

ORDINANCE NO. 2022-11

AN ORDINANCE OF THE CITY OF CANISTOTA, SOUTH DAKOTA, ADOPTING REGULATIONS GOVERNING SHORT TERM RENTALS BY ADOPTING AND AMENDING PROVISIONS IN THE 2020 REVISED CANISTOTA ZONING REGULATIONS.

WHEREAS, the 2020 Revised Canistota Zoning Regulations set forth zoning regulations for the City; and

WHEREAS, VRBO facilities are allowed in residential areas as conditional uses; and

WHEREAS, new technology has led to a large increase in online listing/booking services for rental of private residences to transient guests; and

WHEREAS, because of this new technology, VRBOs are becoming more widely available within Canistota, both when the homeowner(s) remains in the residence with the guests and when the guests occupy the entire residence; and

WHEREAS, in light of this expansion of such uses, in August the Council directed staff to draft an ordinance providing for City review and approval of short term rentals; and

WHEREAS, the Council now wishes to adopt regulations governing short term rentals which protect the residential character of neighborhoods while also recognizing the growing likelihood that residences are made available as lodging accommodations for a charge; and

WHEREAS, the Council wishes to regulate smaller scale VRBOs as a way to ensure that the facilities comply with state, county, and local regulations and tax requirements; and

WHEREAS, the Council wishes to adopt a permitting scheme to allow for administrative review and approval of smaller-scale VRBOs in residential and commercial zoning districts within the City; and

WHEREAS, the Council wishes to continue to require a conditional use permit for larger-scale VRBOs in residential and commercial zoning districts; and

WHEREAS, the Council believes it to be in the interest of the general health, safety, and welfare of the City and its citizens to adopt these zoning regulations which regulate VRBOs within City limits.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF CANISTOTA, SOUTH DAKOTA:

Section 1. That Chapter 3.03 of the 2020 Revised Canistota Zoning Regulations is hereby amended to include the following Conditional Use:

J. Vacation Rental By Owner (VRBO).

Section 2. That the internal lettering order of every Conditional Use in Chapter 3.03 of the Revised Canistota Zoning Regulations shall be relettered to reflect the inclusion of Section 1 of this Ordinance.

Section 3. That Chapter 4.03 of the 2020 Revised Canistota Zoning Regulations is hereby amended to include the following Conditional Use:

I. Vacation Rental By Owner (VRBO).

Section 4. That the internal lettering order of every Conditional Use in Chapter 4.03 of the Revised Canistota Zoning Regulations shall be relettered to reflect the inclusion of Section 3 of this Ordinance.

Section 5. That Chapter 5.03 of the 2020 Revised Canistota Zoning Regulations is hereby amended to include the following Conditional Use:

G. Vacation Rental By Owner (VRBO).

Section 6. That the internal lettering order of every Conditional Use in Chapter 5.03 of the Revised Canistota Zoning Regulations shall be relettered to reflect the inclusion of Section 5 of this Ordinance.

Section 7. That Chapter 9.01 of the 2020 Revised Canistota Zoning Regulations is hereby amended to include the following:

I. Vacation Rental By Owner (VRBO) properties which constitute an accessory use shall conform to the requirements of Chapter 9.14.

Section 8. That Chapter 9 of the 2020 Revised Canistota Zoning Regulations is hereby amended to include Section 9.14, which reads as follows:

9.14 Vacation Rental By Owner (VRBO)

A. These regulations are designed to set regulations and standards for persons owning or renting Vacation Rentals By Owner (VRBO) properties within the City to protect the health, safety, and welfare of the public, and to minimize the impacts of such use on neighboring properties.

- B. These requirements apply to all VRBOs, regardless of whether the VRBO is a principal land use or an accessory land use.
- C. Permit Required. It is unlawful for any person to operate a VRBO on a lot within the City without first obtaining a conditional use permit in conformance with Chapter 16. The permit required by this Chapter is in addition to any license, permit, or fee required elsewhere in this Ordinance or required by State Law. A violation of this provision is subject to a penalty of \$700.00. Each day of the violation constitutes a separate offense.
- D. Permit Application. In addition to the requirements of Chapter 16 for all conditional use permit applications, the following information shall be provided to the City Finance Officer.:
1. The owner(s) shall have received a South Dakota Vacation Home Lodging License from the South Dakota Department of Health. A copy of the license shall be provided to the City Finance Officer.
 2. A copy of the owner(s) South Dakota Sales Tax License.
 3. The name, address, and contact information for a Local Contact, if applicable. See Chapter 9.14(E)(2).
 4. The legal description and physical address of the property to be used as a VRBO.
 5. A description of the proposed use (including any outdoor use), the maximum number of rooms and occupancy available, and the anticipated dates the short term rental will be available for overnight accommodations.
 6. Any additional information requested by the City.
 7. A copy of the property's insurance coverage reflecting the endorsement for the short term rental.
- E. General Requirements. All VRBOs shall meet the following requirements:
1. The maximum occupancy allowed in a VRBO shall be no greater than two (2) persons per bedroom, plus four (4) additional persons. For purposes of this section, children aged five (5) and below are not counted as occupants.

2. Where the owner(s) do not reside within forty (45) miles driving distance of the VRBO, a Local Contact shall be designated. The Local Contact shall reside within forty (45) miles driving distance to the VRBO. The owner(s) or Local Contact, whichever is applicable, shall be responsible for responding in a reasonable time to complaints about the VRBO. This information shall be supplemented within a reasonable time upon changing the designated Local Contact. Failure to do so may result in the review of the conditional use permit pursuant to Chapter 16.
3. The owner(s) shall keep records as required by SDCL 34-18-21. The report shall be provided to the City Finance Officer upon request.
4. Occupancy of recreational vehicles (RVs), camper trailers, and tents shall not be allowed. Children under the age of thirteen (13) are allowed to “camp out” in a tent on the lot but count toward the maximum occupancy.
5. The minimum age allowed for the principal renter of a VRBO shall be twenty-one (21) years of age.
6. Quiet hours shall be from 10:00 p.m. until 7:00 a.m.
7. The maximum number of day guests allowed, not to include overnight guests, shall be double the maximum occupancy of the VRBO.
8. The use of open fires, fire pits, fireworks, charcoal burning grills, gas fired grills, or other devices shall comply with all relevant federal, state, and local laws.

F. Interior Sign Requirements. Each VRBO shall have a clearly visible and legible notice posted within the dwelling on or next to the front door, containing the following information:

1. The name of the owner(s) or Local Contact, and a telephone number at which they may be reached on a 24-hour basis;
2. The property address;
3. The maximum number of occupants permitted to stay in the dwelling;
4. The maximum number of day guests permitted to visit the dwelling;
5. The number and location of all off-street parking spaces;

6. The rules/regulations for pets and applicable leash laws;
7. The rules/regulations for open fires, fire pits, fireworks, charcoal burning grills, gas fired grills, or other similar devices;
8. The quiet hours;
9. A statement that: “Guests are expected to be courteous to all neighbors and respect property boundaries”;
10. Local emergency and law enforcement contact information; and
11. Notification that the renter and occupants are responsible for the creation of any disturbances or for violation of any other provisions of this Chapter.

G. Issuance of a License. Once an application is filed, the application will be referred to the appropriate city departments for an investigation into the applicant’s eligibility for a license. If applicant meets the requirements in this chapter, the City Council shall consider the application. At that time the City Council may issue a license unless:

1. The owner has made a false statement on the application or submits false records or documentation; or
2. The property is not in compliance with the South Dakota Department of Health.
3. The license is to be used for a business prohibited by state or local law, statute, rule, ordinance, or regulation; or
4. Any applicant or property owner has had a short term rental license revoked by the city or a lodging license revoked by the state; or
5. Any property owner of the property is overdue in payment to the city of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to any short rental property; or
6. The applicant will not be operating the business for which the license would be issued.

The city will reject any application if the limit on the number of short term rentals has been reached. If applicant requests the City Council hold a special meeting to consider the application for new license, the applicant requesting said meeting shall pay all costs associated with the meeting.

H. Maximum Licenses Available. No more than five (5) VRBOs shall be allowed to operate in the City at any given time. Any VRBOs existing at the time of the passage of this ordinance shall be considered grandfathered in if fully compliant within sixty (60) days of passage of this ordinance, including annual renewal.

I. Expiration of License and Renewal.

1. Each license shall be for a calendar year. A license holder must renew the license on an annual basis in order to continue the short term rental operation. Renewal applications shall include the following: (i) The annual application fee as contained within the Rates and Fee Schedule, which is set and amended by resolution; (ii) A copy of the current license issued by the South Dakota Department of Health; (iii) A copy of the property's insurance coverage reflecting the endorsement for the VRBO; and (iv) Contact information for the property manager or local contact individual to comply with the requirements of this Section, and to be contacted in case of complaint or emergency.
2. It may be renewed within thirty (30) days of its expiration, but if a license holder fails to renew the permit within thirty (30) days of expirations, he or she must submit a new license application. The license holder must continue to meet the license requirements to be eligible for a renewal.
3. Failure to renew a license in accordance with this section may result in additional fees. Upon expiration of the license, the city may order closure of the VRBO.
4. If a license holder has not operated a short term rental for which it holds a license in the preceding twelve (12) months, the license will not be renewed.

J. Suspension or Revocation of License. The City may suspend or revoke any VRBO license, or refuse to issue a license, for any of the following grounds:

1. Failure to adhere to applicable regulations or laws.
2. Concerns expressed to the City about the operation of the VRBO, including nuisance issues, noise complaints, safety concerns, calls for service to the sheriff's department, or similar complaints.
3. Commission of fraud or willful misrepresentation in the application for or in obtaining a license.
4. Commission, or permitting, aiding, or abetting in the commission of any unlawful act in the VRBO.
5. Any property owner is delinquent in payment to the city, county, or state

for any taxes or fees related to the VRBO.

6. The South Dakota Department of Health certificate is suspended, revoked, or not renewed or the registration certificate is expired.

K. Suspension and Revocation Process.

1. The license holder will be issued a notice of intent to suspend or revoke a VRBO license and the reasons for the suspension or revocation by first class mail to the license holder's address on record.
2. If the license holder disputes the suspension or revocation, the owner has ten (10) days from the postmark date on the notice to request a hearing before a hearing panel, which will consist of the Mayor, City Finance Officer, and City Maintenance Department Supervisor.
3. A suspension will be for thirty (30) days and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the license holder exercises its rights to process and appeal, in which case the suspension takes effect upon the final determination of suspension.
4. A revocation will be for one (1) year and begins ten (10) days after the postmark date on the notice or the date the notice is hand delivered unless the owner appeals the revocation, in which case the revocation takes effect upon the final determination of revocation.
5. Any property owner who has had a license revoked may not be issued a VRBO license for one year from the date the revocation became effective.

L. Licenses Not Transferable. A short term rental license may not be transferred to a different location or to a different property owner.

M. Penalties. Any person who operates or causes to be operated a VRBO without a valid license or in violation of this article is subject to a suit for injunction as well as prosecution for ordinance violations. Such violations are punishable by a maximum fine of \$700.00. Each day a short term rental so operates is a separate offense or violation.

Section 9. That Chapter 18.02 of the 2020 Revised Canistota Zoning Regulations is hereby amended to include the following Definition:

VACATION RENTAL BY OWNER (VRBO) – Any home, cabin, or similar building that is rented, leased, or furnished in its entirety to the public on a daily or weekly basis for more than fourteen (14) days in a calendar year and is not occupied by an owner or manager during the time of rental. See SDCL 34-18-1(17), If it is intended to be rented or released by its owner(s) to the

public for more than or equal to one hundred eighty-three (183) days per calendar year, it shall be classified as a principal use. If it is or intended to be rented or leased by its owner(s) to the public for less than one hundred eighty-three (183) days per calendar year and is the principal dwelling of its owner(s), it shall be an accessory use.

Adopted this 7th Day of November, 2022

ATTEST:

Justin Lee Engbarth, Mayor
City of Canistota

SEAL:

Kathy J. Townsend, Finance Officer
City of Canistota

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