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Otten Johnson Alert -

Denver's Much-Anticipated Short-Term Rental Regulations Take Effect July 1st

On June 13, the Denver City Council passed [new regulations](#) affecting more than 2,000 residential properties in the City currently (illegally) rented on a short-term basis through popular websites like Airbnb, VRBO, and Craigslist. The controversial regulations open the door to legitimizing many of the short-term rentals in the City through a licensing regime that requires the host to remit to the City the 10.75% lodging tax that already applies to hotels and other overnight lodging businesses. The biggest point of contention in the new regulations is the rule that requires a short-term rental to be the host's "primary residence"—meaning that an individual may not rent a so-called "income property" in Denver.

Vacation rentals are far from new to Colorado—VRBO, a popular vacation rental website short for "Vacation Rental By Owner," [started in 1995](#) when the company's founder wanted to rent his Breckenridge condo. Short-term rentals in Denver took off during the 2008 Democratic National Convention, when hotels were fully-booked and hundreds of Denverites signed up to rent their homes through Airbnb.

In the past several years, the volume of short-term rentals facilitated by sites like VRBO and Airbnb has skyrocketed coast-to-coast, and state and local governments have been playing [regulatory catch-up](#) to keep pace with advances in the "sharing economy." The [State of Florida enacted legislation](#) that prohibits local governments from banning or regulating the duration or frequency of short-term rentals after June of 2011. In 2014, the [City of San Francisco legalized the short-term rental](#) of entire units subject to certain limitations, including a cap of ninety "rented" days per year. Just last week, the [State of New York passed a bill](#) that prohibits owners from advertising entire unoccupied apartments for short-term rentals. Several [Colorado mountain towns](#), which see heavy short-term rental traffic, have already implemented new regulations governing short-term rentals, and [Aurora and Boulder passed new legislation](#) last year.

Local efforts to permit, and regulate, short-term rentals began over two years ago when City Councilwoman Mary Beth Susman formed a special committee to study the issue and recommend new regulations. Much of the debate in Denver has been led by two opposing special interest groups: the [Inter-Neighborhood Cooperation](#), which favors strict short-term rental regulations, and the [Denver Short Term Rental Alliance](#), which favors more permissive regulation. Until the new regulations passed last week, short-term rentals (defined as rentals of fewer than 30 days) were not permitted in any of the City's residential zone districts, but the law was confusing, under-enforced, and largely ignored.

Denver's new short-term rental regulations require all short-term rental hosts to be properly licensed by January 1, 2017, or face penalties of up to \$999 per incident. Hosts may apply for licenses beginning July 1 by paying a small fee (\$25 annually), and providing evidence of compliance with the following:

- The property must be the applicant's "primary residence," as documented by two of the following: motor vehicle registration; driver's license; Colorado state identification card; voter registration; tax documents; or utility bills;
- Long-term tenants may apply to become short-term rental hosts only with written permission from their landlord;
- All advertisements for short-term rentals must identify the property's license number;
- Hosts must carry liability insurance, with limits to be set by the City; and
- Short-term rental units must include a smoke detector, carbon monoxide detector, and fire extinguisher.

For those considering becoming hosts, it will be important to review the applicable jurisdiction's regulations pertaining to short-term rentals, as municipalities vary in the ways in which they regulate short-term rentals. For example, Durango has implemented spacing requirements, limiting the number of rental units permitted per block, whereas Aspen prohibits single-room rentals and requires designation of a "local representative" if the host is non-local.

In addition to regulatory requirements, certain private agreements or covenants may prohibit, or otherwise limit, a host's ability to conduct short-term rentals. For one, many private homeowner associations (HOAs) administer and enforce private covenants that expressly prohibit short-term rentals. Long-term leases may also prohibit subletting, which would include short-term rentals, or require the landlord's consent for each subletting agreement. Finally, many homeowner's insurance policies contain exceptions for any commercial use of the insured property, meaning that damage or destruction resulting from commercial activities (e.g., short-term rentals) may not be covered by a homeowner's insurance policy.

2016 summer clerk, Alex Gano, contributed to this alert.

Otten Johnson's attorneys have substantial experience with helping clients navigate business issues like those highlighted in this alert. For more information, or for help evaluating your current situation, contact any of the attorneys in the [Real Estate practice group](#).

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