023.

TOWN OF BRIGHTON

By: _____
Dan Knopp, Mayor

ATTEST

Kara John, Town Clerk

Exhibit 1: Map of Silver Fork Character Area from the Brighton General Plan.

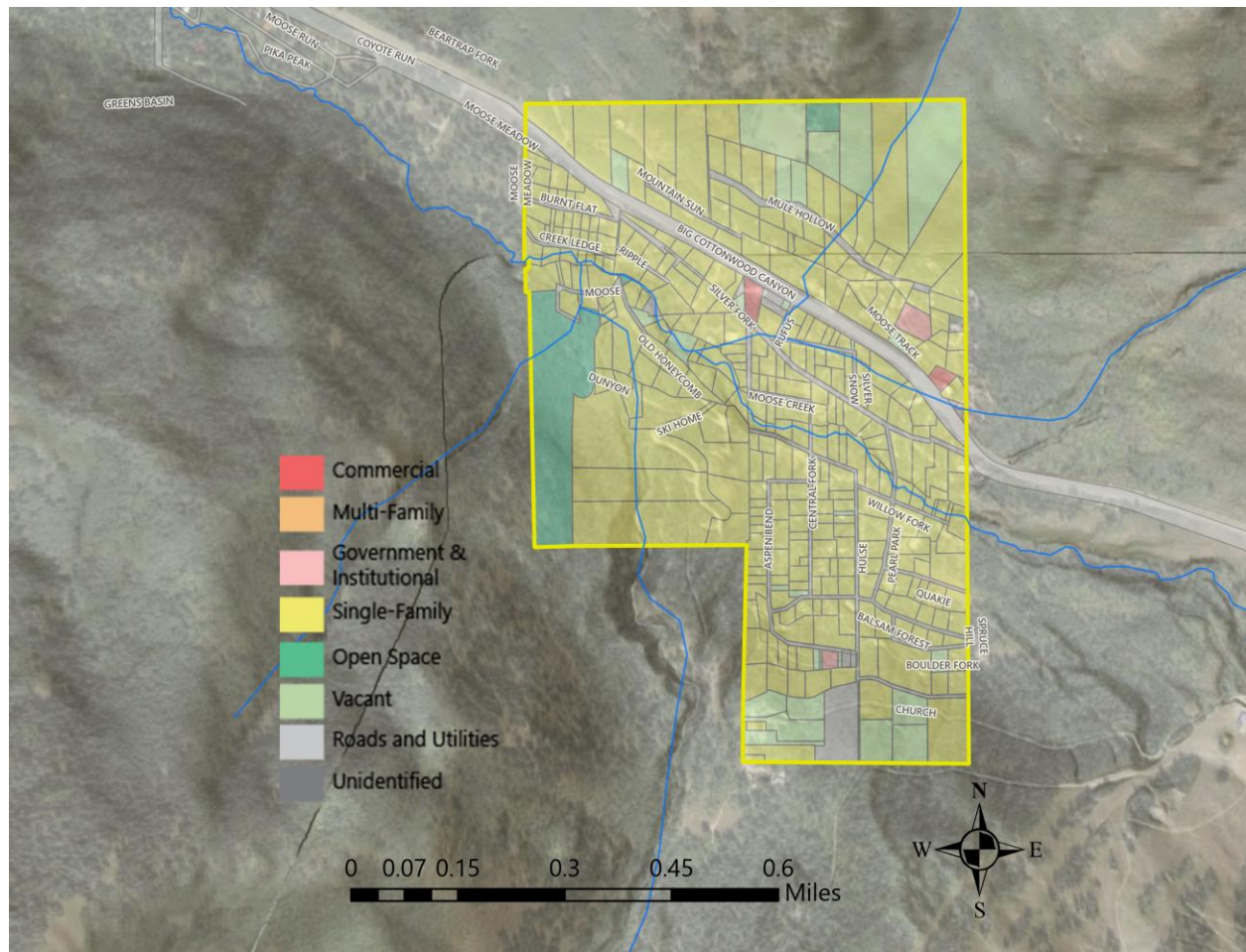


Exhibit 2: Map of Pine Tree Character Area form the Brighton General Plan.

