

Town of Silverthorne  
Council Agenda Memorandum

To: Mayor and Town Council  
From: Laura Kennedy, Finance Director  
Thru: Ryan Hyland, Town Manager  
Date: October 17, 2018 for meeting of October 24, 2018  
Re: Ordinance No. 2018-10: An Ordinance Establishing A Short Term Rental License and Associated Conditions – 2nd Reading

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**SUMMARY:**

The attached Ordinance amends the existing Town Code to create a new license type for Short Term Rental Properties. A Short Term Rental Property is defined as follows: *A residential dwelling unit, or any room therein, available for lease for a term of less than thirty (30) consecutive days.*

**PREVIOUS COUNCIL ACTION:**

The topic of short term rentals has been addressed at the July 11, September 11<sup>th</sup>, and September 25<sup>th</sup> Council Work Sessions. A number of regulations to manage the impacts of short term rentals were suggested.

Draft ordinances were presented to Council in the Work Session meetings on September 11 and September 25 and feedback from Council and community were incorporated into the attached ordinance. First reading of the ordinance took place on October 10, 2018 and a few recommendations were made which are reflected in the final ordinance. The changes were to add language with regards to defining the number of bedrooms (on which occupancy limits are based) as the number of bedrooms reflected on the Summit County Assessor's Office website.

**BACKGROUND:**

Short term rentals have exploded as an industry worldwide, but especially in resort areas. The Town has experienced complaints and is working in conjunction with the other nearby municipalities and Summit County to create reasonable regulations that do not limit property rights, but also protect the interests of neighbors, guests, and the community. The Town held a Community Open House where residents were invited to participate in discussions and surveys regarding short term rentals. Additionally, an online survey was made available for input from community members who were unable to attend the Open House in person. The Council and community survey results supported the following proposals:

1. Creating a separate Short Term Rental Unit license in place of a business license with additional requirements.
2. Requiring every Short Term Rental to have an individual license rather than allowing a property management co. to "hold" the business license for all the properties they manage.
3. Short Term Rental Unit license number shall be included in advertisements. This helps with identifying properties which have not obtained a license and/or are not filing or remitting sales/lodging taxes.
4. Physical address, local agent's contact information, the owner's contact information, and the short term rental license number required to be posted within the unit.

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5. Requiring that STR's have a contact person who can respond within a specified time to address complaints. Information on the contact person could be distributed to neighbors within a certain radius upon issuance of STR license.
6. Designate people and create processes to field and address complaints. Create escalation/formal complaint process.
7. Compliance monitoring, complaint management, enforcement, and penalties for violations.

The attached ordinance addresses the above concerns. A staff position has been upgraded from part-time to full-time to handle the additional workload. Application forms are on the Town website and a transition process is being discussed and formalized. The Finance and Administrative Services Dept. is creating and scheduling training sessions for STR hosts to assist them in becoming compliant and transitional plans to address pre-existing reservations and other scenarios are being researched and addressed.

**RECOMMENDATION:**

The recommendation is for Town Council approval of Ordinance No. 2018-10.

**PROPOSED MOTION:**

"I move to approve Ordinance No. 2018-10 on second reading; an ordinance creating a Short Term Rental License and establishing licensing requirements".

**ATTACHMENT:**

Ordinance #2018-10

**TOWN OF SILVERTHORNE, COLORADO**

**ORDINANCE NO. 2018-10**

**AN ORDINANCE AMENDING CHAPTER 1 OF THE SILVERTHORNE TOWN CODE BY THE ADDITION OF A NEW ARTICLE XVI, ENTITLED SHORT TERM RENTAL PROPERTIES, AND REPEALING SECTIONS IN CONFLICT THEREWITH**

WHEREAS, the Town of Silverthorne is a home rule municipality with all the powers and authority vested under Colorado law; and

WHEREAS, it becomes necessary to update the Silverthorne Town Code from time to time to address changes in policies and adopt different approaches to meet community development objectives; and

WHEREAS, the Town of Silverthorne recognizes the benefits to the Town and its citizens of allowing owners of residential units within the Town to rent their dwelling units for periods of time less than 30 days; and

WHEREAS, the Town Council believes that establishing regulations and licensing requirements for short-term rental properties in the Town is necessary to avoid potential negative impacts and to protect the public health, safety and welfare; and

WHEREAS, to create standards and regulations applicable to licensing of short-term rental property, the Town Code must be amended as set forth herein.

**NOW, THEREFORE, THE COUNCIL OF THE TOWN OF SILVERTHORNE, COLORADO ORDAINS:**

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Chapter 1 of the Silverthorne Town Code is hereby amended by the addition of Article XVI to read as follows:

**Article XVI - Short Term Rental Properties**

**Sec. 1-16-1. - Purpose and Applicability.**

(a) The purpose of this Article is to establish comprehensive licensing regulations to safeguard the public health, safety and welfare by regulating and controlling the use, occupancy, and maintenance of short-term rental properties in the Town.

(b) This Article applies to short-term rental property only, as defined herein. This Article shall not apply to lodging services in hotels, motels, lodges or bed and breakfast establishments, or to properties with long-term leases.

(c) This Article shall not supersede or affect any private conditions, covenants or restrictions applicable to a short-term rental property.

### **Sec. 1-16-2. - Definitions.**

The following words and phrases, as used in this Article, shall have the following meanings:

*Lease* means an agreement or act by which an owner gives to a tenant, for valuable consideration, possession and use of property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property.

*Owner* means the record owner of a residential dwelling unit in the Town who intends to lease or leases the unit as a short-term rental property.

*Responsible Agent* means an individual who is available for immediately responding to any issues arising from the Short Term Rental Property 24 hours per day, 7 days per week. A licensee may, at the licensee's option, identify an Alternate Responsible Agent to act for the licensee if the Responsible Agent, for any reason, is not successfully contacted by the Town in response to a complaint. The Responsible Agent may be the Owner.

*Short Term Rental Property:* A residential dwelling unit, or any room therein, available for lease for a term of less than thirty (30) consecutive days.

### **Sec. 1-16-3 – License Required.**

A valid Short-Term Rental Unit License is required for each Short Term Rental Property in the Town.

### **Sec. 1-16-4 – Application.**

(a) At least thirty (30) days prior to any advertising for or lease of a Short-Term Rental Property, the Owner shall file a written application for a Short Term Rental Property License with the Finance Director or designee on forms supplied by the Town. The Finance Director or designee may require submittal of such additional information as is deemed necessary to demonstrate compliance with the requirements of the Code, including but not limited to building code and inspection requirements. The application shall not be deemed complete until all required information is submitted.

(b) If the proposed Short Term Rental Property is located within a duplex, the application shall include a copy of a written notice provided by the Owner to the last known address of the record owner of the adjoining residential dwelling unit. The written notice shall include a copy of the completed application and shall be sent by first-class United States mail at least seven (7) days prior to the filing of the application.

(c) No license shall be issued without an affidavit, signed by the Owner under penalty of perjury, certifying that the Short Term Rental Property is in habitable condition and complies with the health and safety standards set forth in section 1-16-8 of this Article.

(d) Within thirty (30) days of receipt of a complete application for a Short Term Rental Property License, if the Finance Director or designee finds that the application is complete and complies with this Article, the Finance Director or designee shall issue a Short Term Rental Property License. The license shall be issued in the name of the Owner and shall not be transferable.

(e) An application for renewal of a Short Term Rental Property License shall be submitted at least thirty (30) days prior to expiration of the existing license.

(f) A Short Term Rental Property License may be revoked at any time by the Finance Director or designee should it be determined that the use is not being operated in compliance with the License, this Article or any other Code provision; that the issuance of the License was in error; or that the applicant provided false or misleading information in the application.

#### **Sec. 1-16-5 – Fees.**

(a) The Short Term Rental Property License fee shall be as set forth in Appendix A to the Code. No Short Term Rental Property License shall be issued until the applicable fee has been received by the Finance Director or designee.

(b) Return of fees. Upon refusal of any license application, the license fee shall be returned to the applicant. In the event that any license is revoked, all moneys paid therefor shall be and remain the moneys of the Town, and no refund shall be made to any licensee.

(c) The fees imposed for Short Term Rental Property are used to cover the administrative and personnel costs associated with developing and implementing the Short Term Rental Property License and enforcing the regulations in this Article, including but not limited to inspecting Short Term Rental Property. These fees provide a reasonable relationship to the cost of regulation, administration and enforcement of this Article.

#### **Sec. 1-16-6 –License Term.**

A Short Term Rental Property License shall expire on November 30 of each calendar year, or when title of the Short-Term Rental Property transfers to a new Owner, whichever occurs first. Each change in ownership of a Short Term Rental Property shall require a new license.

### **Sec. 1-16-7 – Responsible Agent Required.**

As a condition of receiving a License, each Owner shall appoint a Responsible Agent for the Short Term Rental Property. The Owner shall notify the Finance Director or designee in writing of the appointment of a Responsible Agent within five (5) days of such appointment or modification of any such appointment and shall provide the Responsible Agent's name, address and telephone number. It is the Owner's responsibility to update this information throughout the term of the license.

### **Sec. 1-16-8 – Health and Safety Standards.**

The Owner or Responsible Agent is responsible for ensuring the Short Term Rental Property meets all applicable local, state and federal standards and regulations, including but not limited to the following minimum standards:

- (a) Buildings, structures or rooms shall not be used for purposes other than those for which they were designed or intended.
- (b) Roofs, floors, walls, foundations, ceilings, stairs, handrails, guardrails, doors, porches, all other structural components and all appurtenances thereto shall be capable of resisting any and all forces and loads to which they may be normally subjected and shall be kept in sound condition and in good repair.
- (c) Smoke detectors, carbon monoxide detectors and fire extinguishers shall be installed and operable, and all wood –burning fireplaces and stoves shall be cleaned on an annual basis.
- (d) An operable toilet, sink, and either a bathtub or shower shall be located within the same building, and every room containing a toilet or bathtub/ shower shall be completely enclosed by walls, doors, or windows that will afford sufficient privacy.
- (e) There shall be a sufficient number of trash receptacles to accommodate all trash generated by those occupying the Short Term Rental Property, and instructions on outdoor trash containers, storage, pickup locations, and times shall be posted within the unit.
- (f) Occupancy of a Short Term Rental Property shall not be more than two persons per bedroom plus two. The number of bedrooms will be defined according to the Summit County Assessor's Office detail data.
- (g) The use of portable outdoor fireplaces is prohibited.
- (h) Electrical panels shall be clearly labeled.
- (i) All pets shall be subject to Chapter 2, Article 2 of this Code.

### **Sec. 1-16-9 Parking.**

(a) Parking shall comply with all applicable provisions of this Code.

(b) The motor vehicles of all occupants of the Short Term Rental Property shall be parked only on the site of the Short Term Rental Property. No motor vehicles shall be parked on the lawn or landscaped areas of a Short Term Rental Property, or in the public street or right of way. No person shall be permitted to stay overnight in any motor vehicle which is parked at a Short Term Rental Property. Further, all motor vehicles parked at a Short Term Rental Property shall comply with the requirements and be subject to the limitations of Section 2-7-8 of this Code.

(c) No privately owned, nongovernmental vehicle with a passenger capacity of sixteen (16) persons or more shall be parked on the premises of a Short Term Rental Property.

### **Sec. 1-16-10 Posting Requirements.**

The Licensee shall post the following information in a prominent and visible location in the Short Term Property Rental:

- (a) License number;
- (b) Contact information for Owner and/or Responsible Agent, including a phone number for 24-hour response to emergencies;
- (c) Description of location of fire extinguishers and emergency egress; and
- (d) Good neighbor/renter guidelines regarding noise, parking, trash pickup, wildlife guidelines, and fire restrictions.
- (e) Any other information deemed necessary by the Finance Director or designee to ensure the public's health and safety.

### **Sec. 1-16-11: Advertising.**

All advertising for a Short Term Rental Property shall include a description of the Short Term Rental Property and the Town License number.

### **Sec. 1-16-12: Taxes.**

The Owner or Responsible Agent shall collect and remit all applicable local, state and federal taxes including sales and lodging taxes on each Short Term Rental Property.

### **Sec. 1-16-13: Notice to Owner.**

Any notice required by this Article to be given to an Owner is sufficient if sent by first-class mail to the address provided by the Owner on the most recent license or

renewal application. Notice given to the Responsible Agent, by first-class mail to the address provided by the Owner, shall also be sufficient to satisfy any required notice to the Owner under this Article.

#### **Sec. 1-16-14: Inspection.**

Because Short Term Rental Units are, by their nature, intended to be occupied by numerous guests for short periods of occupancy, it is determined that the Town's ability to inspect accommodation units is in the interest of public safety. Therefore, whenever it is necessary or desirable to make an inspection to enforce the special requirements of this ordinance, an authorized public inspector may enter such accommodation unit at all reasonable times to inspect the same for the purpose of enforcing such special conditions. Provided, that if such Short Term Rental Unit is occupied, the authorized public inspector shall first present proper credentials and request entry, and if such Short Term Rental Unit is unoccupied, shall first make a reasonable effort to locate the owner, the responsible agent, or other person having charge or control of the Short Term Rental Unit and request entry. If such entry is refused, or if the Short Term Rental Unit is locked, the authorized public inspector shall have recourse to every remedy provided by law to secure entry. When an authorized public inspector has obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, occupant, or any other persons having charge, care, or control of any Short Term Rental Unit shall fail or refuse, after proper request is made as herein provided, to promptly permit entry therein by the authorized public inspector for the purpose of inspection of the Short Term Rental Unit. No inspection warrant or permission shall be required for an authorized public inspector to enter and inspect a Short Term Rental Unit in the case of an emergency involving the potential loss of property or human life.

#### **Sec. 1-16-15 Initial Complaints:**

(a) Initial complaints concerning a Short Term Rental shall be directed to the Responsible Agent. The Responsible Agent shall resolve the issue that was the subject of the complaint within sixty (60) minutes, or within thirty (30) minutes if the problem occurs between 11:00 p.m. to 7:00 a.m., including visiting the site if necessary.

(b) Complaints concerning the use or occupancy of a licensed accommodation unit may be made to the Town by contacting the Town online or through the Town's call center. The subject of the complaint may include, without limitation, such things as parking, trash, noise, or other concerns related to the accommodation unit. The Town's call center will provide the complaining party with a reference number for the complaint; however, no anonymous complaints made through the call center will be processed.

(c) When a complaint concerning a Short Term Rental has been received by the Town, the call center will attempt to contact the Responsible Agent for a Short Term Rental Unit using the telephone number on file with the Town for the Responsible Agent. If the Responsible Agent can be reached by telephone, the Responsible Agent will be notified of the details of the complaint as filed with the call center. If the licensee's



Responsible Agent cannot be reached by telephone, the call center will attempt to notify a licensee's Alternate Responsible Agent that a complaint concerning the Short Term Rental unit has been received. The phone number used to attempt to contact an Alternate Responsible Agent shall be the phone number for the Alternate Responsible Agent on file with the Town. The time that the Responsible Agent (or the Alternate Responsible Agent, if applicable) was notified shall be recorded by the call center.

(d) The Responsible Agent (or the Alternate Responsible Agent, if applicable) is required to respond to and attempt to address in good faith the issue that was subject of the complaint within sixty (60) minutes of having been notified of the complaint, or within thirty (30) minutes if the problem occurs between 11:00 p.m. to 7:00 a.m, including visiting the site if necessary. Site visits should be made at the discretion of the responsible agent. The Responsible Agent (or Alternate Responsible Agent, if applicable) may initially respond to a complaint by contacting the renter of the Short Term Rental Unit by telephone, other electronic form of communication, or in person, and requesting the renter to take such action as is required to eliminate the problem that was the subject of the complaint. A proper response to a complaint may also require the Responsible Agent (or Alternate Responsible Agent, if applicable) to visit the accommodation unit if such action is necessary to attempt in good faith to eliminate the problem that was the subject of the complaint.

(e) A Responsible Agent, is not required to, and should not, place themselves in a situation that could cause them physical harm in order to attempt to address a complaint.

(f) The Responsible Agent (or the Alternate Responsible Agent, if applicable) shall promptly notify the Town's call center if the agent believes that complaint has been successfully eliminated by the agent. If the Town's call center does not receive notification from the responsible agent that the complaint has been successfully eliminated within sixty (60) minutes, or within thirty (30) minutes if the problem occurs between 11:00 p.m. to 7:00 a.m., of the agent having been notified of the complaint, it shall be presumed that the complaint has not been successfully eliminated, and the complaining party may follow up with the call center with the reference number issued for the original complaint.

(g) If the complaint involves the immediate health and safety of any person or property, the Responsible Agent should call 9-1-1. If, despite good faith efforts, the problem that was the subject of the complaint cannot be eliminated, the Responsible Agent (or the Alternate Responsible Agent, if applicable) shall immediately contact Police Dispatch, and follow any direction(s) given to the agent by the dispatcher.

(h) If a complaint is not eliminated to the satisfaction of the complaining party, the complaining party may file a formal complaint with the Town. If a complaint is filed, it will be investigated by the staff of the Finance Department. If the staff determines that there are reasonable grounds to believe that a violation of the STR Ordinance, or any of these regulations that is described as a violation of the STR Ordinance, can be proven by a preponderance of the evidence, then a hearing shall be held by the Finance Director.

The penalty for such a violation may include suspension or revocation of the licensee's Short Term Rental Unit license.

**Sec. 1-16-16: Formal Complaints and Revocation:**

(a) If an initial complaint is not resolved, a formal complaint may be filed with the Finance Director or designee on forms provided by the Town.

(b) The formal complaint shall describe in detail the violation(s) of this Article alleged to have occurred on the Short Term Rental Property.

(c) Within three (3) days of receipt of such a complaint, the Town shall provide a copy of the formal complaint to the Owner. Formal complaints shall be signed by an individual and subject to public inspection; no anonymous formal complaints shall be accepted.

(d) If there are three (3) or more formal complaints issued for the same Short Term Rental Property within any consecutive twelve-month period, the Finance Director or designee may revoke the license for that Short-Term Rental Property upon written notice to the Owner. The Town shall notify an Owner, in writing, of any revocation and the reasons therefor.

(e) The Owner may appeal any revocation by filing a written appeal with the Finance Manager within ten (10) days of the date of the revocation notice. In the written appeal, the Owner shall describe the reason for the appeal and may request a hearing. The hearing shall be informal, and may be conducted in person or by telephone, at the discretion of the Finance Director or designee. At the hearing, the owner shall have the opportunity to be heard on the revocation. Within ten (10) days of the hearing, the Town Manager or designee shall either uphold or reverse the revocation, in writing. The decision of the Town Manager or designee shall be final.

(f) For a minimum of two (2) years following revocation of a Short Term Rental Property License, the Town shall not accept an application for a new license for the same Short Term Rental Property, unless the ownership of the property has transferred to an unaffiliated third party.

**Sec. 1-16-17 - Violation and Penalty:**

In addition to any revocation proceedings pursuant to Section 1-16-16, violations of this Article shall be subject to the penalties set forth in Chapter 1, Article I, Section 1-1-19 of this Code. Each separate act in violation of this Article, and each and every day or portion thereof during which any separate act in violation of this Article is committed, continued, or permitted, shall be deemed a separate offense. Any remedies provided for in this Article shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Section 3. Safety Clause. The adoption of this ordinance will promote the health, safety, and general welfare of the Silverthorne community.

Section 4. Severability. If any provision of this ordinance or portion thereof is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provision which can be given effect without the invalid portion.

Section 5. Effective Date. This ordinance shall be effective upon adoption at second reading, pursuant to Sections 4.5 and 4.7 of the Silverthorne Home Rule Charter.

READ AND PASSED ON FIRST READING THIS 10TH DAY OF OCTOBER, 2018.

ADOPTED ON SECOND AND FINAL READING THIS 24TH DAY OF OCTOBER, 2018.

**TOWN OF SILVERTHORNE, COLORADO**

\_\_\_\_\_  
Ann Marie Sandquist, Mayor

ATTEST:

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Michele Miller, Town Clerk

Approved on the first reading: \_\_\_\_\_, 2018  
Published by title only: \_\_\_\_\_, 2018  
Approved on the second reading: \_\_\_\_\_, 2018  
Published by title only: \_\_\_\_\_, 2018 (with amendments, if  
amended on second reading): \_\_\_\_\_, 2018