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REPORT TO: Doug Russell, City Manager *DR*
FROM: PJ Sorensen, Planner
SUBJECT: Ordinance 1778 - Second Reading – Short Term Residential Rentals
MEETING DATE: November 21, 2016

BACKGROUND: On November 7, 2016, the City Council considered Ordinance 1778 and approved the ordinance with amendments on the first reading. The proposal was originally part of a group of amendments that were discussed at a work session held by the Planning Board on March 8, 2016. A public hearing was held by the Planning Board on April 12, 2016. At that time, no comments were received, and the Planning Board sent a recommendation of approval to the City Council on a 7-0 vote.

The City Council held a work session on April 25, 2016, to discuss the proposals. The Council then directed staff to present the proposals at the next regular meeting. At the May 2, 2016, meeting, the Council voted to separate the short term residential rental proposal from the other amendments and bring the short term residential rental zoning amendment to the Council during the next work session, which occurred on May 9, 2016. At the conclusion of that work session, the Council asked for additional information and requested another work session, which was held on June 27, 2016. The September 12, 2016, work session addressed questions from the June meeting. Another work session was held on October 10, 2016, to explore potential unintended consequences.

At the first reading of the ordinance on November 7, 2016, there were two amendments of the proposed ordinance. One required that the short term rental be the primary residence of the property owner in all “R” zones, which are the main residential zones in the city. The second required an affirmation by the applicant that the property is not subject to covenants that would prohibit a short term rental.

RECOMMENDATION: It is recommended that the Kalispell City Council move to approve the second reading of Ordinance 1778.

FISCAL EFFECTS: There are no anticipated fiscal impacts at this time. Annual costs of enforcement are covered through annual renewals of the permit.

ALTERNATIVES: Deny the request, which would mean that short term rentals would continue to not be allowed under the zoning ordinance.

ATTACHMENTS: Ordinance 1778

Report compiled: November 15, 2016

c: Aimee Brunckhorst, Kalispell City Clerk

ORDINANCE NO. 1778

AN ORDINANCE AMENDING THE KALISPELL ZONING ORDINANCE (ORDINANCE NO. 1677) AT KALISPELL MUNICIPAL CODE SECTIONS 27.20.095 SHORT TERM RESIDENTIAL RENTAL STANDARDS AND 27.37.10 DEFINITIONS AS SET FORTH IN EXHIBIT “A”, AND DECLARING AN EFFECTIVE DATE.

WHEREAS, from time to time it is prudent for City staff and the City Council to review and amend its land use ordinances to reflect current trends and beneficial land use policies that are in the best interests of the City’s residents and guests; and

WHEREAS, the City of Kalispell Planning Department submitted a request to the Kalispell City Planning and Zoning Commission to consider certain amendments to the Kalispell Zoning Ordinance regarding the use of land in the City for Short Term Residential Rentals; and

WHEREAS, the Kalispell City Planning Board and Zoning Commission considered the request by the Kalispell Planning Department, took public comment and evaluated the request pursuant to the guidelines of KMC 27.29.020; and

WHEREAS, the Kalispell City Planning Board and Zoning Commission forwarded its recommendation to the Kalispell City Council that certain portions of text of the Kalispell Zoning Ordinance be amended as set forth in Exhibit “A” attached hereto and fully incorporated herein by this reference; and

WHEREAS, the City Council has fully considered the public comment received, both written and oral, reviewed and considered the Kalispell Planning Department Report and the transmittal from the Kalispell City Planning Board and Zoning Commission and hereby adopts the findings made in Report # KZTA-16-03, as amended, as the Findings of Fact to be applied to this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KALISPELL AS FOLLOWS:

SECTION 1. The City of Kalispell Zoning Ordinance, Ordinance No. 1677, is hereby amended as set forth fully on Exhibit “A” attached hereto and fully incorporated herein by this reference.

SECTION 2. All parts and portions of Ordinance No. 1677 not amended hereby remain unchanged.

SECTION 3. This Ordinance shall take effect thirty (30) days after its final passage.

PASSED AND APPROVED BY THE CITY COUNCIL AND SIGNED BY THE MAYOR OF THE CITY OF KALISPELL THIS 21ST DAY OF NOVEMBER, 2016.

ATTEST:

Mark Johnson
Mayor

Aimee Brunckhorst, CMC
City Clerk

EXHIBIT "A"

27.20.095 Short Term Residential Rental Standards.

A residential dwelling unit, whether in a residential or commercial zone, may be rented for a period shorter than thirty days provided that the following performance standards are met:

- (1) The property owner shall first obtain an administrative conditional use permit from the Planning Department (See Chapter 27.33).
- (2) The number of units rented shall not exceed the allowable density for the zoning district where the property is located.
- (3) The residential dwelling unit to be utilized for short term rental shall be the primary residence of the property owner in the R-1, R-2, R-3, R-4, and R-5 zones.
- (4) The administrative conditional use permit review shall include:
 - (a) Proof of an inspection by the Building Department showing that all life safety requirements are met, including, but not limited to, smoke and carbon monoxide detectors, egress windows out of sleeping areas, handrails, hot water temperature, exposed electrical wiring, and ground faults within six feet of sinks/tubs;
 - (b) Proof of a State of Montana public accommodation license for a tourist home, which is administered by the Flathead City-County Health Department and is subject to annual inspections;
 - (c) Affirmation of the property owner that correctly states that the residential dwelling unit to be utilized as a short term rental is not subject to any covenants, conditions or restrictions of record that forbid such use of the property;
 - (d) Verification that the property is appropriately registered and meets requirements for state bed tax purposes;
 - (e) The property owner shall provide their name and phone number or of a local contact person that shall be responsible for handling any issues that arise with the property. The contact shall be available to address any issues 24 hours a day and seven days a week. The contact information shall be included in the notice sent to property owners within 150 feet as provided for in the administrative conditional use permit process; and

- (f) Each short term rental shall have access to the minimum required parking for a residential unit in the zoning district (no non-conforming status).
- (5) There shall be no signage indicating the short term rental of the property.
- (6) Prior to April 1 each calendar year, a property owner that wishes to continue to provide short term residential rentals shall submit for an annual renewal of the administrative conditional use permit, including payment of a fee equal to the administrative conditional use permit fee then in effect. The renewal shall include verification of all of the information listed under Section 27.20.095(4). Any updated contact information shall be provided to property owners within 150 feet.
- (7) Violations of the terms of the administrative conditional use permit or the provisions of this section may subject the property owner to an enforcement pursuant to the terms of this ordinance. Noise and similar issues may be enforced through the Police Department.

27.37.010: Definitions.

- (15960) **Residential.** Regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only. In situations where a dwelling is rented or leased, a residential use would involve lease periods of one month or more unless the provisions of Section 27.20.095 relating to short term residential rental standards are met.