

ORDINANCE NO. 2021-X

AN ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF BOULDER FOR THE LICENSING OF SHORT-TERM 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 an owner or owner’s agent who rents or advertises the owner’s lodging unit for a short-term stay, and to fix the fees, terms, and manner for issuing and revoking licenses; and
- B. Studies and reports have concluded that short-term rental of residential property creates adverse impacts to the health, safety, and welfare of communities, including increase in housing costs and depletion of residential housing opportunities for persons seeking full-time accommodations; and
- C. Boulder County has received numerous comments expressing the desire to preserve the residential character of neighborhoods and concern over how short-term rental of residential property may diminish neighborhood character and housing stock; and
- D. 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
- E. This Ordinance intends to: (1) facilitate safe short-term rental of residential property in a way that protects the integrity of neighborhood character; (2) preserve existing housing stock; (3) track, manage, and enforce violations of this Ordinance; and (4) protect the health, safety, and welfare of the public; and
- F. 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. Licensed Premises: The parcel or lot on which the Short-Term Rental or Vacation Rental is located.
 4. Major Offense: Any violations of this Ordinance that actively, or have the potential to endanger, the health, safety, or welfare of the public.
 5. Minor Offense: Any violations of this Ordinance that are procedural or do not actively, or have the potential to endanger the health, safety, or welfare of the public.
 6. On-Site: Contiguous parcels or lots under the same ownership and control as the Licensed Premises.

7. Primary Residence: The dwelling unit in which a person resides for more than six (6) months out of each calendar year. However, it is presumed that the dwelling unit is not 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.
8. Short-Term Rental: Includes Primary Residential Accessory Short-Term Rentals and Secondary Accessory Short-Term Rentals, as 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 Short-Term Rental License or a Vacation Rental 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 Short-Term Rental License or Vacation Rental License must include:
 1. Application Form. The applicant must designate all agents, exhibit all property owner signatures, and have all necessary information completed.
 2. Proof of Insurance. The applicant must demonstrate that the property owner has procured 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.
 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 guest 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 guest rooms and egress, as required under the Boulder County Land Use Code and applicable Building Code.
 7. Proof of Land Use Approvals. For Secondary Accessory 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.
- B. The Applicant’s failure to provide any requested information by requested deadlines may be grounds for denial of the application.
- C. The Director may refer the application to additional agencies or departments.
- D. For Short-Term Rental Licenses for Primary Residence Short-Term Rentals, Boulder County will provide notification by U.S. Mail, first-class postage or email to all owners of immediately adjacent parcels a minimum of 14 days prior to the license being issued by the Director.

Section 5: Licensing Requirements

- A. Before issuing a License, the Director must determine that the applicant has met following requirements:
1. Land Use Approval. The applicant has 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 has determined the following:
 - a. For all Licensed Premises:
 - i. The dwelling unit to be rented must contain:
 - (1) Operable fire extinguishers in each guest room and in the kitchen;
 - (2) Operable smoke detectors:
 - a. In each guest room;
 - b. Outside each guest sleeping area in the immediate vicinity of the guest 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 guest rooms in the dwelling unit.
 - ii. The dwelling unit is served by an adequate potable water supply.
 - b. For Short-Term Rental Licenses:
 - i. The dwelling unit has no observable structural defects; and
 - ii. Any plumbing, electrical, and heating and cooling systems are in a good state of repair; and

- iii. Nothing on the Licensed Premises or in the dwelling unit pose a significant risk to health, safety, or welfare of the occupants or surrounding properties.
- c. For Vacation Rental Licenses:
 - i. The dwelling unit to be rented must be legally existing or have been constructed under a valid building permit; and
 - ii. Received a Certificate of Occupancy or final inspection approval; and
 - iii. Must meet the applicable Building Code as required when the dwelling unit was constructed or when upgrades to the structure subject to a Building Permit were made; and
 - iv. No unapproved uses, unpermitted uses, or unpermitted work exist on the Licensed Premises. All previously unpermitted work must be permitted; and
 - v. Nothing on the Licensed Premises or in the dwelling unit pose a significant risk to health, safety, or welfare of the occupants or surrounding properties
- 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. A Wildfire Partners Assessment for the Licensed Premises has been completed; and
 - ii. Any mitigation efforts the assessment deemed necessary for the health, safety, and welfare of the occupants or surrounding properties have been completed; and
 - iii. Upon the first renewal, the property 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 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 have 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. Property Taxes. For Vacation Rentals and Secondary Accessory Short-Term Rentals, the property taxes have been paid.
- 7. Sales Tax License. The property owner or manager must provide a current sales tax license for the short-term rental issued by the Colorado Department of Revenue.
- 8. 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:

9. Occupancy Limit. Two adults per legal conforming guest room with a maximum of eight individuals, unless otherwise allowed through the applicable Land Use Code approval process.
 - a. For Licensed Premises with an on-site wastewater treatment system, the occupancy limit may be reduced based on the size of the permitted and approved system.
10. Guest Information. In the rented dwelling unit, the licensee must provide the following documents to all guests:
 - a. Septic Safety information sheet provided by the county, if applicable;
 - b. Wildlife Safety information sheet provided by the county, if applicable;
 - c. Wildfire Safety information sheet provided by the county, if applicable;
 - d. Fire restrictions and evacuation routes in the event of a fire or emergency;
 - e. Good Neighbor Guidelines provided by the county;
 - f. A map clearly delineating guest parking and property boundaries;
 - g. Contact information for the Local Manager and Licensee; and
 - h. Trash and recycling schedule and information.
11. Local Manager. Every Licensed Premise must have an emergency contact available to manage the property during any period when the property is occupied as a Short-Term Rental or Vacation Rental. The contact must be able to respond to a renter or complainant within one (1) hour in person. The contact may be the owner if the owner meets the above criteria. The name and contact information must be on file with the Director. The licensee must report any change in the emergency contact must be reported to the Director as soon as practicable.
12. Signs. The Licensed Premises must comply with the signage requirements in Article 13 of the Boulder County Land Use Code.
13. Posting of License. The licensee must provide a copy of the Short-Term Rental License or Vacation Rental License to immediately adjacent neighbors and post the license in a prominent location on the rental for both guests and neighbors to see.
14. Advertisement. All advertisements and listings of the Licensed Premises must include:
 - a. The local license number;
 - b. The approved occupancy limit; and
 - c. The minimum night stay, if applicable.
15. 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 Applicant has received permission from the property owner to allow inspections as may be required under this Ordinance. The owners authorize 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, the Land Use Code, 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 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, or withdraw License. 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

- A. Term of License. Short-Term Rental Licenses and Vacation Rental Licenses will be valid for a period of two (2) 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 all of the following requirements have been met:
 - 1. The Applicant has submitted an Application with all the requirements as outlined in Section 4 above, at least 45 days before the expiration of the License. If the applicant has not met all of 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 (1) person to another or from one (1) 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 of 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 is likely to exist on a premises, and that entry onto the premises is necessary to verify the violation, the Director shall first make a reasonable effort to contact the property owner or local manager, and request consent to enter and inspect the premises. If the 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. If the Director determines that one or more violations of this Ordinance exists, notice of all applicable violations must be given 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. If violations of this Ordinance have not been resolved, or satisfactory progress towards resolution has not been made within 30 days, the Director may impose 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.
 3. No enforcement action for a violation of this Ordinance will be taken more than one (1) calendar year after the date on which said violation occurred.
- F. Penalties for Violations:
1. Minor Offenses:
 - a. First Offense during License Period: \$150 fine
 - b. Second Offense during License Period: \$500 fine
 - c. Third Offense during License Period: \$1,000 fine and one (1) year suspension of the License.
 2. Major Offenses:
 - a. First Offense during License Period: \$750 fine
 - b. Second Offense during License Period: \$1,000 fine and one (1) year suspension of the License.

Section 12: Fee Structure:

- A. Application Fee:
- a. For Short-Term Rental Licenses: \$200
 - b. For Vacation Rental Licenses: \$800
- B. Renewal Fee:
- a. For Short-Term Rental Licenses: \$150
 - b. For Vacation Rental Licenses: \$600

Section 13: 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 14: Effective Date

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