

~~October 13, 2020~~

ORDINANCE NO. ~~2021-X-2020-01~~

AN ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF BOULDER FOR THE LICENSING OF SHORT-TERM DWELLING RENTALS AND VACATION RENTALS WITHIN THE UNINCORPORATED AREA OF BOULDER COUNTY

RECITALS

- A. Boards of County Commissioners are empowered by C.R.S. § 30-15-401(1)(s) to “license and regulate” the short-term rental of residential Dwelling Units and to “fix the fees, terms, and manner for issuing and revoking licenses”; and
- B. The use of residential Dwelling Units as ~~a short-term rental~~rentals has grown drastically in the past decade; and
- C. The short-term rental of residential ~~Dwellings~~Dwelling Units can benefit communities by offering supplemental income to property owners, supporting the local economy through tourism and agri-tourism, creating local job opportunities, and fostering community between the short-term rental hosts and renters; and
- D. Studies and reports have concluded that short-term rental of residential property creates adverse impacts to the health, safety, and welfare of communities, including an increase in housing costs and depletion of residential housing opportunities for persons seeking full-time accommodations; and
- E. Boulder County has received numerous comments expressing concern about how the short-term rental of Dwelling Units might impact housing stock and the residential and rural character of Boulder County; and
- F. Boulder 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” as outlined in the Boulder County Comprehensive Plan Section 3.06; and
- G. This Ordinance intends to: (1) facilitate safe short-term rental of residential Dwelling Units in a way that balances the benefits and burdens on the local community; (2) preserve existing housing stock and protect housing affordability; (3) track, manage, and enforce violations of this Ordinance; and (4) protect the health, safety, and welfare of the public; and
- H. Cities and towns within the county may consent to have this ordinance apply within their boundaries, as provided in C.R.S §30-15-401(8).

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF BOULDER AS FOLLOWS:

Section 1: Definitions

- A. The definitions found in the Boulder County Land Use Code will apply to this Ordinance, except the following words, terms, and phrases will have the following meanings:
 - 1. Director: The Director of the Boulder County Community Planning & Permitting Department, or the Director’s designee.
 - 2. License: A Short-Term Rental License or Vacation Rental License issued pursuant to this Ordinance.
 - 3. Licensee: The person or legal entity who is issued the License.
 - 4. Licensed Premises: The parcel or lot on which the Short-Term Rental or Vacation Rental is located.

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5. Major Offense: Any violations of this Ordinance that endanger the health, safety, or welfare of the public, as determined by the Director.
6. Minor Offense: Any violations of this Ordinance that are procedural or do not endanger the health, safety, or welfare of the public, as determined by the Director.
7. On-Site: Contiguous parcels or lots under the same ownership and control as the Licensed Premises.
8. Primary Residence: The Dwelling Unit in which a person resides for more than six (6) months out of each calendar year. ~~When a person resides in the Dwelling Unit for more than six months out of the calendar year, the Dwelling Unit is~~ A Dwelling Unit is presumed to not be a Primary Residence if (1) the entire unit is offered and available for rent for more than twenty days in any month; (2) the person's spouse or domestic partner has a different Primary Residence; or (3) the person's driver's license, voter registration or any dependent's school registration shows a different residence address. These presumptions are rebuttable, but each must be rebutted by credible evidence from the party claiming that the dwelling is a Primary Residence.
9. Short-Term Rental: Includes Primary Dwelling Short-Term Rentals and Secondary Dwelling Short-Term Rentals, as defined in the Boulder County Land Use Code.
10. Sleeping Room: Any rooms or areas within the Licensed Dwelling Unit that are intended to be used as a sleeping place for guests.
11. Vacation Rental: Defined in the Boulder County Land Use Code.

Section 2: License Required

- A. Local License Required. It is a violation of this Ordinance to operate a Short-Term Rental or Vacation Rental within the unincorporated area of Boulder County, Colorado, or any municipality which consents to the application of this ordinance within its jurisdiction, without a current Short-Term Rental License or Vacation Rental License.
- B. A property which is deed-restricted as affordable housing is not eligible for a License.
- C. Only one License of any type (Short-Term Rental License or Vacation Rental License) may be issued to each person and any legal entities associated with that person, including trusts, corporations, estates, or associations.

Section 3: Licenses

- A. Short-Term Rental License and Vacation Rental License: The Director is authorized to issue a Short-Term Rental License or a Vacation Rental License under the terms and conditions of this Ordinance. Licensees remain subject to all other federal, state, or local law requirements including the Boulder County Land Use Code.

Section 4: Licensing Procedure

- A. An application for a License must include:
 1. Application Form. Applicant must designate all agents, exhibit all property owner and Local Manager signatures, and have all necessary information completed.
 2. Proof of Insurance. Applicant must demonstrate that ~~property~~ the proposed Licensed Premises is covered by appropriate insurance in the form of a property owner (HO-3) policy, dwelling fire (HO-5), or unit owner's policy (HO-6), which covers a rental exposure, with adequate liability and property insurance limits that must at a minimum insure liability at \$500,000.

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3. Proof of Primary Residence, if applicable. The applicant must demonstrate that the Dwelling Unit is the property owner's Primary Residence by presenting a Colorado state-issued driver's license or Colorado state-issued identification card and at least one of the following documents:
 - a. Voter Registration;
 - b. Motor Vehicle Registration;
 - c. Income Tax Return with address listed; or
 - d. Any other legal documentation deemed sufficient by the Director, which is pertinent to establishing the property owner's Primary Residence.
 4. Proof of Ownership. Applicant must demonstrate ownership of the Licensed Premises by including a copy of the current deed.
 5. Parking Plan. Applicant must demonstrate compliance with the applicable Boulder County Land Use Code and Boulder County Multimodal Transportation Standards for On-site parking.
 6. Floor Plan. The floor plan must show locations within the Dwelling Unit of all smoke detectors, fire extinguishers, and carbon monoxide detectors, as well as locations of Sleeping Rooms and egress, as required under Section 5 of this Ordinance and the applicable Building Code.
 7. Proof of Land Use Approvals. For Secondary Dwelling Short-Term Rentals and Vacation Rentals, documentation demonstrating that the applicant has obtained the required approvals under the Boulder County Land Use Code.
 8. List of Adjacent Owners. Names, physical addresses, mailing addresses, and additional contact information (if known) for owners of all immediately adjacent parcels.
 9. Payment. Payment of all applicable License fees.
 10. Property Taxes. For Vacation Rentals and Secondary Dwelling Short-Term Rentals, proof ~~that~~ property taxes have been paid to date.
 11. Sales Tax License. All Licensees will be required to remit all applicable taxes for the Licensed Premises, including state and local sales and use taxes. ~~Applicants~~ Applicant must provide one of the following:
 - a. An individual sales tax license number issued to the Licensee or Local Manager from the State of Colorado Department of Revenue; OR
 - b. Proof that the only platforms used to advertise and book the Licensed Premises remit taxes on behalf of the Licensee. Licensees may not advertise or book on web platforms that do not remit taxes on behalf of the Licensee without an individual sales tax license number.
- B. The applicant's failure to timely provide any requested information may be grounds for denial of the application.
- C. The Director may refer the application to additional agencies or departments. On properties over which a Boulder County conservation easement has been granted, the Director will refer the application to the easement holder.
- D. Notice. For Short-Term Rental Licenses for Primary Dwelling Short-Term Rentals, Boulder County will provide notification by U.S. Mail, first-class postage or email to all owners of immediately adjacent parcels when the License is issued by the Director.

Section 5: Licensing Requirements

- A. Before issuing a License, the Director must determine that the applicant has met following requirements:

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1. Land Use Approval. The applicant complied with all Boulder County Land Use Code requirements, as applicable.
2. Building Inspection. The Chief Building Official or the Chief Building Official's designee determined the following from an inspection:
 - a. For all Licensed Premises:
 - i. The Dwelling Unit to be rented contains:
 - (1) Operable fire extinguishers in each Sleeping Room and in the kitchen, or an Automatic Residential Fire Sprinkler System.
 - (2) Operable smoke detectors:
 - a. In each Sleeping Room;
 - b. Outside each guest sleeping area in the immediate vicinity of the Sleeping Rooms; and
 - c. On each additional story of the Dwelling Unit including basements and habitable attics.
 - (3) A UL 2075 compliant carbon monoxide detector installed outside of each separate guest sleeping area in the immediate vicinity of the Sleeping Rooms in the Dwelling Unit.
 - ii. The Dwelling Unit is served by water supplies that are in conformance with the regulations and requirements of the Boulder County Public Health Department, Colorado Department of Public Health and Environment, and the Colorado Division of Water Resources.
 - iii. Sleeping Rooms must be legally existing.
 - (1) Sleeping Rooms built prior to 1976 must have code conforming Emergency Escape and Rescue Openings.
 - iv. The Dwelling Unit has no observable structural defects;
 - v. Any plumbing, electrical, and heating and cooling systems in the Dwelling Unit are in a good state of repair; and
 - vi. Nothing on the Licensed Premises or in the Dwelling Unit pose a significant risk to the health, safety, or welfare of the occupants or surrounding properties.
 - b. For Vacation Rentals:
 - i. No unapproved uses, unpermitted uses, or unpermitted work exist on the Licensed Premises.
3. Wildfire Mitigation within Wildfire Zone 1. The Wildfire Mitigation Team or the Wildfire Mitigation Team's designee has verified the following:
 - a. For Short-Term Rental Licenses:
 - i. The Wildfire Mitigation Team completed a Wildfire Partners Assessment for the Licensed Premises; and
 - ii. Upon the first renewal, the Licensed Premises is Wildfire Partners Certified.
 - b. For Vacation Rental Licenses:
 - i. The Licensed Premises is Wildfire Partners Certified.
4. Parking and Access. The County Engineer or the County Engineer's designee has determined that the proposed Licensed Premises has satisfactory vehicular access and On-site parking facilities pursuant to the Boulder County Multimodal Transportation Standards and the Boulder County Land Use Code. The County Engineer or the County

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Engineer's designee has further determined that the applicant has suitably mitigated any traffic hazards associated with the proposed use.

5. Sewage Disposal. The Public Health Director or the Public Health Director's designee has determined that the proposed Licensed Premises has all required on-site wastewater treatment system permits or is otherwise adequately served by public sewer. Existing systems do not need to be repaired or replaced unless required by Boulder County Public Health.
6. Building Lot. Verification that the Licensed Premises is a legal building lot under the Boulder County Land Use Code.

Section 6: Licensee Operating Standards and Requirements

A. All Licenses:

1. Occupancy Limit. Two adults per Sleeping Room with a maximum of eight individuals, or the occupancy limit of the permitted and approved on-site wastewater treatment system, whichever is fewer.
2. Guest Information. In the rented Dwelling Unit, the Licensee must provide the following documents to all guests:
 - i. Septic Safety information sheet provided by the county, if applicable;
 - ii. Wildlife Safety information sheet provided by the county, if applicable;
 - iii. Wildfire Safety information sheet provided by the county, if applicable;
 - iv. Local Fire restrictions, if applicable, and evacuation routes in the event of a fire or emergency;
 - v. Floor plan posted in a conspicuous location with fire exit routes for the Dwelling Unit;
 - vi. Good Neighbor Guidelines provided by the county;
 - vii. A map clearly delineating guest parking and the Licensed Premises boundaries;
 - viii. Contact information for the Local Manager and Licensee;
 - ix. Trash and recycling schedule and information;
 - x. An indoor radon gas testing report including the indoor radon gas testing results issued by a certified Radon Measurement Provider for the Licensed Premises; ~~indoor~~. Indoor radon gas testing results shall be less than 5 years old and must be performed by a National Radon Proficiency Program (NRPP) or National Radon Safety Board (NRSB) certified Radon Measurement Provider. The Licensed Premises shall be retested for indoor radon gas every 5 years, and the most recent indoor radon gas testing report including the indoor radon gas testing results must be provided to guests.
 - xi. For Vacation Rentals: A HERS Certificate or Energy Audit must be completed for the ~~home~~Dwelling Unit by 2022 and thereafter, a copy must be provided to guests.
3. Outdoor Fires. If permitted under ~~house/FPD/HOA~~Licensed Premises, Local Fire Protection District, and Homeowner's Association rules, and not prohibited by local or state fire bans ~~—may only, outdoor fires must be built in~~limited to fire rings, stoves, grills, or fireplaces provided for that purpose.
4. Local Manager. Every Licensed ~~Premise~~Premises must have ~~an emergency contact~~a local manager available to manage the Licensed Premises during any period when the Licensed Premises are occupied as a Short-Term Rental or Vacation Rental. The

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~~contact~~manager must be able to respond to a renter or complainant within one (1) hour in person. The ~~contact~~manager may be the owner if the owner meets the above criteria. The local manager's name and contact information must be on file with the Director. The Licensee must report any change in the ~~emergency contact~~local manager to the Director as soon as practicable.

5. Signs. The Licensed Premises must comply with the signage requirements in Article 13 of the Boulder County Land Use Code.
6. Posting of License. The Licensee must provide a copy of the License to immediately adjacent neighbors and post the License in a prominent location outside of the Dwelling Unit for both guests and neighbors to see.
7. Advertisement. All advertisements and listings of the Licensed Premises must include:
 - i. The local License number;
 - ii. The approved occupancy limit; and
 - iii. The minimum night stay, if applicable.
8. Compliance with anti-discrimination laws. No Licensee may discriminate against any guest or potential guest, because of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, or source of income.

Section 7: Inspection

- A. By signing and submitting a License application, the owner of the Short-Term Rental or Vacation Rental certifies that the Licensee has received permission from the property owner to allow inspections as may be required under this Ordinance. The ~~owners authorize~~owner authorizes the Director to enter upon and inspect the Licensed Premises. This section will not limit any inspection authorized under other provision of law or regulation. The Director will inspect the Short-Term Rental or Vacation Rental for compliance with the requirements of this Ordinance and any applicable conditions of approval prior to the initial License and at each renewal. The owner further authorizes inspections in response to complaints of violations as further specified in Section 12.

Section 8: Decision and Appeal

- A. Decision. Once the Director has completed a review of the application, the Director must either issue a License or issue a denial letter that specifies the reasons for denial.
- B. Appeal. Within ten days of any decision by the Director, the applicant or the Licensee may provide a written response by submitting a letter to the Director clearly stating its position. In response, the Director may make a final decision, request additional information, or conduct additional investigation prior to issuing a final decision. A final decision is appealable under Colorado Rule of Civil Procedure 106(a)(4). A Licensee may continue to operate during the pendency of an appeal. The Director may grant extensions of deadlines under this Article for good cause shown.

Section 9: Changes to an Issued License

- A. A Licensee must submit any proposal to change an issued License under this Ordinance to the Director. The proposal may be subject to the requirements under Section 4, up to and including re-application.

Section 10: Term of License or Permit; Renewal

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- A. Term of License. Short-Term Rental Licenses and Vacation Rental Licenses will be valid for a period of two years (the License Period). A License will expire on the expiration date if the Licensee fails to submit a renewal Application prior to the expiration date of a License.
- B. Renewal of License. Before renewing a License, the Director must determine that the following requirements have been met:
 - 1. The Licensee has submitted an Application with the requirements listed in Section 4 above, at least 45 days before the expiration of the License. If the Licensee has not met the requirements 45 days before the expiration of the License, the application will be subject to the application fees for a new license.
 - 2. No violations of this Ordinance exist on the Licensed Premises. Renewal of any License is subject to the laws and regulations effective at the time of renewal, which may be different than the regulations in place when the Director issued the prior License.

Section 11: License Non-Transferrable

- A. No License granted pursuant to this Ordinance is transferable from one person to another or from one location to another. Any change of ownership of the Licensed Premises must be reported to the Director within 30 days of the transfer of ownership.

Section 12: Violations

- A. Each act in violation of this Ordinance is considered a separate offense. Each calendar day that a violation exists may also be considered a separate offense under this Ordinance.
- B. The Director is authorized to suspend or revoke a License and assess administrative penalties for any violation of this Ordinance.
- C. Determination of a Violation:
 - 1. The Director may investigate any complaints of violations of this Ordinance.
 - 2. If the Director discovers a violation of this Ordinance, the Director may charge the violator for the actual cost to the County of any follow-up inspections and testing to determine if the violation has been remedied.
 - 3. When the Director has reasonable cause to believe that a violation of this Ordinance exists on a premises, and that entry onto the premises is necessary to verify the violation, the Director shall make a reasonable effort to contact the Licensee, Property Owner, or Local Manager and request consent to enter and inspect the Licensed Premises. If the Licensee, Property Owner, or Local Manager cannot be contacted or if entry is refused, the Director may impose penalties or revoke the License.
- E. Issuance of Notice of Violation:
 - 1. Determination of Violation. If the Director determines that one or more violations of this Ordinance exists, the Director must provide notice of all the violations to the property owner by U.S. Mail, first-class postage or via email, a minimum of 30 days prior to the Director taking further action to impose penalties or to revoke the License.
 - 2. Stop Renting Order. If the violation involves an immediate threat of health and safety, the Director may, in writing sent to or posted in a conspicuous place on the Licensed Premises, order that all rental activity on the Licensed Premises cease until further notice from the Director. It shall be unlawful for any person to fail to comply with a Stop Renting Order.
 - 3. If violations of this Ordinance have not been resolved, or satisfactory progress towards resolution has not been made within a reasonable timeframe, the Director may impose

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an administrative fine, task law enforcement personnel with using the Penalty Assessment Procedure described in C.R.S. § 16-2-201 for violations of this Ordinance, or seek injunctive relief.

F. Penalties for Violations

1. Minor Offenses:

- i. First Offense during License Period: \$150 fine
- ii. Second Offense during License Period: \$500 fine
- iii. Third Offense during License Period: \$1,000 fine and one-year suspension of the License.

2. Major Offenses:

- i. First Offense during License Period: \$750 fine
- ii. Second Offense during License Period: \$1,000 fine and one-year suspension of the License.

G. Appeal of Determination of Violation

1. Hearing Before the Board of County Commissioners. If the Licensee files a written appeal with the Board of County Commissioners of the Director's ~~determination regarding the~~ Determination of Violation, issuance or the amount of a fine, or other penalty for ~~the~~ violation, within 10 days of the imposition of any fine or a written order suspending or revoking a License, the Board will schedule a hearing on the appeal, of which the Licensee will receive reasonable prior notice. The Board, based on the evidence in the record, may reverse or confirm the Director's determination whether a violation occurred. In addition, based on the evidence in the record, the Board may reverse, confirm, or adjust any remedy or penalty imposed by the Director. The Board, in its discretion, may also give the Licensee additional time to correct the violation(s), or may specify other means of correcting the violation(s) at the Licensee's expense. The Board's determination is a final decision appealable under ~~appealable under~~ Colorado Rule of Civil Procedure 106(a)(4).

Section 13: Fees as adopted in the Planning Review Fee Schedule

Section 14: Severability/Savings Clause

- A. If any provision of this Ordinance is found to be invalid by a court of competent jurisdiction, only the provision subject to the court decision must be repealed or amended. All other provisions must remain in full force and effect.

Section 15: Effective Date

- A. This Ordinance will be effective 30 days after publication following adoption on the second reading.