



Community Planning & Permitting

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BOULDER COUNTY PLANNING COMMISSION AGENDA ITEM #2

October 19, 2022

Hybrid Public Meeting

PLANNING COMMISSION & BOARD OF COUNTY COMMISSIONERS WORK SESSION ON SHORT-TERM AND VACATION RENTALS

STAFF: Ethan Abner, Long Range Planner

Informational Item: No Action Requested by Planning Commission or Board of County Commissioners. Public comment will not be taken at this meeting. However, staff is accepting public input on the regulations and licensing program and will continue to collect comments leading up to the two-year review of the regulations.

SUMMARY

Resolution 2020-104 approving Docket DC-19-0005 (Text amendments to the Boulder County Land Use Code related to the Short-Term Dwelling Rental and Bed and Breakfast Lodging Uses) requires that “the efficacy of the Land Use Code Proposed Amendments must be reviewed within two years of adoption, but no sooner than one year following full implementation. The criteria and metrics for review must be established as part of the implementation plan.”

The regulations and Licensing Ordinance for Short-Term and Vacation Rentals became effective on February 7, 2021, and licensing began in March 2021. Shortly after licensing began, staff initiated the process of identifying and selecting a third-party vendor (Harmari) to assist with the compliance and enforcement of unpermitted and unlicensed rentals. In October 2021, Harmari training for county staff was completed and the first round of violation notices was sent out. Compliance and outreach regarding these violations began in March 2022. Project scoping and initial research for the two-year review of the regulations began in September 2022 and the review is anticipated to conclude in December 2022 or January 2023. Staff will give the Board of County Commissioners (BOCC) a presentation on the two-year review at a public hearing, at which time the BOCC could also initiate future Land Use Code text amendments and / or updates to the licensing ordinance.

During this work session staff will briefly review the land use applications for Secondary Dwelling Short-Term Rentals and Vacation Rentals that have been reviewed by Community Planning & Permitting (CP&P). This review will provide the Commissioners and Planning Commission with background on the land use review processes, types and number of reviews conducted, and trends identified (i.e., commonly occurring approval conditions) in the review dockets.

A discussion with the County Commissioners and Planning Commissioners regarding current regulations and the land use review process will follow. This discussion will focus on whether existing regulations are meeting the intent of policymakers, if the regulations provide decision-

Matt Jones County Commissioner **Claire Levy** County Commissioner **Marta Loachamin** County Commissioner

makers with sufficient guidance to make decisions, and if existing levels of review are appropriate based on their experience thus far. Staff will also gather similar information over the next month or so from the public to include in the final report and presentation to the BOCC.

BACKGROUND

On July 2, 2019, the BOCC authorized Community Planning & Permitting staff to pursue text amendments to the Short-Term Dwelling Rental and Bed and Breakfast Provisions in the Boulder County Land Use Code. Resolution 2020-104, a resolution approving Boulder County Land Use Docket DC-19-0005: Text amendments to the Boulder County Land Use Code related to the Short-Term Dwelling Rental and Bed and Breakfast Lodging Uses, was approved by the BOCC on January 5th, 2021.

The regulations were updated to respond to evolving conditions, improve enforcement mechanisms, and address housing and public needs. Information provided in the staff packet for DC-19-0005 noted that:

“These provisions need an update considering the prolific growth of short-term rentals and how the impacts of that growth could benefit or burden the county. Staff has heard consistent input from county residents that the existing regulations do not adequately address the impacts of short-term rentals. Staff are particularly concerned about balancing the benefits and burdens of Short-Term Dwelling Rentals, maintaining housing stock and housing affordability, better addressing impacts of the use, and more effective enforcement of Short-Term Dwelling Rental regulations. Moreover, best planning and land use regulations practices regarding short-term rentals have evolved since 2008 [the year the initial regulations were created].”

The goals of the 2019 text amendments were to prevent loss of housing stock and increase housing affordability, balance the benefits and burdens of short-term rentals on the community, and improve enforcement mechanisms. The goals and objectives established by staff were in accordance with the Boulder County Comprehensive Plan, specifically:

- **Economics Element Section 1.04 Tourism and Recreation:** “Boulder County acknowledges and values the tourism and recreation industries for the diversity and vitality they bring to the local economy. The county seeks to provide opportunities for these industries to thrive without placing an undue burden on the county’s resources or compromising its rural character.”
- **Housing Element Section 3.06 Prioritize Housing for Residents:** “The county prioritizes preserving housing units for Boulder County residents and workers and their families and limits visitor- and tourism-serving uses such as short-term rentals. The county evaluates applications for tourism-serving uses based on safety for visitors and county residents in addition to compatibility with neighborhood character.”

The 2019 text amendments differentiated short-term rentals into three different categories:

1. **Primary Dwelling Short-Term Rentals:** A single-family dwelling unit offering transient lodging accommodations to a single booking party at a time within that dwelling unit for a rental duration of fewer than 30 days where the dwelling unit is the primary residence of the owner. This type of short-term rental is permitted by right in all districts.
2. **Secondary Dwelling Short-Term Rentals:** A single-family dwelling unit offering transient lodging accommodations to a single booking party at a time within that dwelling unit for a

rental duration of fewer than 30 days where the dwelling unit is not the primary residence of the owner, is rented 60 days per year or less, and is rented with a two-night stay minimum. This type of short-term rental is permitted by Limited Impact Special Use Review in all districts.

3. Vacation Rental: A single-family dwelling unit offering transient lodging accommodations to a single booking party at a time within that dwelling unit for a rental duration of fewer than 30 days where the dwelling unit is not the primary residence of the owner and is rented more than 60 days per year. This type of short-term rental is permitted:
 - a. By Special Use Review in F, A, RR, and MI, provided the property is less than 5 acres in size and on unsubdivided land.
 - b. By Limited Impact Special Use Review in F, A, RR, and MI, provided the property is greater than 5 acres in size and on unsubdivided land.
 - c. By Limited Impact Special Use Review in B, C, LI, and GI.

To date, 20 Secondary Dwelling Short-Term or Vacation Rentals have initiated a land use review application. Of these applications, 13 were Special Use Reviews for Vacation Rentals, 4 were Limited Impact Special Use Reviews for Vacation Rentals, and 3 were Limited Impact Special Use Reviews for Secondary Dwelling Short-Term Rentals. Additionally, 41 licenses for Primary Dwelling Short-Term Rentals, 1 license for a Secondary Dwelling Short-Term Rental, and 8 Vacation Rental licenses have been issued.

Of the 20 land use review applications that have been initiated, staff reviewed 14. These 14 applications were selected for review because they had advanced through most of the land use review process and had been considered and approved by the Planning Commission and Board of County Commissioners. The other 6 applications were excluded from review at this time because they had not completed enough of the land use review process to allow staff to identify trends. This review has allowed staff to identify trends and preliminary observations for consideration are included below:

- The BOCC and Planning Commission conditions of approval for number of guests, minimum-night rental (i.e., 2-night minimum), and total number of nights allowed for rental units per year does not vary from staff recommendations. When we do see variance, it occurs earlier on in the process during staff review and generally results in a reduced number of guests and / or total number of nights allowed for rental units per year. Typically, the number of guests is reduced due to insufficient onsite parking or to accommodate the size of the onsite wastewater treatment systems. A reduction in the total number of nights allowed for rental units per year is often applied to mitigate impacts to neighborhood character.
- Agencies consulted during the agency referral process varies depending on application; however, in most cases referral responses are only received from the development review team (CP&P), access and engineering team (CP&P), Boulder County Public Health, Building Safety & Inspections (CP&P), Wildfire Partners, and Parks and Open Space.
- During the referral process adjacent property owners (APOs) are also notified of the application and land use review. In most cases, a limited number of APOs respond with comments or attend the public hearings for these applications. Concerns regarding specific Secondary Dwelling Short-Term Rentals and Vacation Rentals applications tend to align with those broadly expressed by the public when the text amendment was drafted. These include—but are not limited to—concerns about noise, public safety, natural hazards, travel impacts, and environmental impacts. Support for specific applications also tends to align with public support for short-term rentals expressed during the text amendment process (i.e., benefits to tourism and local economy).

- Common conditions for approval recommended by staff and adopted by the Planning Commission and BOCC include:
 - The completion of a development agreement prior to issuance of license or permits (required by the review process);
 - Applicant must maintain valid Boulder County rental license;
 - The property may not be marketed or used for weddings, receptions, or similar public/private events;
 - Rental is approved for X number of nights per year (i.e., no more than 180 nights per year);
 - Minimum rental period of X nights (i.e., 2-night minimum rental);
 - Maximum occupancy for rentals is X number of guests;
 - On-site parking equivalent to sleeping rooms must be provided, plus one space for a local manager;
 - Wildfire Partners Certificate must be obtained prior to rental, evacuation information must be displayed, and outdoor fires are prohibited;
 - Life-safety inspection is required by Boulder County Building Safety & Inspections;
 - Access Improvement and Maintenance Agreement must be signed prior to the issuance of a license;
 - Other application specific conditions, such as identifying emergency access and turnarounds and ensuring they remain clear of obstruction, are included as necessary.
- Staff is analyzing the land use review processes and licensing requirements to determine where they might be duplicative

Since Planning Commission and the BOCC are participants in the review process, staff is interested in understanding their perspective. The work session will include a discussion about the existing process. Some questions that will be considered during this discussion include:

- Are existing regulations accomplishing our policy goals and meeting the intent of policymakers?
 - Are the regulations accomplishing the policies and goals of the Boulder County Comprehensive Plan?
- Do Commissioners' have sufficient guidance to make decisions regarding these applications?
- As a decision-maker responsible for implementing policy, are there any specific issues related to these applications that resonate with you?
- Are existing land use reviews (e.g., Limited Impact Special Use Review and Special Use Review) appropriate for these applications?
- Are the number of short-term rentals being permitted to low, to high, or just right?
- As a policymaker, what have you heard from the public regarding this process?
- What additional information or research would you like to see included in the final report?