

MINUTES
REGULAR MEETING OF THE PLANNING AND LAND USE COMMISSION

Date: Wednesday, October 4, 2017

Time: 6:30 PM

Place: #2 CV Drive, Castle Valley Community Center

Present: Ryan Anderson, Mary Beth Fitzburgh, Harry Holland, Bill Rau, Marie Hawkins (electronically by phone)

Absent: None

Others Present: Jack Campbell, Russ Cooper

Clerk/Recorder: Faylene Roth

REGULAR MEETING

1. Call to Order.

Rau called the Regular Meeting of the Planning and Land Use Commission (PLUC) to Order at 6:30 P.M.

2. Open Public Comment – None.

3. Approval of minutes.

Regular Meeting of September 6, 2017.

Fitzburgh moved to approve the Minutes of September 6, 2017, as presented. Holland seconded the Motion. Anderson, Fitzburgh, Holland, and Rau approved the Motion. Hawkins abstained. The Motion passed with four in favor and one abstaining.

4. Reports.

Correspondence – None.

Town Council (TC) Meeting – Fitzburgh.

Fitzburgh reported the following information, discussions, and updates from the last TC Meeting.

The TC approved the PLUC's proposed amendments to Ordinance 95-6 as presented. She noted the PLUC will no longer have to update the ordinance every time the County and State building codes are updated.

Tory commented that any commercial event within the Town would be illegal, so she saw no reason for the Town to issue permits for special events. Fitzburgh said there was an inconclusive discussion about what is commercial: a Tupperware party, filming, etc.?

The TC approved the Conditional Use Permit (CUP) request for Jason Matz with a couple of changes in the conditions: (1) all storage of hazardous or flammable materials must be compliant with OHSA regulations, (2) the amount of fuel storage was bumped up to 60 gallons each for diesel and fuel, (3) liability insurance was required (Matz currently carries \$4 million liability). In further discussion, the TC discussed updating the CUP requirements in Ordinance 85-3 to include compliance with OSHA regulations and to require \$2 million minimum liability insurance when hazardous materials are stored. They asked that the CUP renewal process include a request for an inventory of what hazardous materials CUP holders are storing as well as annual inspections for compliance with OSHA rules. The Town Council also suggested amending Ordinance 85-3, Section 8, to require compliance with OSHA regulations for residential fuel storage. The Building Permit Agent, Roads Manager, Town Clerk, Council Members, and others are currently researching aspects of this. Fitzburgh said the information should be funneled to the PLUC, which will have the responsibility for drafting the changes. She suggested doing this before December and offered to initiate a draft of the proposed changes. PLUC Members discussed the best way to get this information to property owners. Fitzburgh said that the last General Plan Survey indicated that most property owners get their information about the Town through Ron Drake's newspaper column. Anderson suggested using a link on the Town's website.

Fitzburgh reminded PLUC Members they should consider a six-month window for completion of ordinance changes. PLUC Members discussed whether an ordinance change before the end of the year would affect this year's CUP renewals.

The TC discussed whether a residential inventory of stored fuels should be required and whether property owners would be forthcoming with the information. Fitzburgh added that firefighters don't have time to look into files when called out to a fire; but it was noted, she said, that it's good for firefighters to know who might have large volumes of fuel. Council Member Duncan had said that firefighters are trained to expect certain types of hazards when called to a fire.

The TC made a request to the PLUC to define camping in response to a complaint about someone "camping" in a school bus on property where there was already a dwelling. Fitzburgh said that she explained to Council Members that based on how the Land-Use Ordinance defines a dwelling, this situation would be an illegal second dwelling. The Ordinance defines a dwelling based on how it is used and what is in the building, but not the length of time it is used. She referred to the definitions section of Ordinance 85-3 which defines "dwelling" as "Any building that is used, designed or intended to be used, for human habitation regardless of the type of building or intended future use; or any building or portion of a building that includes one kitchen and one or more full bathroom(s) as defined in the land use ordinance. Only one kitchen is allowed per building per platted lot." She said the Ordinance also defines "building" as "Any structure built for the support, shelter or enclosure of persons...." This she said would include even a cardboard box if used for a dwelling. Fitzburgh also referred to the definition of "temporary dwelling" which covers structures "designed and permitted by its manufacturer as a temporary dwelling..." This does not, she said include tents or yurts. So, by definition, she said that "camping" is defined as using a temporary structure for habitation that is not designed and permitted by its manufacturer as a temporary dwelling. She said the Council Members felt like these definitions provided ordinance-based information for their current needs and dropped the request for a formal definition.

Permit Agent - Cooper.

- **Permit Activity.**

Cooper reported two septic permits—Lots 345 Taylor and 103 Pace and final approval by the TC for the nonroutine CUP on Lot 387 for Jason Matz. He reported that he sent a follow-up email to the attorney for the Lot 55 property owner to determine the intent for the septic system application for that lot. Cooper said there is a garage under construction on the lot but plumbing was not included in the building plans although, he said that Jeff Whitney, Grand County Building Inspector informed him that the property owner had told him he wanted to include a bathroom in the structure.

Fitzburgh explained that property owners do sometimes get their septic system installed before they are ready to build, but the application does ask property owners to indicate whether it is to be used for an existing building or a new building or if its projected use is undetermined. She suggested asking for a statement that it would not be used in the garage unless the property owner informed the Town of a change of use for that structure.

In further discussion regarding septic application procedure, PLUC Members confirmed with Cooper that the State Sanitarian's septic system design paperwork should be obtained before signing the Castle Valley Septic Permit approval application. Fitzburgh noted that the Ordinance allows 10 days for the Town to complete application approvals.

Procedural Matters.

- **Impact of recent state legislation, now in the Code, about home-based businesses.**

Rau reported that Title 10 Chapter 1 Part 2 Section 203 (7) was added to Utah Code during the last legislative session. PLUC Members discussed how this affects current CUP renewals: determining which applicants are affected, how to inform applicants, and whether to change the fee structure. It was agreed Rau will consult Utah League of Cities and Towns for further information. The Town's responsibility to transmit information for each approved business license application to the county assessor as described in Section 203 (8) was also discussed.

- **Review renewal letter and questionnaire for conditional use permit and business license renewals.**

PLUC Members reviewed the CUP renewal letter and application form and agreed to differentiate home based occupations from premises occupations. The \$10 business license fee for home-based occupations would be eliminated and language regarding the State Code change would be added.

Roth will draft changes and send copies by email to PLUC Members. She was also asked to contact the County Assessor's office regarding transmission of business license information to their office.

- **Review list of 2018 conditional use permit and business license renewals.**

Roth provided a list of upcoming renewals for CUPs and business licenses. She said that renewals letters are sent out mid-October with a return date prior to Thanksgiving. Renewal recommendations by the PLUC are planned for the December Meeting.

NEW BUSINESS - None

5. Discussion and possible action re: draft of text regarding large gatherings.

Rau provided a draft of suggestions for the Town Council and asked that the TC make the suggestions available to property owners—through its website or mailings—regarding large gatherings. He noted that the PLUC had decided at its previous Meeting to not put this information into an ordinance. They agreed at this Meeting to forward this draft—as follows [and as Addendum A—to the Town Council for their consideration.

Occasional large gatherings are held in Castle Valley. Hosts are encouraged to consider four things which will make those events more enjoyable for all, including neighbors.

- 1) Consider the pressure on your septic system of many people using the toilet. If 30-40 or more people are expected for an event that will last several hours or more, renting one or two portable toilets (rentals available in Moab). This will reduce over-use of your septic system.
- 2) Be aware of fire risk. Outdoor smoking can easily start large fires. Try to confine smoking to a well-protected area.
- 3) Contact the Castle Valley Fire District. Work with the District to assure that roads are passable by emergency vehicles. Encourage guests to park on just one side of the road, so access on the road remains manageable.
- 4) Be respectful of the Town's standard of low noise.

6. Discussion re: research report on requiring a business license for home rentals.

Rau submitted a report of what other Utah jurisdictions are doing regarding business licenses for rental properties. PLUC Members agreed to forward this report to the Town Council [as Addendum B] to the PLUC Report and to ask the TC how they want the PLUC to continue.

7. Discussion re: possible actions to mitigate the impact of overnight and short-term rentals of 25 days or less.

Rau presented a non-prioritized list of how other Utah jurisdictions are handling overnight rentals. PLUC Members agreed that fire inspections and requirement of adequate fire extinguisher installation were important. Fitzburgh will check on whether sprinklers would be required. Fitzburgh noted that the legislative push for allowing bed and breakfast operations would require that the owner be living in the residence. Rau indicated that the Hurricane, Utah, Ordinance (included at the end of Addendum B) seemed very well done and thorough.

PLUC Members agreed to send this list to the TC [as Addendum C] for further direction.

8. Discussion re: storage of fuels and hazardous materials within the Town.

Fitzburgh reported that the TC had asked the PLUC to consider changes to Section 8 of Ordinance 85-3 regarding storage of fuels and hazardous materials within the Town. Fitzburgh will draft language regarding adherence to OSHA residential standards.

UNFINISHED BUSINESS

9. Discussion re: future amendments to Ordinance 85-3 (tabled) - Left tabled.

10. Closed Meeting (if needed) - None

ADJOURNMENT

Fitzburgh move to adjourn the Meeting. Holland seconded the Motion. Anderson, Fitzburgh, Hawkins, Holland, and Rau approved the Motion. The Motion passed unanimously.

Rau adjourned the Meeting at 8:00 P.M.

APPROVED:

Bill Rau, Chairperson

Date

Faylene Roth, PLUC Clerk

Date

ATTESTED:



ADDENDUM A

Occasional large gatherings are held in Castle Valley. Hosts are encouraged to consider four things which will make those events more enjoyable for all, including neighbors.

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- 2) Be aware of fire risk. Outdoor smoking can easily start large fires. Try to confine smoking to a well-protected area.
- 3) Contact the Castle Valley Fire District. Work with the District to assure that roads are passable by emergency vehicles. Encourage guests to park on just one side of the road, so access on the road remains manageable.
- 4) Be respectful of the Town's standard of low noise.

APPROVED

ADDENDUM B

Business license and related requirement for rentals

Research draft

Bill Rau, PLUC

Much of the info here pertains to short term (less than 30 days) rentals, but elements could be applied to any rental property. A lease can be considered a rental.

Some jurisdictions require an inspection of rental property for health and safety matters (such as smoke alarms in each bedroom). Several require a State Sales Tax number. Frequently, if a property has a property manager, that person's name/company name and contact info needs to be provided on the application.

Utah law: Transient room tax (TRT) can be imposed by a county, city or town to rent temporary lodging for stays of less than 30 consecutive days. This in addition to state sales tax.

Murray City

Murray City requires that a valid business license be held by anyone conducting business within Murray City. Residential rentals are considered a business and anyone who rents out real property must obtain and maintain a current business license. \$100

Logan

requires a separate landlord business license for each ownership entity (i.e. LLC, sole proprietorship, corporation, trust). Each rental dwelling shall meet the zoning and building code requirements for installation, maintenance, and operation in effect at the time the rental dwelling was legally permitted.

License exception: A business license shall not be required for a dwelling unit which is ordinarily owner occupied but is temporarily rented because the owner is placed in a hospital, nursing home, assisted living facility or other similar facility, or the owner has a bona fide, temporary absence of three (3) years or less for activities such as temporary job assignments, sabbaticals, or voluntary service. Indefinite periods of absence from the dwelling shall not qualify for this exception.

Salt Lake City

All landlords are now required to get annual business licenses; anyone renting out a home, condominium, townhouse, duplex, apartment or even a basement to pay a \$110 per year to become licensed.

South Salt Lake

South Salt Lake City established a license fee structure for rentals because the cost to provide services to rentals is greater than the cost to provide the same services to owner-occupied dwellings. \$350

Ogden

Any person, firm, partnership, or corporation operating, maintaining, or offering rental property in Ogden needs to apply for a rental license. A license is required for all rental residential properties. It is unlawful for a person to occupy a residential rental property that is not licensed. \$156

vacation rentals in single-family zones would only be permitted on owner-occupied properties —property owners live in their homes at least eight months out of the year.

St. George

\$50.00 plus \$10.00 Local Agent Fee/Property Manager

Springdale

A B&B is considered a commercial business, requiring a business license. \$100

Hurricane (see details of ordinance at end—the clearest statement I've found)

Requires business license. \$325.

Washington County

Requires a business license

Taylorsville

Owners of rental properties (single family home rentals, duplexes, tri-plexes, four-plexes, apartments, etc.) are required to obtain a Taylorsville business license. Single family \$20

Park City

Anyone with the intent to offer lodging for a fee, other than month to month leasing, must obtain a Nightly Rental License. Must have a federal number (could be SS#) and state sales tax #. Fee based on number of bedrooms (\$28.74/bedroom), plus \$175 admin fee.

Summit County

Business License require. All nightly rentals and management companies are considered Commercial Business, the license fee is **\$200.00**.

Need a state registration number. There is a transient room tax on all nightly rentals

Smithfield

Requires business license for rental properties. Businesses must obtain a Sales & UseTax number to collect and remit to the State, taxes on the rental or retail sale of items, taxable services and various out-of-state purchases.

Pleasant Grove City

Requires business license for rental properties.

Sunset City

Requires business license. \$190

Moab

Regulated by zoning areas. ORDINANCE #2016-02: Bed and breakfast facilities, may be allowed as a conditional use where applicant can show evidence of compliance with outlined standards and procedures and where there is minimal impact on adjacent residential properties and neighborhoods. An inspection by the building inspector, fire chief and health department shall be required prior to issuance of a permit. No person shall operate a bed and breakfast unless the person holds a valid permit and business license. A letter of application sworn before a notary public shall be provided by the owner(s) stating that such owner, *in the case of a bed and breakfast located in a residential zone, or an owner or manager for a bed and breakfast located in a commercial zone*, will occupy the facility, as provided for herein. There shall be a minimum perimeter separation of three hundred (300) feet between property lines of bed and breakfasts.

Grand County

Requires one page application for offering overnight rentals. Processing fee = \$500.
Business license required.

APPROVED

AN ORDINANCE OF THE CITY COUNCIL OF HURRICANE, UTAH,

3-10-11 SHORT TERM VACATION RENTAL RULES AND REGULATIONS:

Regulations and restrictions imposed by this section are in recognition of the premise that a vacation rental provides lodging for a transient population that may or may not honor neighborhood mores or exhibit neighborly consideration to the same extent as permanent residents. Separation requirements listed in B. below and total license limits listed in C. below are based on a desire to maintain the overall residential character of neighborhoods and the purpose of single family residential zones to promote safe locations for residential uses.

A. Business License Required:

No dwelling in a residential zone shall be occupied or used as short term vacation rental, or advertised for use as a short term vacation rental, until such time that the owner has obtained a short term vacation rental business license issued in accordance with the provisions of this section.

B. Conditions for Issuance of a Business License for a Short Term Vacation Rental:

In addition to any other requirement of this section, a short term vacation rental business license shall be approved by the business license officer if:

1. The dwelling unit is located in a single family dwelling that has been issued a certificate of occupancy by the date of the adoption of this ordinance, or has been in use as a residential dwelling for at least six (6) months from issuance of a certificate of occupancy before application is made for a short term vacation rental license. Notwithstanding the previous restriction, application may be made for a short term vacation rental license for a single family dwelling that has been issued a certificate of occupancy but has not met the six month residential use restriction upon deposit of \$100 and submittal of a complete application. If applicant does not then pay the remainder of the licensing fee and complete the licensing process within 7 months of the initial deposit, deposit shall be forfeit. Portions of a single family dwelling may not be used as a short term vacation rental unless licensed as a bed and breakfast or residential hosting facility in accordance with the regulations for that use. A short term vacation rental and a bed and breakfast or residential hosting facility may not be located in the same single family dwelling,
2. The owner of a single family dwelling for which a short term vacation business license is sought does not hold a business license to operate another short term vacation rental within the Hurricane City limits. For purposes of this paragraph, "owner" means any individual, corporation, partnership, limited liability company, trust or other entity which has a legal or equitable ownership interest in the single family dwelling, or any individual who has an ownership interest in any corporation, partnership, limited liability company, trust or other entity which has a legal or equitable ownership interest in the single family dwelling.
3. The property line of another dwelling licensed as a short term vacation rental or with a complete application and deposit on file while waiting to fulfill the six month waiting period is not located within 300' (three hundred feet), as measured along the same street or around the corner, of the front property line corners of the property where the proposed short term vacation rental license is being sought,
4. The application lists the name, address and phone number of the owner or other person

designated by the owner as the property manager who shall be responsible for ensuring compliance with the rules and regulations specified in this section, and

5. The application includes a valid Utah State Tax number for remittance of transient lodging taxes.

C. Limit on Total Number of Short Term Vacation Rental Licenses:

The total number of short term vacation rental business licenses issued within the City of Hurricane shall be limited in accordance with the following:

1. The maximum number of short term vacation rental business licenses for property in single family zones to be issued shall be based on the total population of the City, allowing three (3) licenses for every 1,000 of total population.
 2. The total number of licenses available each year shall be recalculated based on an estimated population derived by adding the total number of new dwelling units times 2.9 residents per unit to the prior year's base population.
 3. If a complete application meeting all other requirements for licensure is received after the maximum number of licenses has been issued, the application shall be placed on a waiting list in order of the date of receipt of a completed application. No fees will be due until a license becomes available.
 4. In the event of a sale or other transfer of any property containing a dwelling licensed as a short term vacation rental, the purchaser or transferee of the property shall be required to apply for a new license within forty five (45) days of the date of purchase or transfer. In the event that the purchaser or transferee fails to apply for a new license within said forty five (45) days, the license will be forfeited and the owner must re-apply for any available license or be placed on the waiting list.
- D. Parking Regulations:
- The owner of any property licensed as a short term vacation rental shall provide off street parking for guests in accordance with the following:
1. Off street parking shall be provided on the same lot as the dwelling which is licensed as a short term vacation rental.
 2. Parking shall be provided at one vehicle per bedroom. Tandem spaces on a driveway may be used.
 3. All guest parking should be contained on the site.
 4. No off street parking space may be located in front of the living area of the dwelling unless there is a circular driveway.
 6. The number of vehicles allowed by the occupants of a vacation rental home shall be restricted to the number of off street parking spaces provided by the owner.

E. Maintenance Standards:

Any property that contains a dwelling which is licensed as a short term vacation rental shall conform to the following standards:

1. 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 in no way detracts from the general appearance of the neighborhood;
2. The use of a dwelling as a short term rental shall not in any way change the appearance of the dwelling or property for residential purposes; and
3. Each sleeping room must meet current International Residential Code codes for egress and be equipped with smoke and CO detectors. A fire exiting route plan and maximum occupancy number must be posted in each sleeping room.

F. Prevention of Noise, Nuisance or Trespass:

The owner of any dwelling licensed as a short term vacation rental shall be responsible to ensure that guests or occupants of the short term rental do not:

1. Create noises that by reason of time, nature, intensity or duration are out of character with noises customarily heard in the surrounding residential neighborhood.
2. Disturb the peace of surrounding residential property residents by engaging in shouting, fighting, playing of loud music, racing of cars or recreational vehicles on streets, engaging in outside recreational activities after 10 p.m., or other similar activities.
3. Interfere with the privacy of surrounding residents or trespass onto surrounding residential properties.
4. Allow pets or animals to create noise, roam the streets, trespass on neighboring properties, or create a mess that is not cleaned up by the owner or custodian of the pet or animal.
5. Engage in any disorderly or illegal conduct, including illegal consumption of drugs and alcohol.

G. Required Posting:

The following information must be posted in a clear, concise, and unambiguous manner and in a conspicuous location inside any dwelling licensed as a short term vacation rental:

1. a copy of the vacation rental business license
2. the name, address, and phone number of the owner or property manager
3. the location of all fire extinguishers
4. a list of all rules applicable for vacation rentals
5. the maximum occupancy of the vacation rental and the maximum number of vehicles allowed.

H. Miscellaneous Rules and Regulations:

The following rules and regulations shall apply to any dwelling for which a short term vacation rental business license has been issued:

1. 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.

2. Maximum occupancy in any dwelling licensed as a short term vacation rental shall be ten (10) persons at any one time. If, however, the property has a fire sprinkler system or other fire suppression system acceptable to the Hurricane Valley Fire District, a greater occupancy may be approved. Maximum occupancy of the dwelling must be included in the regulations sign.
3. The owner of any property containing a dwelling licensed as a short term vacation rental shall cause to be displayed in a city approved location on the exterior of the property an approved sign containing the name and 24 hour-per-day, 365 day-per-year telephone number of the owner or other party designated by the owner as property manager who will be responsible for receiving and resolving complaints regarding activities on the property and the conduct of its occupants and guests. The sign shall not exceed 12" X 18" and shall be the only sign other than an address permitted on a short term vacation rental property.
4. The owner or property manager shall provide information on current occupants to police, emergency, or city personnel as requested. The owner or other person designated as the property manager shall respond to complaints and concerns within one (1) hour of any phone call or other notification. Failure of the owner or property manager to respond in a timely manner may result in a violation and possible fines to the business license holder and property owner.
5. The requirements of this section shall be in effect throughout the time a short term vacation rental license is in effect on the property, regardless of whether the property is occupied by the owner, non-paying guests of the owner, or paying 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 contained in this section shall be based on whether the property is licensed as a short term vacation rental.
6. An inspection of a vacation rental property for compliance with these regulations will be performed at the time of business license review. Additional inspections may be performed with 24 hour notice to the license holder/property manager if deemed necessary by the City.
7. The owner of any dwelling licensed as a short term vacation rental shall be required to collect and remit on a timely basis transient lodging taxes.

ADDENDUM C

Actions to limit overnight rentals

- 1) Only 1 rental within a given period of time (such as every two or four weeks)
- 2) Require owner or manager presence/resides on the property
- 3) Prohibit outside signage
- 4) require that short-term tenants keep their pets inside or on-leash when outdoors;
- 5) require that the residence complies with all building and fire codes, and gets inspected every two years;
- 6) Require annual fire inspection, including overall property firewise status.
- 7) Require a business license—with a substantial fee.
- 8) Require registration with state for sales tax collection.
- 9) Require registration with county for Transit room tax collection.
- 10) Limit # of overnight rentals: per lane, per town (attempted in Hurricane and suggested by citizens group in Ogden)
- 11) Limit # of guests (e.g., 2-4) in short-term/overnight rentals
- 12) Require an emergency contact form on file with town, especially for contact with owner if there is a complaint about noise, traffic.

Hurricane emergency contact form says: "The responsible party person shall be available 24 hours a day to respond to tenant and neighborhood questions or concerns within (1) one hour

- 13)