

TROPIC TOWN ORDINANCE NO. #2018-8

**An ordinance amending the Tropic Town
Residential Vacation Rental Ordinance #11-1016**

WHEREAS, the Tropic Town Council is desirous of making changes to Chapter 19: Residential District to restore traditional forms of neighborhood development, and encourage residential type uses, and a greater sense of community provided by pedestrian scaled neighborhoods; and to protect the character of traditional residential neighborhoods in the town; and

WHEREAS, both the Planning Commission and Town Council have considered the proposed amendments in public hearings; and

WHEREAS, the Planning Commission recommends approval of the proposed amendments; and

WHEREAS, the Town Council has determined that changes to the ordinances and adoption are justified at this time, and are in the best interest of the health, safety, and welfare of the citizens of the Town of Tropic.

NOW, THEREFORE, BE IT ORDINANED, by the Town of Tropic Council, as follows:

The Tropic Town Council hereby finds that the transaction of business from a single family residence home in a residential zoning district or in a non-commercially zoned area tends to create an undue impact of a commercial nature on such zoning districts, which is not intended nor allowed by the Towns' zoning ordinance. The Town Council intends to encourage the majority of business activities to be conducted in appropriate commercial zones. Certain business activities may be conducted within a residence on a limited basis, if such activities comply with standards of this chapter and other town codes. All Home occupations, Owner-Occupied, Residential Vacation Rentals/Short Term Rental (STR), etc., shall be secondary and incidental to the residential use. The use should be conducted so that neighbors, under normal conditions, would not be aware of its existence; special regulation of residential vacation rentals is necessary to ensure that they will be compatible with surrounding residential uses and will not be detrimental to, or alter the traditional residential neighborhoods in which they are located.

AND THEREFORE, the Tropic Town Council places a restriction to Nightly Rentals, Vacation Rentals/ STR, and Holiday Homes ~ that are not Owner Occupied ~ to be located, constructed, or operated in residential areas, are a non-permitted use and are not allowed; those currently in operation have a temporary privilege which can be revoked if disruption of the residential neighborhood occurs. Anyone found in violation of any of the following shall be in violation of this and both the zoning ordinance and the business license ordinance.

Definitions

“Vacation Rental”, “Holiday Home”, “Short Term Rental (STR)” as used herein shall mean the conducting of nightly, daily, weekly rental business, transaction or activity for less than 30 days, for which consideration of any nature is received, in any zone classified as residential under the zoning ordinance.

“Owner” as used here in shall mean a person or entity who claims an ownership interest in real property, including any part owner, joint owner, or tenant in common of the whole or of a part of such property.

“Owner-Occupied” as used herein shall mean a dwelling that is a person’s primary residence, in which the person lives; and for which title is in the person’s name or in the name of a living trust of which the person is both the trustor and the beneficiary.

“Agent” a person or entity who contracts with an owner to manage or otherwise assist in the leasing or occupancy of real property as a residential vacation rental, except that it does not include a person or entity who solely provides software or internet services to list or market the owner’s property to potential renters.

“Dwelling” as used herein shall mean a building or portion thereof designed exclusively for residential occupancy, including single-family, two family and multiple family dwellings, but not including hotels, motels, tents, travel trailers, boarding houses, hospitals, and nursing homes.

“Single-Family Dwelling” as used herein shall mean the use of a dwelling designed or arranged for one-family” occupancy; No single-family dwelling will be allowed to be used for “Vacation Rentals”, “STR”, “Holiday Home”, etc.

“Privacy Fence” as used herein shall mean a physical barrier to delineate, contain, or designate an area designed for a specific use; an enclosure for a dwelling unit; an area for storage, etc.

“Rent”/“Financially benefit” as used herein shall mean the money, goods, monetary means or services for payment.

“Responsible Party” as used herein shall mean the person(s) both the local representative and the owner; and both shall be deemed the responsibly party.

“Governing Bodies” as used herein shall mean the Tropic Town Planning Commission, Mayor and Town Council.

“Appeal Authority” as used herein shall mean the governing bodies of Tropic Town; or representative the Town Council designates as the appeal authority.

Business License, Rental Permit/Application & Life Safety Inspection Required:

It is unlawful for an owner or the owner's agent to operate or rent a single-family dwelling as a residential "Vacation Rental", "STR", "Holiday Homes", etc., unless the owner or agent has a valid current Tropic Town residential vacation rental permit and business license; as well as a signed Life Safety Inspection, performed by the Garfield County Building Inspector before any currently operated single-family dwelling located in a residential zone may be used for business purposes.

A residential vacation rental permit or business licenses will not be issued for single-family dwellings to be used for Vacation Rental, Short Term Rental, Holiday Homes, etc., located within a Residential Zone or Non-Commercial Zone as outlined in the current zoning map; unless the dwelling is owner occupied.

All vacation rentals must conform to the following standards:

1. Management: The owner or operator shall be available at all times who is capable of personally responding to the residential vacation rental location within fifteen-(15) minutes.
 - a. The contact person name and phone number shall be posted in a prominent place inside of the dwelling together with a copy of the residential vacation Life Safety Inspection permit and Tropic Town Business License.
 - b. The contact information shall also be mailed by the responsible person annually to surrounding property owners within three hundred feet (300') of the property line of the residential vacation rental, except that mailing is not required for an owner occupied residential vacation rental where the owner does not make the dwelling available for rental during the owner's absence.
2. Privacy Fence: A fence is required on adjoining property(s); unless both landowners are in agreement not to build a fence. Acknowledgement of such shall be made in writing.
3. The owner or operator shall ensure that occupants of the short term rental 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 neighborhoods.
 - b. Disturb the peace of surrounding residential neighborhoods.
 - c. Trespass on surrounding residential property.
 - d. Allow pets to do anything listed in items a through c.
 - e. Engage in any disorderly or illegal conduct, including consumption of drugs and alcohol.
4. Single Contract: The residential vacation rental may not be the subject of multiple rental contracts for the same night or nights.

5. Occupancy Limits: A vacation rental may be occupied by no more than two(2) people per sleeping room, as established by the inspection described in in State of Utah Building Code & Life Safety Inspection section of this code.

Any basement sleeping room designated or arranged for occupancy by more than two (2) people has a code compliant door that exits directly to the exterior of the residential vacation rental.

6. Off Street Parking: A residential vacation rental shall provide no less than the two-(2) off street parking spaces that meet the legal location and requirements for off street parking for a single-family dwelling or have been established as legal non-conforming parking.
7. On Street Parking: On street parking may not be used to satisfy the parking requirements for a residential vacation rental.
8. Signage: Signage is limited, must not be placed on or over public right of way. A placard is displayed in the interior of the home listing 24/7 contact information, regulations addressing noise, trespassing, illegal activity and conduct. Commercial signage on the exterior of the home shall be harmonious with the neighborhood and no electronic messaging signs are permitted.
9. Animals: If animals are allowed by the owner, pets must be boarded inside the residence and may not be allowed outside unless accompanied by an adult.

Issuance of License:

1. All Vacation Rental license applicants must apply with the Town Clerk and may, upon application, issue a business license which shall state the type of business, the conditions attached thereto, and any time limitations imposed thereon. The business license shall not be issued until after the Business License Application, Acknowledgement Vacation Rental form; along with a Life Safety Inspection, have been reviewed and approval by the town planning commission and governing body.
2. A residential vacation rental permit or business licenses will not be issued for any additional single-family dwellings to be used for Vacation Rental, Short Term Rental, Holiday Homes, etc., located within a Residential Zone or Non-Commercial Zone as outlined in the current zoning map; unless the dwelling is owner occupied.

Renewals

In determining whether or not a renewal of a residential vacation business license under this Section shall be renewed, the application shall be reviewed to see that, in addition to standards and conditions applicable to issuance of all business licenses, the following conditions and standards are being met:

1. The nightly rental has been properly managed. Each and every one of the following conditions has been observed at all times by the holder of a Nightly Rental business license:
 - a. The responsible party must be a property management company, realtor, owner(s), or other individual(s) who resides within the Bryce Valley area.

The responsible party is personally liable for the failure to properly manage the rental; and must be available by telephone, or otherwise, 24 hours per day and must be able to respond to telephone inquiries within fifteen-(15) minutes of receipt of such inquiries by that party's answering machine, paging device or answering service. The responsible party is also designated as the agent for receiving all official communications under this Title from Tropic Town. If the licensee is a management company, such company must comply with applicable state law, including Utah Code Section 61-2-2, as amended, which requires those who receive valuable consideration to lease property to have a state license.

- b. Contact information was mailed and received by surrounding property owners within three hundred ft. (300') acknowledgement signatures acquired.
- c. Parking: On-street parking for nightly rent uses has not resulted in an obstruction to traffic, pedestrian or neighborhood circulation or public safety; drawing or other description as to how required legal off street parking will be provided and the number of legal off street parking spaces available.

Access and layout of the vacation rental, STRs', etc., is such that noise and physical trespassing is not likely to be an intrusion to the adjoining properties.

- d. Signage: A placard is displayed in the interior of the home listing 24/7 contact information, regulations addressing noise, trespassing, illegal activity and conduct. Commercial signage on the exterior of the home shall be harmonious with the neighborhood and no electronic messaging signs are permitted.
- e. Noise & Occupancy Control: The licensee/owner of rental is responsible for regulating the occupancy of the unit and noise created by the occupants of the unit. Violation of the noise ordinance, violation of occupancy loads, failure to use designated off street parking, illegal conduct, or any other abuse, which violates any law regarding use or occupancy of the premises is grounds for revocation.
- f. The applicant has provided the Federal & State Tax ID #; failure to collect and deposit sales tax is a violation of the license and grounds for revocation.

Issuance of a Permit:

The issuance of a residential vacation rental permit is conditioned on the responsible party also obtaining and completing other permits that may be necessary to bring the dwelling into compliance with the standards of this section. The applicant shall pay any required fee and submit as part of the initial application for a residential vacation rental permit:

1. A copy of a state issued sales tax license.
2. A completed Acknowledgement Vacation Rental Form.
3. A statement affirming whether or not the vacation rental will be owner occupied; and
4. The name and contact information of the person described in subsection 1a

Building Code & Life Safety Inspection

A residential vacation rental shall be inspected upon initial application, upon any housing complaint filed with the town, and every two years for non-owner occupied dwellings, to verify that the structure:

1. Complies with the information contained in the application and with the requirements of this section;
2. Complies with all applicable local and state building, health, fire, safety and maintenance codes;
3. Comply with the current building codes for egress window size and location in all basement sleeping rooms regardless of when the structure was built;
4. Have a functioning interconnected fire alarm system.
5. Has a fire extinguisher with a current tag or new within a year with proof of purchase and a minimum rating of 2-A: 10BC that is hung in a visible and accessible location with the top of the extinguisher no more than 60" above the floor.

Spacing of Nonowner Occupied Residential Vacation Rentals

A non-owner occupied residential vacation rental may not be located on the same linear block as another non-owner occupied residential vacation rental, residential facility for persons with a disability or residential facility for elderly persons. A non-owner occupied residential vacation rental permit may be renewed if a residential facility for persons with a disability or residential facility for elderly persons is established on the same linear block after the original residential vacation permit was issued.

Advertisements:

An owner of property or the owner's agent who advertises or rents a residential vacation rental shall include the following information in every advertisement and in each rental contract:

1. The person's Tropic Town residential vacation permit & business license number.
2. The number of sleeping rooms available for rental as allowed in the permit;
3. The maximum number of people allowed occupying the residential vacation rental as contain in the permit;
4. Whether pets are allowed and the conditions associated with pets; and
6. The number of legal off street parking spaces recognized by the permit as allowed for use by the residential vacation rental.

Unlawful Advertisements

It is unlawful for an owner of property or the owner's agent to advertise, represent orally or in writing, or sign a rental contract for a residential vacation rental that:

1. Authorize more people to occupy the residential vacation rental than is allowed in the permit;
2. Allows the use of any portion of property outside the residential vacation rental for sleeping purposed by pitching tents or otherwise;
3. Authorizes or provides for more parking spaces, including on street parking, than are authorized in the permit.

Noncompliance With Standards

Noncompliance with the standards of this section; allowing the property associated with the residential vacation rental permit to become a nuisance, such as through violations of the town noise ordinance or property maintenance standards; failure to maintain the original conditions that allowed the residential vacation rental permit to be issued; and entering into sham transactions shall each constitute just cause for the denial of an application or renewal of a residential vacation permit.

1. Revocation shall be based upon the findings of fact at an administrative hearing before the governing board.
2. If the permit is revoked, the advertising and rental of the dwelling as a residential vacation rental shall terminate within thirty (30) days of the final determination.
3. A dwelling whose residential vacation rental permit has been revoked is not eligible for use as a residential vacation rental for the period of three-(3) years from the date of revocation.
4. For purposes of this section, a “sham transaction” means any transaction which is meant to, or could result in, a violation or avoidance of other applicable zoning ordinances, including transactions:
 - a. Where a residential vacation rental is occupied by a person or group of people for more than thirty-(30) consecutive nights, regardless of the term of any rental contract or contracts; or
 - b. Where a residential vacation rental is occupied by a person or group of people, regardless of the number of nights of occupancy, who do not have a primary residence at another location.

Denial or Approval of Application

After review by the building inspector and fire department, the planning commission shall approve or deny an application for a residential vacation rental based on compliance with these regulations and payment of the fee(s) established.

Time Period

A residential vacation rental permit is valid for one year from the date of the approval and must be renewed annually. Change of property ownership does not void the residential vacation rental permit if the new owner obtains an updated permit within ninety (90) days after acquiring title to the property or upon expiration of the existing permit.

Code Enforcement & Revocation

Code Enforcement comprised of four departments: Planning Commission, Town Council, Garfield County Building department and Garfield County Sheriff’s office; all play an important role in providing a safe and healthy community.

Written notification is required for violations in regards to zoning, parking, occupancy, nuisance, etc. and shall be addressed to the governing bodies of Tropic Town; written notification should include:

1. Address of violation
2. Detailed description of violation
3. Photographs, diagrams, etc. (desirable, but not required)
4. Complainant name and phone number (all information is kept strictly confidential and is only used to contact complainant for additional details).

Upon receipt of a complaint a general investigation will be within 48 hours. Notification regarding Violations of noise, trespassing, illegal conduct including drugs and alcohol shall be made to the Garfield County Sheriff’s office.

Any business license shall be revoked by the governing body of Tropic Town upon violation of any requirements of this chapter, or upon failure to comply with any of the conditions or limitations of the license, unless such violation is corrected within three (3) days of receipt of written notice thereof. A Vacation Rental, Holiday Home, STR, etc. business license permit may be revoked for three-(3) repeated violations of the requirements of this chapter notwithstanding compliance to the violation notice.

Approved and adopted this 20th day of September 2018

By: /s/ WaLon K Brinkerhoff
WaLon K Brinkerhoff, Mayor

Vote: In Favor: Dennis Pollock
Brook Wiseman
Lisa Johnson
Kelly Shakespear

Against: None

Abstained: Mayor Brinkerhoff

Attest: /s/ Marie H Niemann
Marie H Niemann, Tropic Town Clerk

Seal:

