



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306
303-441-3930 • www.BoulderCounty.gov

BOULDER COUNTY BOARD OF COUNTY COMMISSIONERS

January 17, 2023 at 1:00 p.m.

All Commissioners' public hearings and meetings will be offered in a hybrid format where attendees can join through **Zoom** or **in-person** at the Boulder County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder.

PUBLIC HEARING with PUBLIC TESTIMONY

STAFF: Kathy Gissel, Permit & Licensing Operations Manager
Martin Laws, Planning Manager for Code Compliance & Public Information
Ethan Abner, Long Range Planner I

Short-Term Rental and Vacation Rental: Two-Year Review

Two-year review of the Short-Term Rental and Vacation Rental Regulations and Licensing Ordinance, as required by 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.

Action Requested: Discussion and direction for staff, which may include authorization to pursue amendments to the Licensing Ordinance and the Land Use Code related to Primary Dwelling Short-Term Rental, Secondary Dwelling Short-Term Rental and Vacation Rental uses and other Code changes necessary to integrate the changes.

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INTRODUCTION

On July 2, 2019, the Board of County Commissioners (BOCC) authorized Community Planning & Permitting Department (CPP) staff to draft amendments to the Boulder County Land Use Code (Land Use Code) text and develop a licensing ordinance. The Land Use Code text amendments and licensing ordinance for Short-Term and Vacation Rentals were adopted by the BOCC on January 5, 2021 and became effective on February 7, 2021. Licensing for Short-Term Rentals and Vacation Rentals began 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, county staff completed Harmari training and the first batch of potential violations was sent to the county by Hamari. Compliance and outreach regarding these violations began in March 2022, after being delayed due to Marshall Fire response.

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.” Project scoping and initial research for this two-year review began in September 2022 and will conclude in January 2023.

In accordance with Resolution 2020-104, staff have established criteria and metrics as part of this review process. Throughout the review staff conducted background research, considered similar regulations, examined quantitative and qualitative data related to land use reviews, licensing, and enforcement, analyzed existing processes, held a joint working session with the BOCC and Planning Commission (PC), and moderated a public listening session about short-term rentals. Based on staffs’ review, the following topics have been identified for discussion:

- Length of current land use review processes;
- Consideration of alternative regulations and a review of other jurisdictions in Colorado;
- Research on short-term rentals and impacts to housing stock and housing affordability;
- Data on housing and short-term rentals in Boulder County;
- Licensing, Code Compliance, and Enforcement;

BACKGROUND

The 2019 short-term rental regulations update was intended to respond to evolving conditions, ensure a consistent level of public safety at all rentals, improve enforcement mechanisms, and address housing impacts and public concerns about how these uses impact the community. 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 licensing ordinance, which passed concurrently with the text amendments, was designed to ensure that short-term rentals provided safe accommodation and community safety. 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 divided 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. The licensing ordinance defines a primary residence as the dwelling unit in which a person resides for more than six (6) months out of each calendar year. This type of short-term rental is permitted by right in all districts and there is no limit on the number of days it can be rented or minimum night stay.
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. A Limited Impact Special Use Review Waiver may be considered in accordance with Article 4-602.G (See Appendix B).
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.

When establishing the above short-term rental categories, staff assessed the intensity of a particular short-term rental use, as well as its potential impacts to housing stock and housing affordability. The following is a summary of this assessment, which is available in the staff packet for the Board of County Commissioners hearing held on December 3, 2020.

Primary Dwelling Short-Term Rental: Lowest intensity use and lowest risk for impact to housing stock, as these homes are intended to be owner occupied with rental either occurring while the owners are present in the home or for periods when the owners themselves may be out of town. These types of rentals can provide supplemental income and, thus, could help with housing affordability.

Secondary Dwelling Short-Term Rentals and Bed and Breakfasts: Use intensity and housing impact falls between Primary Dwelling Short-Term Rentals and Vacation Rentals. The Secondary Dwelling Short-Term Rental category was included to allow the traditional rental of seasonal cabins in the mountains that may not be the owners' primary home.

Vacation Rentals: Highest intensity of use and highest potential to impact housing stock and affordability. This short-term rental type raises greater concerns with health and safety hazards associated with transient lodging in rural areas where infrastructure and services are limited and where guests may be unfamiliar with unique risks (i.e., wildfire). Additionally, this use removes housing stock from the residential market by converting it to a Lodging use. These rentals are allowed in limited zone districts (F, A, RR, MI, B, C, LI, GI) where tourism supporting uses were found to be appropriate and are not allowed in platted areas (neighborhoods where lots are generally smaller and concerns about negative impacts to adjacent properties and the neighborhood community, conversion of housing stock and affordability are of greater concern). The Vacation Rental heat map in Appendix C identifies the areas with the most potential for these short-term rental types.

OBJECTIVE AND SCOPE OF TWO-YEAR REVIEW

In accordance with Resolution 2020-104, staff established criteria and metrics for review to assess the efficacy of the regulation. The criteria include:

- Whether existing short-term and vacation rental regulations in the Land Use Code meet the intent of policymakers, whether decision-makers have sufficient guidance to make decisions, and whether existing levels of review are appropriate;
- Whether existing licensing requirements are appropriate, verifiable, and promote desired safety standards; and
- Whether proactive enforcement is achieving compliance with the Land Use Code and licensing ordinance.

The metrics, which helped staff measure progress on achieving the above criteria, are both qualitative and quantitative. Qualitative metrics include a review of alternative regulations, land use applications for short-term rentals, the licensing requirements, and enforcement efforts to date. Quantitative metrics include statistics about land use reviews, licenses issued, code compliance, and monitoring efforts supported by the county's third-party vendor (Harmari). The criteria and metrics are outlined in **Table 1: Short-Term Rental Two-Year Review Criteria and Metrics**.

Table 1: Short-Term Rental Two-Year Review Criteria and Metrics

Criteria	Quantitative Metrics	Qualitative Metrics
Land Use Code: Short-term rental regulations in the Land Use Code meet the intent of policymakers, decision-makers have sufficient guidance to make decisions, and existing levels of review are appropriate	<ul style="list-style-type: none"> • Type and Number of Land Use Reviews (BR/LU/SU) • Timeframe for Completing Land Use Reviews • Number of STR/VR Approved or Denied 	<ul style="list-style-type: none"> • Insight from BOCC/PC/DRT/Referral Agencies about how the Code is working, where improvements can be made • Review of Applications for STR/VR to identify trends (i.e., conditions of approval) • Review of public comment to identify trends • Identify successes and shortfalls • Research of other jurisdictions regulations and programs – best practices, American Planning Association Literature, Etc.
Licensing Ordinance: Existing licensing requirements are appropriate, verifiable, and promote desired safety standards	<ul style="list-style-type: none"> • Type and number of rental licenses issued/denied • Timeframe for obtaining a license once completed application is received • Number that have received Wildfire Partners Certification • Number of health/safety concerns identified/mitigated • Number of inspections/assessments associated with STR/VR • Comparison of Harmari analyses (beginning/present) 	<ul style="list-style-type: none"> • Type and number of rental licenses issued/denied • Timeframe for obtaining a license once completed application is received • Number that have received Wildfire Partners Certification • Number of health/safety concerns identified/mitigated • Number of inspections/assessments associated with STR/VR • Comparison of Harmari analyses (beginning/present)
Zoning Enforcement: Proactive enforcement to achieve compliance with Land Use Code and licensing ordinance	<ul style="list-style-type: none"> • Type and number of complaints received • Number of compliance letters sent • Number of violation letters sent • Number of violations/complaints resolved or abated 	<ul style="list-style-type: none"> • Review Harmari features, how program is currently being used, identify opportunities • Review violation/compliance letters to identify trends • Identify areas where process can be improved (i.e., up-front information about life-safety requirements) • Identify successes and shortfalls • Research of other jurisdictions regulations and programs – best practices, American Planning Association Literature, Etc.

Working Session with Board of County Commissioners and Planning Commission

Staff presented an initial review of land use applications for short-term rentals to the BOCC and PC on October 19, 2022. During the working session, staff provided an overview of land use applications that had been submitted for short-term rentals since adoption of the regulations. This provided the BOCC, PC, and members of the public with background on the topic and trends identified during the application review. Following the presentation staff held a discussion with the BOCC and PC focused on whether existing regulations met the intent of policymakers, if the regulations provided decision-makers with sufficient guidance to make decisions, and if existing levels of review were appropriate.

As part of the discussion, the BOCC and PC shared their perspectives on the current regulations and land use review process, highlighting areas where the Land Use Code was succeeding and where opportunities for improvements might exist. In addition to the data that staff anticipated including in this report, the Commissioners also requested additional data related to:

- Distinguishing between different types of violations to better understand enforcement (i.e., renting without a license vs. violating the terms of a completed land use review or license);
- Current methods for assessing a short-term rental's compatibility with the surrounding neighborhood and how typical conditions (e.g., total nights a rental is allowed per year, minimum rental periods, etc.) are generated during the review process;
- Understanding if there is unnecessary overlap or redundancy between licensing and the land use review process;
- Identifying trends from existing applications to determine if there are standard conditions that could be applied to make regulations more prescriptive;
- A review of other communities' practices related to short-term rentals (i.e., the use of geographic overlays);
- Additional information about short-term rentals and their impacts on housing stock and housing affordability;
- Current licensing limitations (i.e., one rental license in the County per owner) and parking requirements in the Code; and
- Maps and data discussing current rentals and rental-eligible properties.

Public Listening Session

On December 12, 2022, staff hosted a virtual listening session with members of the public. Participants were invited to attend a short staff presentation about the two-year review, which included information about the metrics and criteria established for the review. After the presentation, attendees (approximately 30) were divided into four smaller groups for a discussion about the current Code regulations, licensing ordinance, and enforcement process with staff. Staff appreciate attendees' participation in the listening session, and it is important to note that attendees may not be entirely representative of all perspectives in the county particularly due to limited participation.

Listening session groups included a mixture of attendees that were short-term rental owners, neighbors of short-term rentals, managers, and members of the public interested in the topic. Staff provided the following questions to help facilitate discussions:

- What are your thoughts on the current short-term and vacation rental regulations? Where are we succeeding and where can we do better?
- What are your thoughts on licensing and enforcement? Where are we succeeding and where can we do better?
- Do you think there are any specific areas [of the regulations, licensing ordinance, or enforcement] that warrant extra attention from the county? Why?
- Has anyone applied for a short-term rental license and are you interested in sharing your experiences with the application process?
- Is anyone interested in sharing their experiences with short-term rentals in their neighborhood?

Questions about the current process were also included. These questions focused on why some members of the public may or may not comment on short-term rental applications, the benefits or costs of the current process (i.e., multiple hearings), and effectiveness of communicating information about regulations, licensing, and enforcement to the public. Staff also collected any additional feedback that attendees were willing to share.

Staff identified the following themes as a result of these discussions:

- Some participants noted that the discretionary review process lacks predictability for applicants. They felt that some of the criteria used for the review are subjective and the outcomes feel arbitrary. Most commonly, participants were referring to assessing neighborhood compatibility or establishing a maximum number of days a year that a property may be rented. Some felt that criteria were being applied unevenly. Others thought that notifying adjacent property owners created backlash based on worse-case scenarios and seemed to revolve around nearby property owners not wanting these types of rentals in their neighborhood. In one instance, the applicants felt as though there were racial undertones associated with their neighbor's opposition to their short-term rental application. Participants also noted that uncertainty is compounded by the fact that final decisions made during the hearings may differ from the recommendations of staff.
- Some participants described the current land use review and licensing process as complicated, onerous, unclear, costly, intrusive, difficult to administrate, and time-consuming for both the county and applicant. Furthermore, applicants may be unclear about what is required by both the land use review process and licensing process. Some expressed concerns about the complexity of the process, noting that it may even be difficult for staff to understand. These statements were mostly associated with individuals who owned vacation rentals. However, some participants who had been through the Primary Dwelling Short-Term Rental licensing process noted that, although intensive, it was clearer and more manageable than the process that existed before the text amendments. Many felt that the current process is too long, with anecdotes highlighting processes that lasted 1 ½ to 2 years.

- Some participants noted that current regulations are not being enforced and identified a lack of staff capacity and the complexity of the regulations as potential causes. Participants that identified themselves as living near short-term rentals expressed concerns about this lack of enforcement against violations and shared anecdotes about the challenges of living near certain rental properties.
- Some participants noted that the licensing ordinance was comprehensive and felt that this process alone achieved much of the county's goals. Some were supportive of licensing requirements, like Wildfire Partners Certification, while others considered these (and other requirements) as barriers and stated that some may be unnecessary or prohibitive (e.g., radon testing, HERS ratings, the insurance requirement, costs of wildfire mitigation).

Although applicants seemed to favor the requirements in the licensing ordinance, there were some comments specifically focused on changes that could be made to the land use review process and licensing ordinance. These comments focused on:

- Clarifying existing criteria to create more certainty and transparency for applicants;
- Simplifying the existing process, with many supportive of a less intensive land use review process (i.e., administrative review or staff review with administrative appeal);
- Creating additional educational materials to better communicate requirements to applicants;
- Separating housing stock and affordability from the issue of Short-Term Rentals;
- Reviewing communities that are implementing licensing caps with less intensive review processes; and
- Removing the Vacation Rental category from the Lodging use category.

Finally, the listening session provided participants with an opportunity to understand the perspectives of others. For instance, neighbors gained an understanding of the requirements that applicants must meet to host a Vacation Rental. Participants also expressed appreciation for the opportunity to share their experiences and thoughts with county employees.

ASSESSMENT AND REVIEW

Staffs' assessment and review is divided into sections focused on the Land Use Code regulations and processes, licensing ordinance, and enforcement.

Land Use Review Processes

The required land use process is determined by several factors, 1) the zoning district of the subject parcel, 2) the type of rental being applied for, 3) the number of nights the rental will be available, 4) the size of the parcel, and 5) whether the residence proposed for rental is the residence of the applicant.

For example, a 12-acre parcel on unsubdivided land located in the Forestry zoning district where an applicant proposes to make a secondary residence available for rental for 100 days a year is defined as a Vacation Rental and requires approval through the Limited Impact Special Use

Review process. However, a 4-acre parcel on unsubdivided land located in the Forestry zoning district where an applicant proposes to make a secondary residence available for rental for 100 days a year is also defined a Vacation Rental but requires approval through a Special Use Review process. And a parcel of any size on either subdivided or unsubdivided land in the Forestry zoning district where an applicant proposes to make a secondary residence available for rental for 60-days or less with a two-night rental minimum is defined as a Secondary Dwelling Short-Term Rental and requires approval through the Limited Impact Special Use Review process.

To provide context, staff have outlined the specific land use review processes and provided some conclusions based on a review of the existing applications and associated data.

A **Primary Dwelling Short-Term Rental** does not require a land use review process: however, applicants must obtain a rental license. This process typically takes six to eight weeks depending on specific factors associated with the parcel being licensed.

A **Secondary Dwelling Short-Term Rental** must be approved through either the Limited Impact Special Use Process (LU) process or a Limited Impact Special Use Review Waiver (LUW) if it qualifies for that review.

A **Vacation Rental** that is in the Forestry, Agricultural, Rural Residential, and Mountain Institutional zoning districts and are on parcels greater than five acres on unsubdivided land requires approval through the LU process. Additionally, those in the Business, Commercial, Light Industrial, and General Industrial zone districts require LU approval. A Vacation Rental that is in the Forestry, Agricultural, Rural Residential, and Mountain Institutional zoning districts on parcels less than five acres on unsubdivided land may be approved through the Special Use Review (SU) process.

Limited Impact Special Use Review (LU)

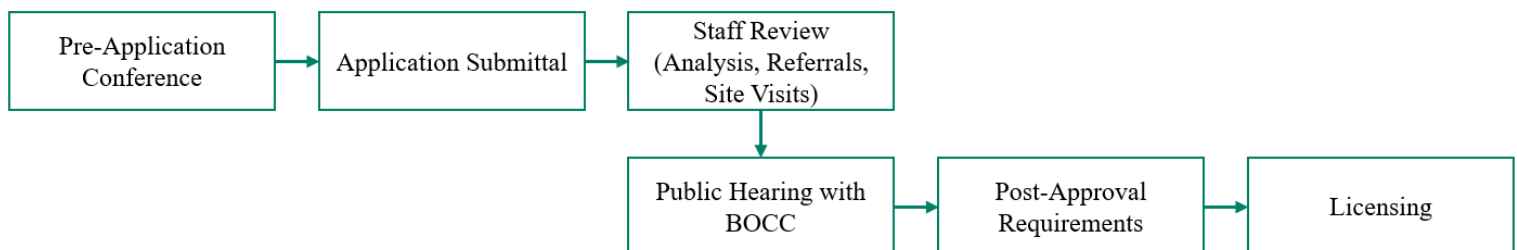
The LU process consists of the following key milestones:

- **Pre-application Conference**
A pre-application conference helps determine the scope of the project and confirms the appropriate required review process by allowing applicants to meet with Community Planning & Permitting (CPP) staff to discuss project parameters and site conditions pertinent to review of a project. The intent of the pre-application conference is to prepare prospective applicants for the process and provide guidance related to the review, procedures, requirements, and standards, and provide information pertinent to the site and the proposal. Due to the volume of applications received by CPP staff, applicants are currently waiting approximately three months to hold a pre-application conference.
- **Application Submittal**
Applicants must submit a completed application to initiate the review. Due to the total volume of land use applications received by CPP, prospective applicants are placed on a waitlist and are called up for review on a first come, first served basis. Currently,

the waiting period to have an application called up for review is between four to six months.

- **Staff Review, Agency Referral and Response (including adjacent property owners)**
These elements of the process occur concurrently. After a complete application is received, A BOCC public hearing date is confirmed and the application materials are referred out for review by various County Departments, public agencies (as necessary), and adjacent property owners. The LU process includes a 15-day referral period. CPP staff also conducts a site visit and review of the application during this time. Once the application has been reviewed and analyzed, the staff recommendation is finalized and sent to the BOCC and the applicants and made available for public review.
- **Board of County Commissioners Hearing**
The application is heard at a public hearing before the Board of County Commissioners. It typically takes two to three months for an LU to reach a BOCC hearing.
- **Post-Approval Requirements**
The Board of County Commissioners may condition specific requirements as part of an application's approval. The applicant must complete these requirements before the project can be deemed eligible to apply for a license.
- **Licensing Application**
Once the land use review process is completed an applicant can apply for the appropriate rental license. This process typically takes between six to eight weeks.

Limited Impact Special Use Review Process (LU)



Limited Impact Special Use Review Waiver (LUW)

In accordance with Article 4-602.G of the Land Use Code, the requirement for the LU process may be waived for a Secondary Dwelling Short-Term Rental (not permitted for Vacation Rentals) if the Director determines that the rental will not have any significant conflict with the LU criteria listed in Article 4-601 of the Land Use Code (see Appendix B). The waiver in this case does not remove the requirement for a land use review; instead LUW is an administrative review where the decision is made by the Director rather than the BOCC at a public hearing.

When considering a waiver:

- The Director may impose written terms and conditions on these uses that may be reasonably necessary to avoid conflict with the review criteria in Article 4-601 of the Code.
- The Secondary Dwelling Short-Term Rental must comply with the Additional Provisions outlined in Article 4.516.Y., see Appendix B
- Notice of the waiver application being reviewed shall be sent to referral agencies and adjacent property owners in accordance with Article 3-204 of the Code, see Appendix B
- The Director shall not issue the determination for 15 days following such notification and shall consider any comments received by the public.

Special Use Review (SU)

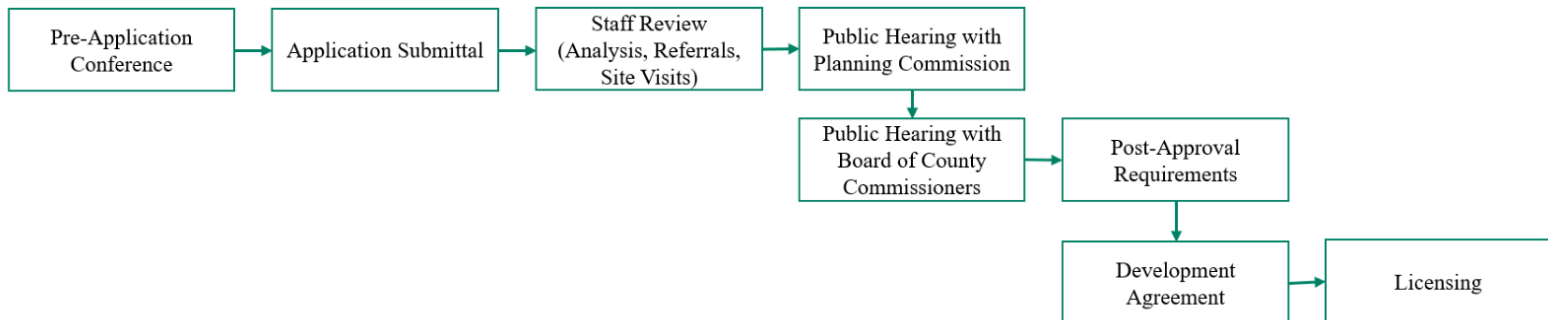
The purpose of the SU process is to determine if the property is appropriate for the proposed use (site specific conditions such as, but not limited to natural resources and available services are examined) and to consider if the use is appropriate in the larger context (consideration of use compatibility, transportation and other impacts that could occur beyond the property line).

The SU process consists of the following key milestones:

- Pre-application Conference
The pre-application process for an SU is the same as the LU process.
- Application Submittal
The application process for an SU is the same as the LU process.
- Staff Review, Agency Referral and Response (including adjacent property owners)
After a complete application is received, and prior to the Planning Commission hearing, the application will be referred out for review by various County Departments, public agencies (as necessary) and adjacent property owners. The SU process includes a 35-day referral period. The application is presented at an internal staff meeting held during the last week of the month after the referral deadline. At this meeting, staff determine if the application is sufficiently complete and if issues are sufficiently resolved.
- Planning Commission
If staff determines that the application is sufficiently complete, the application proceeds to a public hearing with the Planning Commission, which typically meets the third Wednesday of every month.
- Board of County Commissioners Hearing
A hearing before the Board of County Commissioners is scheduled as soon as is practical after the Planning Commission takes action on the application. It typically takes four to six months for an SU to reach a BOCC hearing.
- Post-Approval Requirements
The Board of County Commissioners may condition specific requirements as part of an application's approval. The applicant must complete these requirements before they are eligible to apply for a license.

- Development Agreement: The drafting, execution, and recordation of a Development Agreement is a required post-approval action for all Special Use Review applications. This is an agreement between the owner and county which specifies the terms and conditions of the approval. This agreement implements the site-specific development plan which establishes vested rights under Article 68 of Title 24, C.R.S. (Article 3-207, see Appendix B).
- Once the land use review process is completed applicants may apply for a license.

Special Use Review Process (SU)



Review criteria associated with the LU and SU process are codified in Article 4-601 of the Land Use Code (see Appendix B). Understanding the existing land use review processes provides important context for the discussion that follows.

Staff Review of Land Use Review Applications

As part of this review process, staff reviewed land use applications that were submitted after February 7, 2021, and prior to December 1, 2022. This range was chosen because applications submitted before February 7, 2021, would have been considered under the previous regulations and applications submitted after December 1, 2022, would not have completed the review process in time for this two year evaluation.

As of December 1, 2022, twenty-one (21) land use reviews had been initiated by applicants. Thirteen (13) of these reviews were Special Use Reviews for Vacation Rentals. Of the thirteen (13) applications, the BOCC approved ten (10) and these are in various stages of the post-approval process. However, none of these applicants have applied for or received a Vacation Rental license. Only one applicant has completed the entire land use review process and qualifies to apply for a Vacation Rental license. The three remaining applications have been placed on hold, tabled, or withdrawn. As these applications did not receive BOCC approval, they were not reviewed in-depth.

Out of the twenty-one (21) land use review applications, four (4) were Limited Impact Special Use Reviews for Vacation Rentals. Three (3) of these applications received BOCC approval and one (1) application was denied. The denied application was determined by the BOCC to be incompatible with the surrounding area. Again, no applicants who have received BOCC approval since the regulations were updated have received a license.

	Table 2: Vacation Rental Land Use Review Status			
Review	Post-Approval	Hold, Tabled, Withdrawn	Denied	Total
Special Use Review	10	3	N/A	13
Limited Impact Special Use Review	3	N/A	1	4

Finally, out of the twenty-one (21) land use review applications, four (4) were Limited Impact Special Use Reviews for Secondary Dwelling Short-Term Rentals. The BOCC approved two (2) of these applications, one (1) qualified for a Limited Impact Special Use Review Waiver, and one (1) application was incomplete. None of these applicants have received a short-term rental license.

	Table 3: Secondary Dwelling Short-Term Rental Land Use Review Status			
Review	Post-Approval	Incomplete	Denied	Total
Limited Impact Special Use Review	2	1	N/A	3
Limited Impact Special Use Review/Waiver	1*	N/A	N/A	1

*A Determination Letter was issued for the parcel that was reviewed through LUW

These numbers provide a few important insights. At the time of the review, none of the applicants that have undergone a land use review process have received a rental license. This could be for a variety of reasons. For instance, the conditions of approval associated with an application may take time for applicants to complete, extending the overall length of the process and preventing applicants from applying for a license. In the case of Special Use Reviews, applicants must complete post-approval requirements and a Development Agreement. There may also be differing requirements associated with a particular license that can lengthen the process. For example, those seeking a Vacation Rental license must complete wildfire mitigation before a license is issued, as opposed to completing an assessment (which is the case for the other short-term rental licenses). Conditions like these may add additional costs (in time and monetary resources) to applicants working to achieve compliance. Finally, in some instances, applicants may not be aware that a rental license is needed in addition to the land use review. To ensure that this is not the case, it is recommended that staff devise a means of ensuring applicants remain aware of theirs, and the county's, responsibilities throughout the entirety of the land use review and licensing process. This may be accomplished through updating existing materials regarding the short-term rental licensing process.

Analysis of Land Use Review Processes

There are a few important variations between the licensing, LU, LUW, and SU processes—primarily the length of time that each process can take and the various opportunities for public participation throughout each process (referral to adjacent property owners and public comment as hearings). The following data was determined by reviewing the amount of time certain steps in the land use review process were completed in Accela, the system the county uses to track applications.

Staff have identified two periods of time to help clarify the data that follows. The first is the “timeline for application review,” which is the period of time measured from when an application is accepted for review to when the Board of County Commissioners reviews the application at a public hearing. The second is the “timeline of total process,” which is measured from when an applicant requests a pre-application conference to when the Board of County Commissioners reviews the application at a public hearing. Distinguishing between these two timeframes allowed staff to better understand elements (i.e., wait-lists and process barriers) contributing to the length of an application review. It is also important to note that although staff have tried to provide averages for each process, the reviews themselves are site-specific (as are the associated conditions of approval) which means that circumstances related to any particular application may cause it to be completed faster or slower than typically expected.

Licensing

The application process for a Primary Dwelling-Short-Term Rental takes approximately six to eight weeks to complete, has a prescriptive list of requirements, and does not provide an opportunity for public comment.

Limited Impact Special Use Review Waiver (LUW)

Only one application has been approved through the LUW process, which took approximately fourteen months to complete from the time a pre-application conference was requested to the date a Final Determination was issued. Due to the lack of data available, it is difficult to identify any trends that may have impacted the timeline for this application. This application began in an LU process and was redirected to the LUW process. Staff have requested additional clarity in the current waiver language in order to provide more certainty about when an LUW (vs. an LU) might be the appropriate review process. If the current process remains in place, **staff recommends clarifying the Land Use Code and internal processes concerning the Limited Impact Waiver option.**

The LUW process does provide adjacent property owners with a fifteen-day comment period. The Director cannot issue the Final Determination until fifteen days after referral agencies and adjacent property owners have been notified about the application.

Limited Impact Special Use Review (LU)

Six applications were considered through the LU process. This does not include the application that was redirected to an LUW and the application that was too early in the process to provide

any data. On average, the “timeline for application review” for the LU process is approximately four months, with a median of 3 ½ months. Typically, staff anticipate that this review process will take two to three months. In most cases, staff are close to achieving this expectation. It is important to note that some applications were processed faster than others, with the shortest review period lasting 1 ½ months and the longest approximately eight months. Again, this process may be prolonged for a variety of reasons, which can include site-specific issues or requests from applicants to delay an application.

When considering the “timeline of total process” some applicants may have waited for up to three months to book a pre-application conference and approximately six months for the application review process to begin. An additional two to four months may be added when scheduling a BOCC hearing, which is done at the earliest possible convenience. All of these factors combined result in an application process that often lasts about twelve to fourteen months. Furthermore, once the BOCC hearing is completed an applicant must still meet the conditions of approval, which adds an unspecified amount of time, and complete the licensing process which can add an additional six to eight weeks.

The LU process provides adjacent property owners with fifteen days to comment on the application, though comments submitted after the end of this period are often included in the staff packets presented to the Board of County Commissioners. Additionally, members of the public are provided an opportunity to comment on the application at the Board of County Commissioners Hearing.

Special Use Review (SU)

Ten applications were considered through the SU process. This number does not include those three applications that were tabled, withdrawn, or too early in the application process to provide any data. On average, the “timeline for application review” for the SU process was 5 ½ months. The median timeframe was also 5 ½ months. Typically, staff anticipate that this review process will take four to six months to complete. In most cases, staff are achieving this expectation.

When considering the “timeline for total process,” applicants may wait three months to schedule a pre-application conference and six months to have the application review process begin. Additionally, scheduling public hearings may add two to four months. This results in an application process that also lasts approximately twelve to fourteen months. Again, once the BOCC hearing is completed an applicant must still meet the conditions of approval, which may add additional time, and complete the licensing process which can add six to eight more weeks.

The SU process provides adjacent property owners with thirty-five days to comment on the application, though comments submitted after the end of this period are often included in the staff packets presented to the Planning Commission and BOCC. Members of the public are provided an opportunity to publicly comment on the application at the Planning Commission hearing and again at the BOCC hearing. This process provides the most opportunities for public participation. Additionally, applicants may hear concerns from the public at the Planning Commissioner hearing and work to address those concerns or be better prepared to respond to them at the BOCC hearing. The length of these processes and opportunities for public participation are annotated in the table below.

Table 4: Process Analysis Summary				
Review Process	Timeframe (Total)	Level of Effort	Public Input Opportunities	Site-Specific Analysis
License Only, No Land Use Review	6 – 8 weeks	Lowest	None	Limited
Limited Impact Special Use Review Waiver (Secondary Dwelling)	Limited Data	Low	Low	Required, in accordance with waiver requirement
Limited Impact Special Use (Secondary Dwelling and Vacation Rental)	12 – 14 months	Medium	Medium	Required, in accordance with Article 4-601
Special Use (Vacation Rental)	12 – 14 months	High	High	Required, in accordance with Article 4-601

This information is based on a review of existing applications. The insights provided by these data may be limited due to the limited number of land use reviews that have been completed; however, a few broad conclusions can be drawn:

- Opportunities for public participation vary depending on the review process.
- Once the county has a complete application, staff and referral agencies are generally able to complete the internal review within two to three months for a LU application and five to six months for an SU application. However, the overall timeframe of the process is extended by current wait-lists (for both pre-application conferences and land use reviews), scheduling the appropriate hearings as soon as practical (although staff are mindful of this requirement and do schedule hearings as soon as practical), and that post-approval requirements impact an applicant's timeline for completion. Additionally, staffs' capacity to focus on reviews may be reduced due to prioritization of assisting individuals impacted by the Marshall Fire and managing additional workload tasks unrelated to short-term rentals.
- During the 2019 text amendment process staff assessed that certain types of short-term rentals would have less impacts than others. In accordance with that assessment, review processes varying in intensity were assigned. We would expect to see review processes for short-term rentals with less impacts (i.e., those reviewed through the LU process) proceed faster than those with more impacts (i.e., those reviewed through the SU process). However, we are seeing similar total review timeframes and outcomes (i.e., receiving approval but not yet completing the licensing process) for both types of reviews. It is important to note that although the LU and SU processes differ, the assessment criteria are the same, but the SU process requires additional elements (i.e., a development agreement and PC hearing).

Trends Identified During Application Review

Staff reviewed land use applications and identified trends related to minimum rental periods, total allowable days per year for a rental, occupancy limitation, on-site parking, public participation, responses received by referral agencies, and common conditions of approval.

Minimum Rental Periods

Minimum rental periods (i.e., rented for 2-nights minimum) are only required by the Land Use Code for Secondary Dwelling Short-Term Rentals. Although not required for Vacation Rentals these land use approvals sometimes include this as a condition, as minimum rental periods reduce the intensity of the use by reducing the turn-over rate of the unit, which can promote neighborhood compatibility. The inclusion of this requirement can reduce turnover by up to 50% over the course of a week.

Oftentimes, minimum rental periods are conditioned for Vacation Rentals as part of the review process. In response to Commissioners' request for additional data related to the origin of these minimum night rental periods, staff analyzed all land use review applications (both LU and SU) associated with Vacation Rentals. In most cases, the minimum rental period recommended by staff and conditioned by the BOCC aligned with the period requested by applicants. This does not mean that the minimum rental period was not assessed by staff, rather that staff may have determined that the minimum period proposed was compatible with the surrounding area and since this was part of the compatibility analysis included it as a condition of approval. In two cases, the minimum rental period differed from the applicant's proposal (or lack thereof). Staff included, and the BOCC approved, a condition of approval that would limit the total number of nights per year for the rental to less than 180 nights. This condition of approval was recommended by staff to increase the compatibility of the use with the surrounding area (Criteria 2). In all but one case, the minimum rental period conditioned by the BOCC did not differ from staffs' recommendation.

Total Maximum Rental Days Per Year

Total maximum rental days per year are not established by the Land Use Code for Primary Dwelling Short-Term Rentals and Vacation Rentals. Secondary Dwelling Short-Term Rentals have a 60-day maximum. Limiting the total number of rental days per year can minimize the impacts a short-term rental might have on the surrounding area. In most cases, the total rental days per year recommended by staff and determined by the BOCC aligned with the period requested by applicants. Once again, this does not mean that the minimum night rental period was not assessed by staff, rather that staff may have determined that the period requested was compatible with the surrounding area and the condition of approval included what was proposed and evaluated. Oftentimes, total rental days per year requested in applications were as simple as "we anticipate we will rent for more than 60 days" or as specific as "we anticipate renting from May to December." Despite most approvals aligning with most requests, there were some outliers:

- In one case, the total rental days per year were decreased by an applicant after conversations with their neighbors.
- In two cases, the applicants did not request a specific number of total rental days per year; however, staff determined that a total rental period of 180 days would minimize impacts to the surrounding area.

In all but one case, the minimum night rental period conditioned by the BOCC did not differ from staffs' recommendation.

Occupancy Limitations

Changes in occupancy requested for a short-term rental were due to onsite wastewater treatment systems (OWTS) that were not appropriately sized for the requested use or the limitations of onsite parking. This is not unexpected as occupancy is already limited through the licensing ordinance because OWTS are required to be appropriately sized to support the requested use. During the working session, one Commissioner noted that the parking requirements required by the Land Use Code and licensing ordinance may have more of an environmental impact than anticipated, which may be contrary to the objectives of the land use review. As total occupancy is already limited through the licensing ordinance OWTS requirement, there may be opportunities to adjust the existing parking requirements and reduce environmental impacts while ensuring adequate onsite parking.

Public Participation

Adjacent property owners (APOs) are notified of an LU or SU application during the review process. The average response rate for 16 applications was 9.7% and the median response rate was 5.15%. The response rate was calculated by reviewing the number of written responses received against the total number sent to APOs. On average, four individuals signed up to provide public comment at land use review hearings with the Board of County Commissioners. Although the average was four, the number of public participants may vary due to interest in a particular application.

According to these data, a low number of APOs respond with comments or attend the public hearings for these applications. Concerns regarding specific Secondary Dwelling Short-Term Rentals and Vacation Rental 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, neighborhood compatibility, housing 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, which include benefits to tourism and the local economy.

Commissioners requested that staff work to determine the effectiveness of notification to APOs to identify opportunities to improve participation. Currently, APOs are notified in accordance with the referral requirements of the Land Use Code (see Appendix B) and applicants are required to post signage indicating that a land use review is being conducted. The public may choose to participate or not participate based on a variety of reasons that can include a lack of

interest in the application or a lack of awareness that the review is taking place. Unfortunately, there was not enough time during the two-year review to adequately engage the public to identify opportunities to increase response rates or to determine if lack of participation was indicative of adjacent property owners lack of concern regarding an application.

Referral Agency Responses

Agencies consulted during the agency referral process varies depending on the application; however, in most cases referrals are only received from Access and Engineering Development Review Team (CPP), Boulder County Public Health, Building Safety and Inspections (CPP), Wildfire Partners (CPP), and Parks and Open Space. In many cases, the referral responses follow an identical format focused on the relevant requirements in the Land Use Code or licensing ordinance. Typically, the Access and Engineering responses vary the most because the means of accessing a property, and the road used to access said property, varies at each site.

Staff requested feedback from referral partners who participate in the land use and licensing reviews for short-term rentals. This request was not all-encompassing but included the core teams annotated in the previous paragraph. A broader outreach effort could be conducted in the case of any direction by the BOCC to modify the Land Use Code or licensing ordinance.

Wildfire Partners staff note that the current processes have increased workload, but staff have been able to absorb the additional work and consider adding additional households to the program beneficial to the organization's mission. Staff have been able to implement the requirements with no staff increase and report that most participants value the process and appreciate its inclusion in the licensing ordinance. However, some members of the public have expressed concerns that Wildfire Partners is a voluntary program that is being mandated as a requirement. Staff recommend including a requirement for maintaining the Wildfire Partners Certificate, with a recommended six-year recertification cycle. This would include a notification a year prior to the recertification so that it can begin in a timely manner.

Through this requirement, Wildfire Partners has added 86 participants who may or may not have otherwise engaged the program. Additionally, those in the process of completing a certification have learned about wildfire mitigation and emergency preparedness and most will have accomplished at least some of their mitigation measures, which enhances safety on parcels and within the community.

In 2021, Wildfire Partners received:

- Primary Dwelling Short-Term Rentals: Twenty (20) applicants for assessment/certification
- Secondary Dwelling Short-Term Rentals: Ten (10) applicants for assessment/certification
- Vacation Rental: Seventeen (17) applicants for assessment/certification
- Total: Forty-seven (47) applicants for assessment/certification

In 2022, Wildfire Partners received:

- Primary Dwelling Short-Term Rentals: Twenty-four (24) applicants for assessment/certification
- Secondary Dwelling Short-Term Rentals: Seven (7) applicants for assessment/certification
- Vacation Rentals: Eight (8) applicants for assessment/certification
- Total: Thirty-nine (39) applicants for assessment/certification

Of the total eighty-six (86) assessments, fifteen (15) have been licensed. In addition, ten (10) more licenses were issued to Wildfire Partners clients who had already engaged with the program before the short-term rental land use review and licensing process was adopted (meaning they did not need a new assessment or certificate to get licensed).

Building Safety & Inspections staff note that one of the most common health and safety concern that is encountered during inspections is a lack of compliant egress windows in bedrooms. Notifying applicants of this requirement earlier in the process could help improve compliance. **Staff recommend additional materials to inform applicants at the beginning of the process of these requirements to help them determine at the earliest possible opportunity that they meet the criteria to establish a legally compliant rental.** This could be accomplished through an additional checklist along with the licensing application that provides insight and guidance on what the minimum requirements are for achieving a license.

Public Health staff have incorporated the review of short-term rentals into its program's workload and considers it an important task that benefits the County's Water Quality program. The referral process allows for the issuance of commercial Onsite Wastewater Treatment Systems (OWTS) Use for those short-term rentals that are strictly for rent and not occupied by owners. The land use review process and licensing ordinance allow Public Health to check the OWTS status for each property pursuing a short-term rental license. This allows staff to check for Property Transfer Regulation compliance and bring properties that lack such a certificate for the last recorded sale into compliance.

The review processes also allow Public Health to check that the current number of bedrooms in a home conforms with the permitted OWTS use sizing and the number of renters allowed. A few OWTS Use permits have been written for short-term rental properties because they are modifying a room into a sleeping space, thereby changing the use of their OWTS. In these cases, the OWTS Use permit outlines the maximum number of people allowed in the home at once, instead of the bedroom number served by the OWTS. Additionally, the review processes allow Public Health to ensure, through the examination of a site plan, that renters are not parking on OWTS components. Public Health has also identified instances where property owners were living onsite in an RV while renting out the dwelling and then dumping extra waste from their RV tanks into the OWTS. Finally, the review process enables Public Health to share a link in the referral response that educates homeowners on how they, and potential renters, can protect their OWTS from damage and failure.

Conditions of Approval

As part of the review process, staff recommends conditions of approval for an application when necessary for the review criteria to be met. These conditions of approval are considered by the Planning Commission and BOCC as part of the application's review. Conditions of approval are based on the site-specific review of the property, requirements in the Land Use Code, and licensing requirements. Conditions of approval will vary by parcel, but staff has identified the following commonalities:

- The completion of a development agreement prior to issuance of a license or permits. This is required as part of the SU process and is specific to Vacation Rentals.
- Applicants must maintain a valid Boulder County rental license. This is required by the Land Use Code and the licensing ordinance.
- The property may not be marketed or used for weddings, receptions, or similar public/private events. This is required by the Code.
- Total rental days per year (i.e., no more than 180 nights). The Code limits the rental days per year for Secondary Dwelling Short-Term Rentals to less than 60 days, while Vacation Rentals are allotted more than 60 days per year but no maximum is established by the Code. Land use reviews often establish a maximum total rental days per year for Vacation Rentals.
- Minimum rental periods (i.e., two-night minimum rental). The Code requires two-night minimums for Secondary Dwelling Short-Term Rentals but does not have a requirement for Vacation Rentals. Land use reviews can result in minimum rental periods for Vacation Rentals.
- Limits to maximum occupancy. The licensing ordinance includes a maximum occupancy requirement of 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.
- On-site parking equivalent to the number of sleeping rooms must be provided, plus one space for a local manager. This is required by the Code and licensing ordinance.
- Wildfire Partners Certification. For Secondary Dwelling Short-Term Rentals a Wildfire Partners Assessment must be completed prior to issuance of a license. A certificate must be issued before first license renewal. Vacation Rentals, however, are required to obtain certification before a license is issued. The assessment and certification are required by the licensing ordinance.
- Life-safety inspections are required by the Boulder County Building and Safety Division. This is a requirement of the licensing ordinance.
- An Access Improvement and Maintenance Agreement must be signed prior to the issuance of a license. This is conditioned as part of the land use approval for properties located on roads that are not publicly maintained. The licensing ordinance requires the County Engineer (or their designee) to determine 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.
- In a few cases there are other property-specific conditions, such as identifying emergency access and turnarounds and ensuring they remain clear of obstruction. These are included in applications as necessary.

Discussion

As described above many of the conditions of approval commonly associated with applications are already addressed through the licensing ordinance or existing Land Use Code requirements. Conditions of approval related to minimum rental periods and total days per year a property can be rented are where staff found the most variation. This was often related to a short-term rental's compatibility with the surrounding area. Quantifying compatibility can be difficult because there are both tangible and intangible impacts to consider. For instance, we can identify traffic impacts through average daily trips (which itself may not be a great measure for this type of use), but there's no metric to accurately quantify an individual or community's desire to know their neighbors and develop community relationships and norms. Certainly, public response to an application can provide insights into some intangible aspects, but that can be a problematic measurement as well since responses may not be wholly representative of all residents' opinions.

There are some alternatives that the BOCC can consider. If the current land use review process remains in place, staff can try to identify better means of assessing neighborhood compatibility based on an understanding of policymaker's goals and objectives related to short-term rentals. Even still, there will be discretion associated with this process, which staff will need to make clear to applicants. **Discretion related to any one parcel might be reduced through a broader consideration of geographic limits, licensing caps, consistent maximum total rental days and minimum night stays, or other policy mechanisms highlighted in Alternative Regulations.**

Alternative Regulations

Staff conducted a review of regulations, licensing, and enforcement in other communities. In 2022, the National League of Cities conducted a review of sixty jurisdictions and published "Short-Term Rental Regulations: A Guide for Local Governments ("the Guide")," which "lays out a detailed overview of best practices for cities to develop and pass short-term rental regulations in their communities (National League of Cities, 2022)." In addition to best practices, the guide includes an overview of policy objectives and identifies various practices that might aid communities in achieving their goals related to short-term rentals. The existing regulations in the Land Use Code and the requirements of the licensing ordinance implement many of the best practices (identified by italics), which include establishing:

- *Geographic Limits*: The Land Use Code distinguishes between Primary Dwelling Short-Term Rentals, Secondary Dwelling Short-Term Rentals, and Vacation Rentals. The Land Use Code prohibits Vacation Rentals, assessed to be the most intense use, in subdivisions and further limits them to certain zoning districts. Some communities further limit short-term rentals to specific areas of their jurisdiction.
- *Primary Residence Requirements*: Primary Dwelling Short-Term Rentals are the owner's primary residence, while Secondary Dwelling Short-Term Rentals and Vacation Rentals are not the owner's primary residence. Incorporating host residency requirements, like those in the Primary Dwelling Short-Term Rental category, can help prevent the loss of

rental housing, since the owner resides on the property during the rental or the entire home is for rent when the owner is away. Additionally, if an owner resides at the property, they may have a greater ability in ensuring the health and safety of guests and the larger community.

- *Total Rental Day Limits:* Secondary Dwelling Short-Term Rentals are those rented less than 60 days, while Vacation Rentals can be rented for more than 60 days, and Primary Dwelling Short-Term Rentals are not limited. The county sometimes imposes specific limitations to a property through the land use review process.
- *Registration and Licensing:* All short-term rentals are required to apply for a license and must include their license number in their rental posting on rental websites. Requiring a license can help achieve a variety of policy goals, which include preventing the loss of rental housing (if there is a strict host residency requirement), slowing or preventing the overgrowth of short-term rentals (especially if a quota, which may vary by geographic area, is instituted), combating displacement (by designating where short-term rentals may operate and how they may operate), and preserving the residential quality of neighborhoods (by limiting occupancy, providing educational materials). Additionally, health and safety for guests and residents can be promoted by making permits revocable—which helps ensure owners comply with requirements—and requiring a local contact to help with noise and other complaints. Finally, licensing creates a mechanism for residents to rent legally and realize economic gains.
- *Occupancy Limits:* The licensing ordinance achieves this by limiting occupancy to 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 number is fewer. Additionally, the Land Use Code restricts short-term rentals to one booking party. Limiting occupancy can help preserve the residential quality of neighborhoods.
- *Health and Safety Standards:* The licensing ordinance requires that short-term rental operators provide certain information (e.g., wildfire safety, wildlife safety, good neighbor guidelines, etc.) to renters. Furthermore, building safety inspections are required and outdoor fires are prohibited in Wildfire Zone 1. All of these actions promote the health and safety of guests and residents and “good neighbor guidelines” can help preserve a neighborhood’s residential quality while creating a baseline of safety county wide.
- *Noise and Event Regulations:* The Land Use Code prohibits rentals from being marketed or used for weddings, receptions, or similar private or public events. The licensing ordinance also requires a local property manager, who can respond to complaints from neighbors.

The Guide also notes that short-term rentals can support local tourism and suggests that “adopting a formal permit requirement will not deter hosts from participating, so long as the process is not overly cumbersome (National League of Cities, 2022).” Additionally, it highlights that “the permit system should be simple and easy to navigate... if the administrative burden is too high, few will be willing to put in the effort (National League of Cities, 2022).” For the most part, the county has implemented the practices described in the Guide. How we implement these practices may vary from other communities, but many of the key components that have been recommended are in place. However, **there may be opportunities for the county to fine-tune its current review system to better incorporate these practices, reduce administrative**

burdens associated with certain applications, and achieve outcomes better-aligned with its goals.

The Guide also discusses best practices associated with racial equity, broadly noting that “policies with clear goals, fair implementation and mechanisms for enforcement will help everyone (National League of Cities, 2022).” Some jurisdictions include anti-discriminatory language in their licensing ordinances, as the county does in its licensing ordinance. Importantly, however, the Guide provides some background on wealth inequality, homeownership, and short-term rentals. It states:

One of the most commonly cited benefits of short-term rentals is that they allow hosts to generate extra income from existing assets. While this may be true, hosting is most commonly available to those who own a home. Homeownership is inseparable from race and inequality in America. According to the latest estimates from the U.S. Census Bureau, the homeownership gap between White and Black households was 30 percent in 2020. According to NLC’s ordinance analysis, only 38 percent of cities surveyed specifically allowed tenants to host a short-term rental. Even then, cities that do explicitly state that tenants are allowed to host require them to acquire written consent from their landlords or a have a rental contract that allows them to sublet their unit. Tenants face a high barrier to host even in the minority of cities that allow them to.

Staff should remain mindful of these findings and **seek additional opportunities to promote equitable outcomes in short-term rental regulations.**

Short-Term Rental Impacts to Housing Stock and Housing Affordability

At the working session on October 19, 2022, the BOCC and Planning Commissioners requested additional data about the impacts of short-term rentals on housing stock and housing affordability.

Staff reviewed records associated with Vacation Rental properties to better understand whether these properties were being used by corporate entities as financial investments. Although a number of properties have been purchased within the past five years, and two as recently as last year, it is difficult to assess an individual or entity’s motivation for purchasing. This is compounded by external factors—such as an increased interest in rural homes during the pandemic. Unfortunately, staff were not able to draw any meaningful conclusions from this data.

Generally, the impacts of short-term rentals on local communities, housing stock, and housing affordability are complex and nuanced. However, research focused on these impacts provides important information for policymakers that, when considered in the context of the county’s goals and objectives, can support decision-making. Staff reviewed various reports about the impacts of short-term rentals to housing stock and housing affordability and has included a discussion to aid in contextualizing this information.

The authors of “The Effect of Home-Sharing on House Prices and Rents: Evidence from Airbnb” concluded “that the increased ability to home-share has led to increases in both rental rates and

house prices (Barron, Kung & Proserpio, 2020).” Additionally, the authors found that “while the total supply of housing is not affected by the entry of Airbnb, Airbnb listings increase the supply of short-term rental units and decrease the supply of long-term rental units (Barron et al., 2020). Home-sharing can impact housing affordability by causing rental prices and home prices to rise. However, because housing supply is inelastic in the short-run—meaning it would be difficult to quickly build homes to increase supply in response to changes in demand—total housing stock (over all numbers of units) is not affected in the short-run. Although there are no impacts to total housing stock (in the short-run), re-allocation can occur when long-term rental units are converted into short-term rental units. Re-allocating units from the long-term rental market to the short-term rental market would decrease the number of long-term units for rent, decreasing the supply, which would likely lead to a rise in prices for those long-term units.

The effects of short-term rentals on housing stock may differ in the long-run. In “The Effect of Short-Term Rentals on Residential Investment,” the results of the authors’ study suggest that “not all [short-term rentals] come from the reallocation of the existing housing stock: some will also come from investment in increased housing capacity (Bekkerman et al., 2021).” This means that over time, a community might see an increase in total housing stock through the construction of new housing units if short-term rentals are allowed.

The broader impacts identified by this research, and discussed above, relate to various goals and objectives of the Boulder County Comprehensive Plan and Land Use Code in different ways and can vary over time. For instance, short-term rental opportunities created in communities by platforms like Airbnb have been proven to increase home prices and rental rates. However, the opportunity for a homeowner to rent out a spare room or the entire dwelling on a short-term basis (as is the case with a Primary Dwelling Short-Term Rental license) might allow a homeowner to generate supplemental income, potentially increasing their ability to better afford their own home. In this instance, spare capacity is used, and a unit is not necessarily re-allocated because the owner still resides in their home.

As the research shows, the effects on housing stock may also vary. Broadly, there may be no effect on housing stock in the short-run; however, there may be an increase in the supply of housing units in the long-run if new dwellings are constructed. Whether these outcomes support the county’s goals and objectives would ultimately be determined by the allocation of any new housing units. If a majority of new homes become short-term rentals, this would perpetuate concerns related to affordability and conflict with the county’s goals and objectives. If a majority become long-term rentals, the supply of long-term units might increase. It is important to note that the research shows that a greater increase is seen in building permits for accessory dwelling units, which might be more traditionally suited for short-term rentals (Bekkerman et al., 2021).

Finally, research suggests that allowing short-term rentals may incentivize residential development in the long run. More restrictive regulations concerning short-term rentals result in less residential development. A key concern for policymakers is where this development occurs. For instance, if it occurs in municipal areas then the outcome is better aligned with the goals and objectives of the Comprehensive Plan. Conversely, if additional development occurs in rural areas, this outcome is not well-aligned with county’s goal to channel growth to municipalities.

Clearly, short-term rentals can impact housing affordability, allocations of rental units (short-term vs. long-term), and housing stock (in the long-run). The clear challenge is striking a regulatory balance that supports the goals and objectives of the Comprehensive Plan and the Code, while mitigating the negative impacts of short-term rentals. **The above data and staffs' review of alternative regulations indicates that there may be mechanisms that are better suited for helping the county achieve its goals related to housing stock and housing affordability.**

Housing and Short-Term Rentals in Boulder County

Staff reviewed the 2020 Decennial Census data from the U.S. Census Bureau and determined that there were 20,417 housing units in Boulder County. This number was determined by subtracting the total housing units in each municipality from the total housing units in Boulder County.

Table 3: Total Housing Units in Unincorporated Boulder County	
Boulder County	140,848
Longmont	41,015
City of Boulder	46,829
Nederland	764
Ward	100
Jamestown	130
Lyons	909
Lafayette	12,456
Louisville	8,929
Superior	5,025
Erie	4,274
Unincorporated Boulder County	20,417

The total number of housing units in Unincorporated Boulder County is estimated to be 20,417. This number may vary from previous estimates due to annexations and better data fidelity for the portion of Erie located in Boulder County.

As Primary Dwelling Short-Term Rentals and Secondary Dwelling Short-Term Rentals are allowed in every zoning district, there are 20,417 homes eligible for these short-term rental types (See Appendix C: Primary and Secondary Dwelling Short-Term Rental Potential). The “Primary and Secondary Dwelling Short-Term Rental Potential” heat map identifies areas in Unincorporated Boulder County where Primary Dwelling Short-Term Rentals and Secondary Dwelling Short-Term Rentals would be permitted (these short-term rental types are permitted in all zoning districts). Lighter green indicates areas of less density while darker green identifies areas of greater density.



Community Planning & Permitting

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APPENDIX C: Primary and Secondary Dwelling Short-Term Rental Potential

Legend

- Highway
- Major Road
- Municipal Street
- Municipalities
- County Boundary
- Short-Term Rental Potential

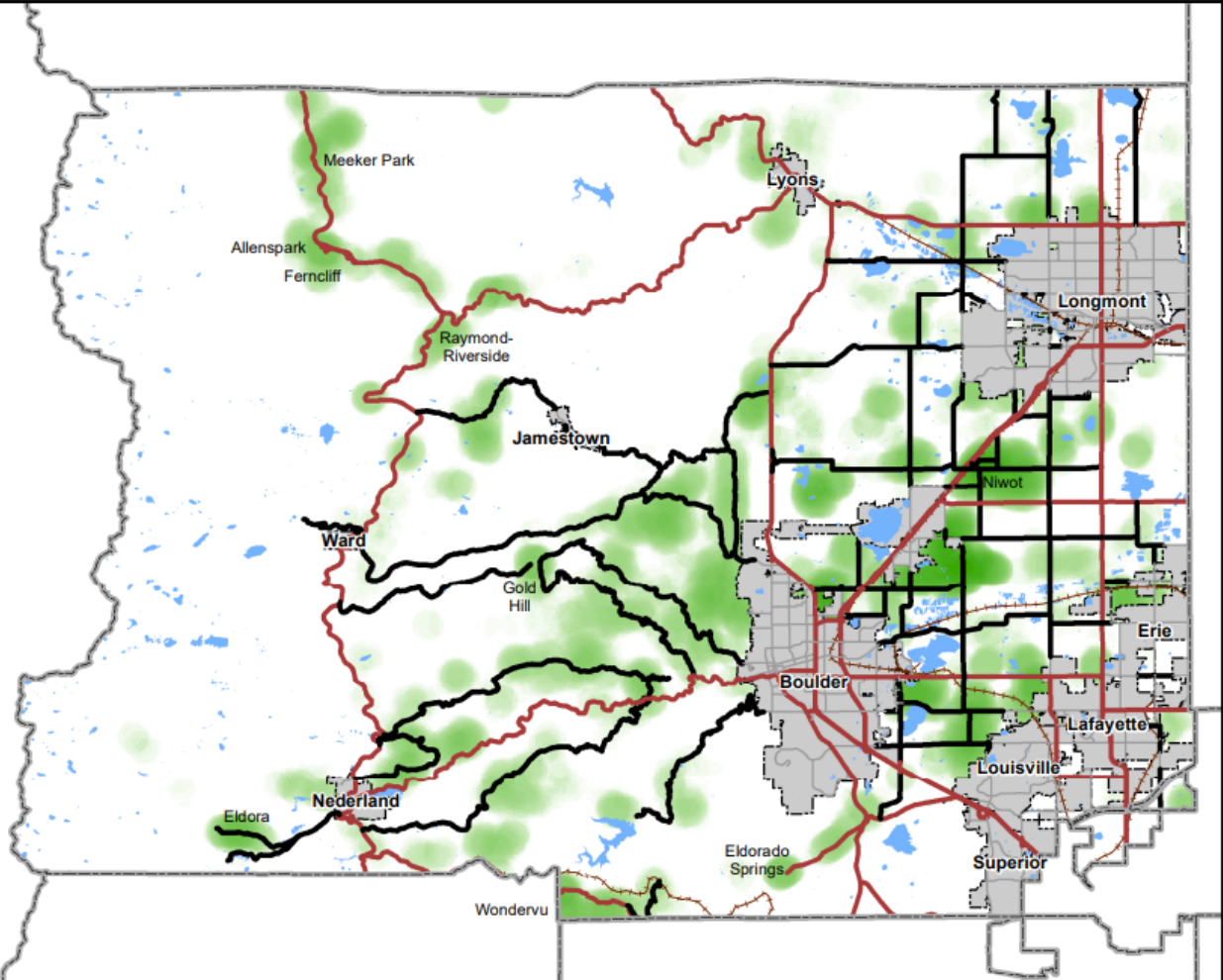
0 1.5 3 Miles



Area of Detail Date: 12/21/2022



The user agrees to all Terms of Use set forth by Boulder County. For Terms of Use, please visit: sgambrel

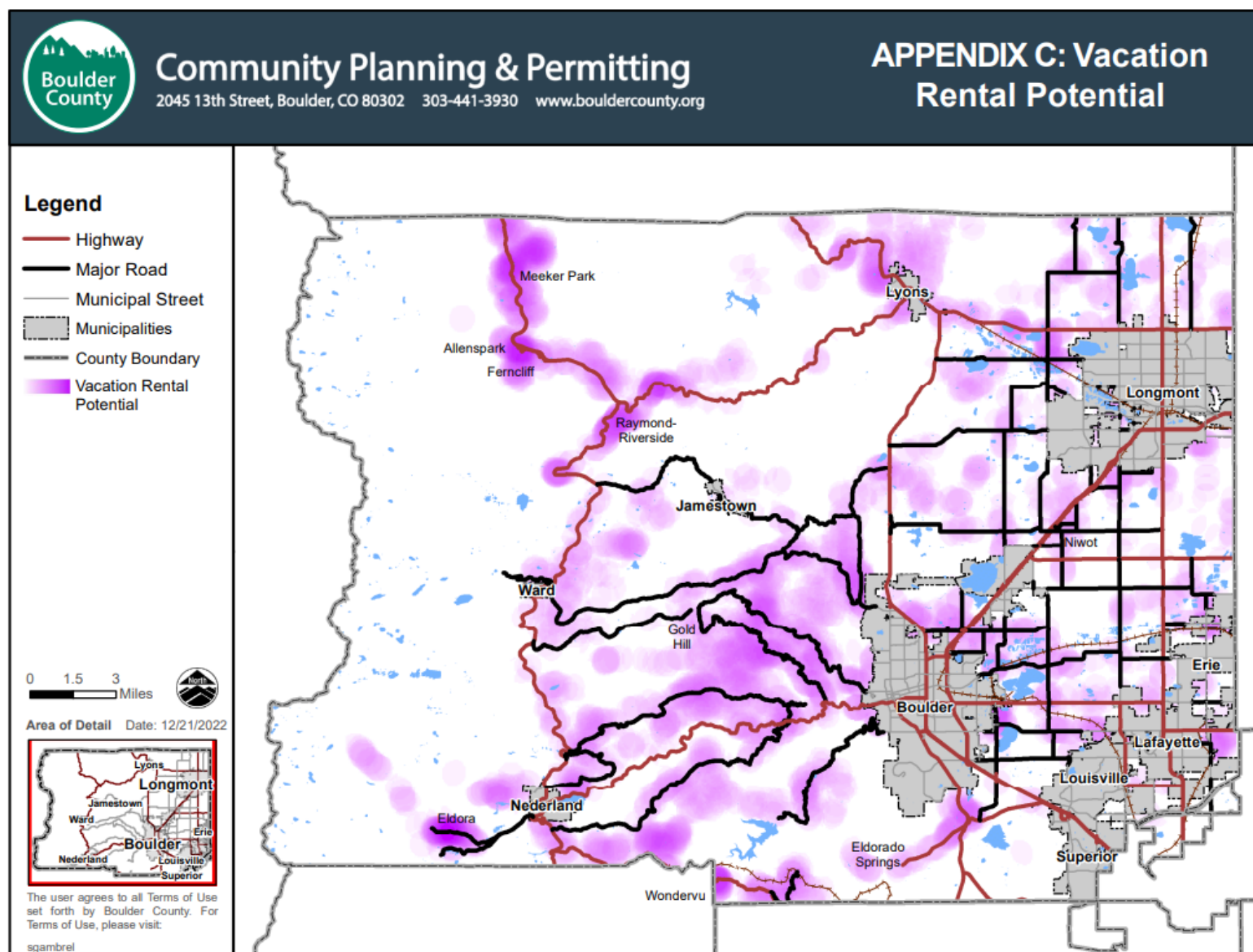


Staff also estimated the number of potential short-term rentals by considering parcels in Unincorporated Boulder County that could be developed. Staff reviewed parcels with existing Building Lot Determinations, a method the county uses to determine if a parcel is potentially eligible for development. This does not mean that a parcel is guaranteed to be developed (as other requirements, such as legal access, might need to be demonstrated). Furthermore, this data is simply a snapshot in time and subject to change. Using this methodology, staff determined that there are an additional 1,011 parcels eligible for development (and potentially short-term rental licenses).

To estimate the number of housing units eligible for Vacation Rentals, staff first identified parcels that were eligible for Vacation Rentals based on their zone district. These parcels were cross-referenced with assessor's data for existing structures greater than 320 square feet. Staff required a baseline to conduct this analysis and selected 320 square feet because it is the minimum square footage required for a Manufactured Home (Article 18-176). Using this

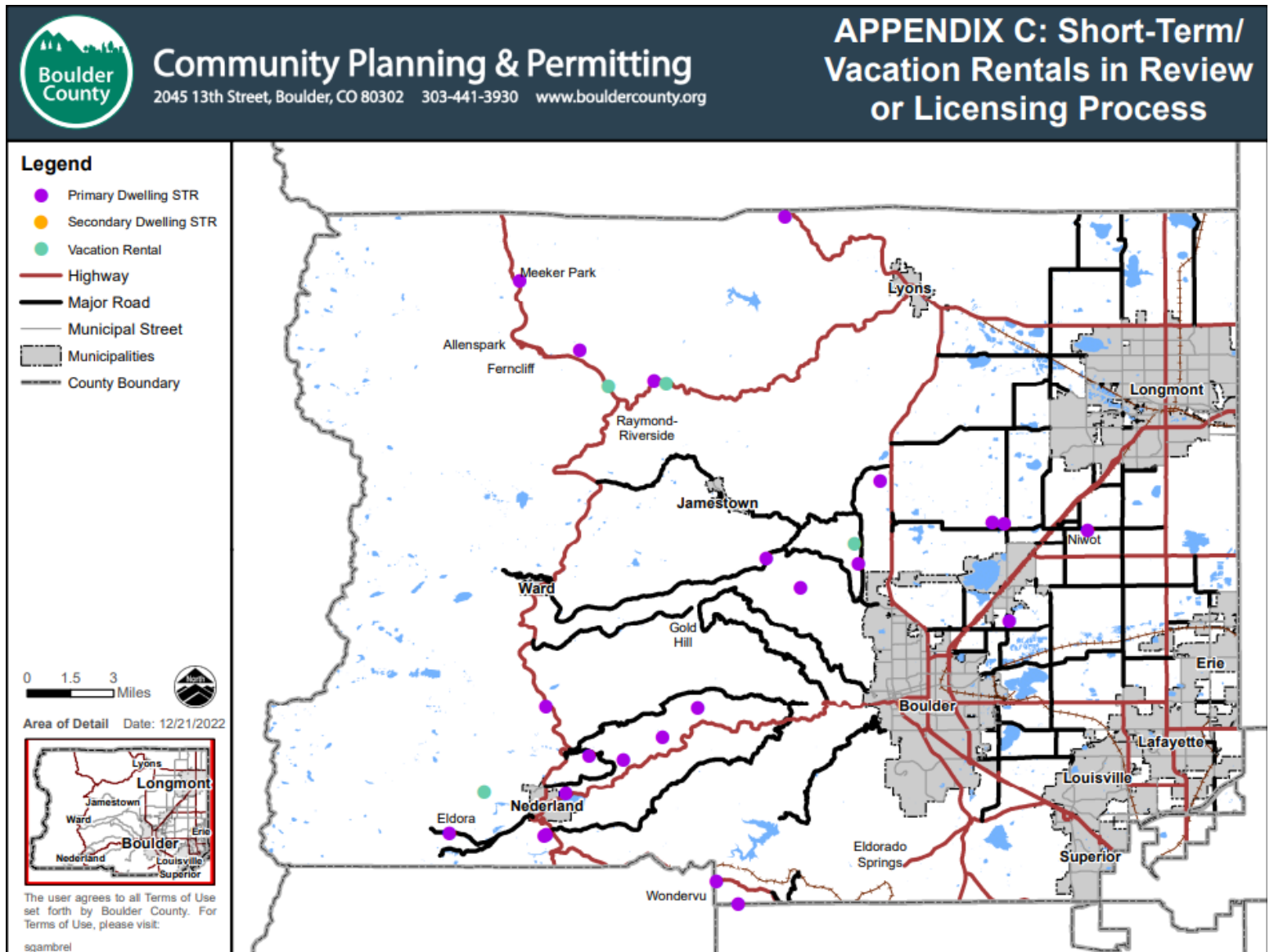
methodology, staff determined that there were 5,055 parcels with existing dwellings that would be eligible for a vacation rental (see Appendix C: Vacation Rental Potential).

The “Vacation Rental Potential” heat map identifies areas in Unincorporated Boulder County where Vacation Rentals would be permitted. These rental types are permitted in the following zone districts: F, A, RR, MI, B, C, LI, and GI. Lighter purple indicates areas of less density while darker purple identifies areas of greater density.



Once again, staff also tried to estimate the number of potential Vacation Rentals by considering parcels in Unincorporated Boulder County that could be developed. Using the same methodology outlined in the previous paragraphs—and subject to the same caveats—staff determined that there were an additional 824 parcels eligible for development (and potentially Vacation Rental licenses).

Finally, staff has identified the locations of current short-term rentals in the county, which includes those properties that are in the licensing or land use review process. The “Short-Term/Vacation Rentals in Review or Licensing Process” map identifies current licensing and land use reviews for Primary Dwelling Short-Term Rentals (purple), Secondary Dwelling Short-Term Rentals (orange), and Vacation Rentals (green).



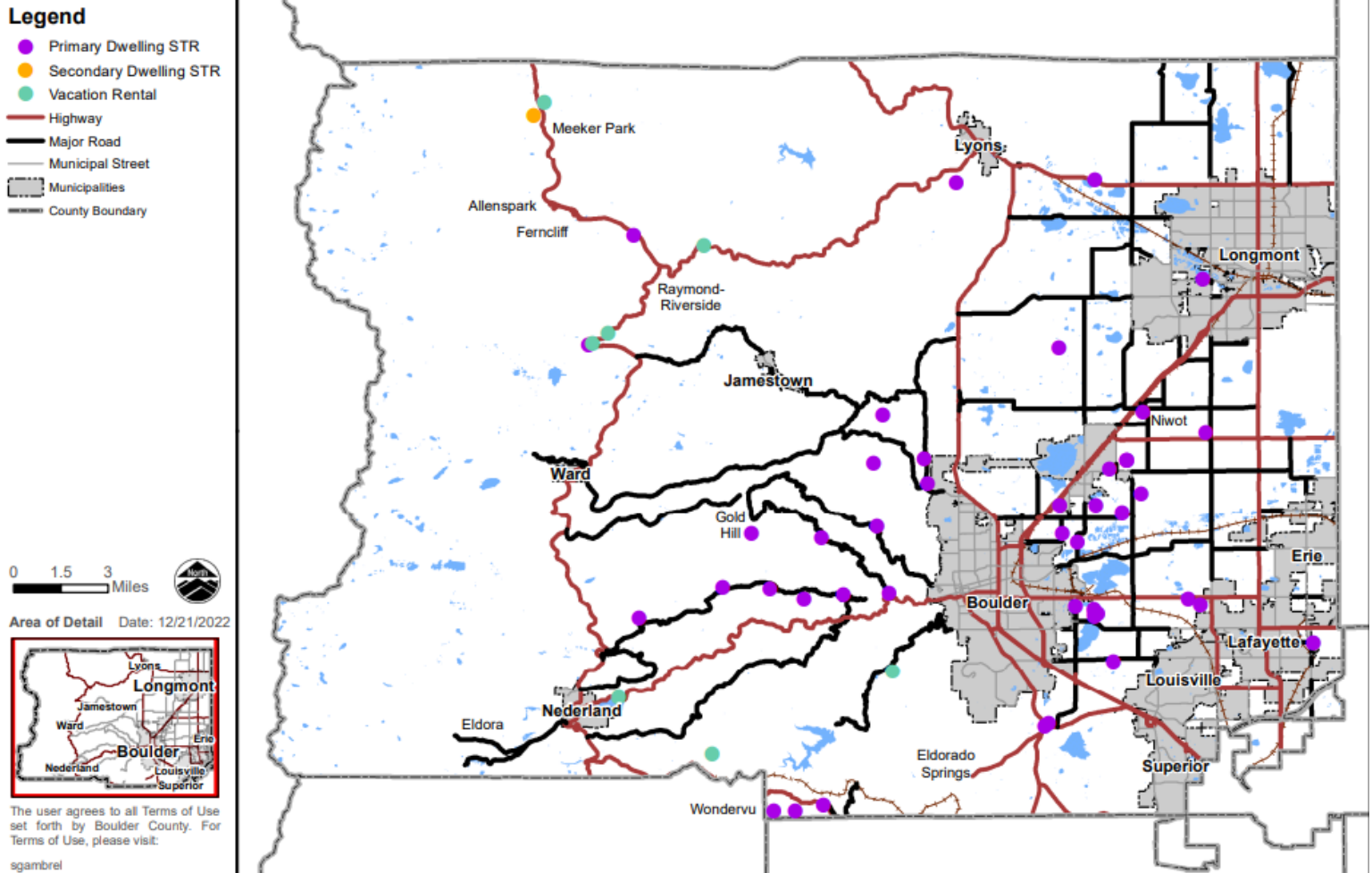
The “Licensed Short-Term and Vacation Rentals” map identifies currently licensed Primary Dwelling Short-Term Rentals (purple), Secondary Dwelling Short-Term Rentals (orange), and Vacation Rentals (green).



Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

APPENDIX C: Licensed Short-Term and Vacation Rentals



Other Considerations on Housing Stock and Housing Affordability

The potential impacts that short-term rentals may have on housing stock likely varies based on their location within the county. The U.S. Census Bureau tracks seven different reasons a property may be vacant and categorizes them in the following manner:

- For rent
- Rented not occupied
- For sale
- Sold, not occupied
- For seasonal, recreational, or occasional use
- For migrant workers
- Other vacant (year-round units which were vacant for reasons other than those mentioned above)

Data from the 2020 U.S. Census indicates a much higher number of housing units classified as “for seasonal, recreational, or occasional use” in the mountains (identified in Figure 1 in the darkest shade of blue) and a lower number of housing units of this classification in the plains (identified in Figure 1 as the lightest shade of blue).

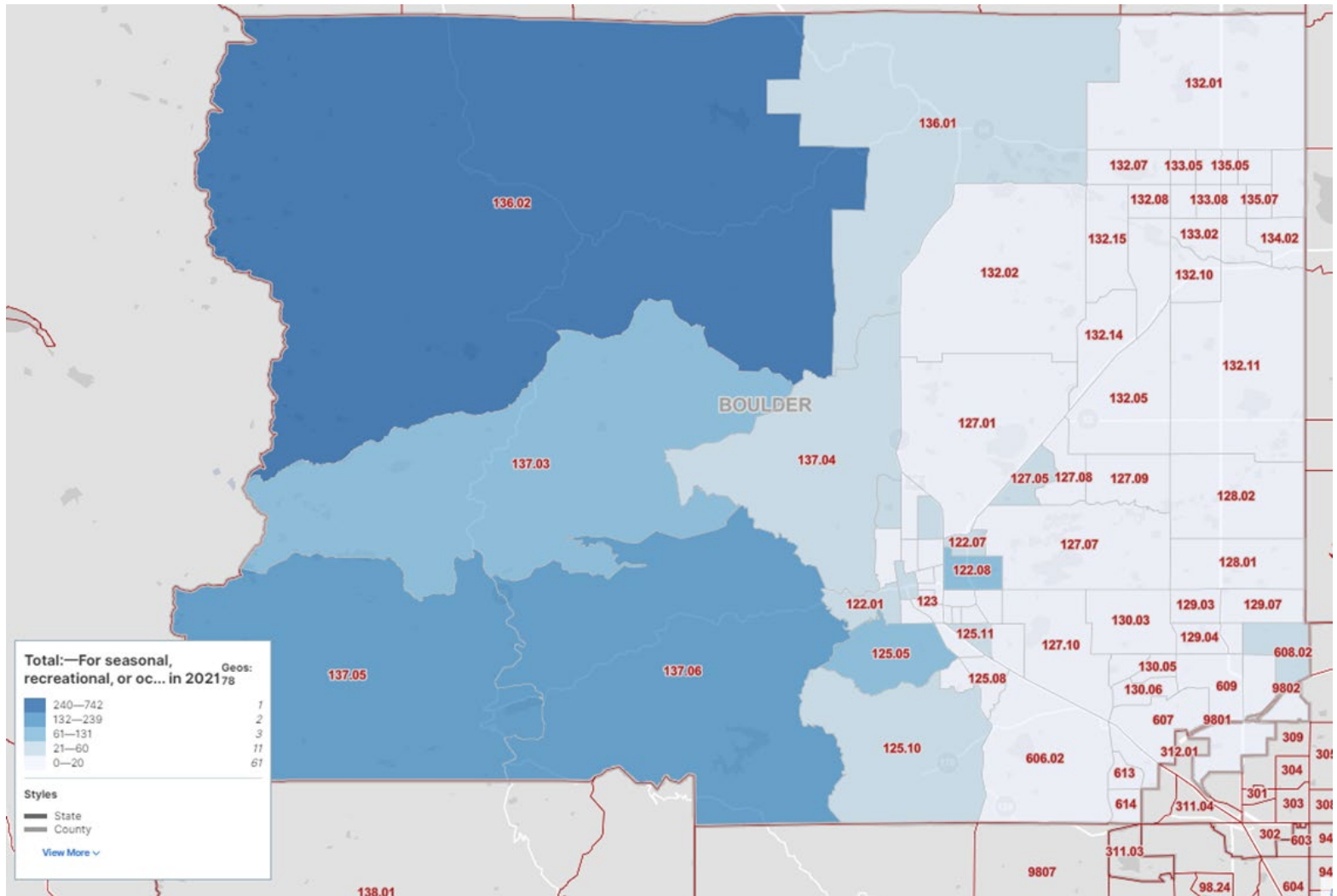


Figure 1: Source, U.S. Census Bureau

According to the 2021 5-Year American Community Survey (ACS) the northwest portion of the County (Census Tract 136.02) has 742 units—or 53%—of housing units characterized for seasonal, recreational, or occasional use. Among the other mountain area census tracts:

- Census Tract 137.03 has 131 housing units (15.7%) characterized for seasonal, recreational, or occasional use
- Census Tract 137.05 has 239 housing units (20%) characterized for seasonal, recreational, or occasional use
- Census Tract 137.06 has 193 housing units (8.9%) characterized for seasonal, recreational, or occasional use

These numbers are significantly higher than those in—and closer to—the plains, where vacant units characterized for seasonal, recreational, or occasional use represent 0% to 1.8% (averaging census tracts with values greater than 0%). These data suggest that a short-term rental in the plains or close to the foothills would likely remove a housing unit from the inventory of homes that are more likely to be occupied year-round. In contrast, a housing unit in the mountains (especially in the northwest) has a much higher chance of being occupied occasionally. Utilizing a dwelling unit in this area as a short-term rental is less likely to remove a unit from the regular housing inventory.

This difference in usage data may also indicate areas where people are more likely to expect temporary or occasional occupancy and have a history of vacation rentals. We might also expect that many of the properties classified for seasonal, recreational, or occasional use, are sometimes occupied by families or extended families who repeatedly visit the area and are more familiar with the risks and hazards associated with living in these areas. If we explore changes to the regulations, we should weigh the impact of geography and—if limits on license numbers (caps) are considered—remain mindful of these data.

Review of Other Jurisdictions

Staff conducted a review of jurisdictions in Colorado, which included those reviewed during the text amendment process, to better understand how communities were addressing short-term rentals. Regulations vary in Colorado, with some communities (i.e., Routt County) prohibiting short-term rentals outright and others (i.e., Eagle County) not regulating at all (although Eagle County is studying the issue and will be considering options in 2023). Of the eleven communities reviewed (Table 5), staff found:

- Licensing terms vary, but many are limited to 12 months (1 year);
- Most communities allow short-term rentals in residences that are not owner-occupied;
- Most communities do not limit the number of days per year that a property can be rented, nor do they require a minimum rental period;
- Most communities do not require a land use review process before issuing a license; and
- Most communities allow rentals in all residential zoning districts; however, half of the communities instituted licensing caps which restrict short-term rentals once the cap is reached.

In 2020, staff found that most jurisdictions do not regulate short-term rentals based on a maximum number of nights per year or minimum rental periods. At the time, planning best practices indicated that these types of provisions are difficult to enforce because of resource constraints and difficulty in verifying certain information. Discussions with third-party monitoring companies also indicated that formal numbers of the days rented is usually not enforceable because that type of data is not available without an audit of each individual property. These requirements remain difficult to confirm or enforce unless a municipality enters into a memorandum of understanding (MOU) with a home-sharing platform, in which case that data may be shared with the municipality.

A few communities in Colorado have implemented geographic restrictions or licensing caps for short-term rentals. These communities (Steamboat Springs, Chafee County, Clear Creek County, Gilpin County) highlight preserving housing stock or long-term rental housing as a goal of their short-term rental regulations. For instance, Steamboat Springs recently approved a short-term rental overlay zone map that divides the city into three zones (A, B, and C) with subzones. There is no cap on the number of licenses in Zone A, licensing caps that may vary by subzone in Zone B, and prohibitions on short-term rentals in Zone C. As highlighted in **Alternative Regulations**, restricting short-term rentals in this way can help communities allow them in appropriate areas, while limiting them in others.

Chafee, Clear Creek, and Gilpin Counties have established a county-wide licensing cap for short-term rentals. These counties differentiate between units that are owner-occupied (often no licensing cap) and units that are not owner-occupied (licensing cap). The number of total licenses available varies by county but is generally a percentage of the total housing units. For example, Gilpin County determines its licensing cap by subtracting the number of housing units in incorporated areas from the total number in the county (determined using U.S. Census data). Flexibility is incorporated by allowing a revision of the licensing cap based on the demolition or construction of new homes in the county. Once again, **Alternative Regulations** suggest that limiting licenses in this way can help communities limit the growth of short-term rentals and preserve rental housing stock.

Table 5: Review of Regulations in Other Colorado Jurisdictions

Jurisdiction	License Term (Yrs)	Allowed in Secondary Residence	Max Night Limitation	Minimum Rental Period	Allowed in all residential zoning districts?	Limit on total # of licenses (community-wide)	Land Use Review
Boulder County	2	Yes	Yes	Yes (SDSTR)	Yes, except Vacation Rental	No	Yes
City of Boulder	4	No	No	None	Yes	No	No
City of Longmont	1	Yes – Whole Home	No	None	Yes	No	No
Town of Nederland	1	No	180 days	None	Yes	No	No
Steamboat Springs	1	Yes	No	None	Zone Overlay Map	Yes, varies according to zone overlay (prohibited, restricted, unrestricted)	No longer required
Chafee County	1	Yes	No	None	Yes, until cap is reached	6% of total housing units or 310, whichever is fewer	Yes
Clear Creek County	2	Yes	No	None	Yes, until cap is reached	4.5% of total available units (161 units), primary exempted	No
Gilpin County	2	Yes	No	None	Yes, until cap is reached	Yes, by category. Tier 2 and Tier 3 subject to combined 5% cap (150 in 2022)	No
Jefferson County	1	Yes	No	No	Pending approval by Board of Adjustment	No	Yes
Summit County	1	Yes	Secondary – 135 days	None	Yes	No	Class 1 Reviewed Administratively
Grand County	1	Yes	No	None	Yes	No	No
Larimer County	One-Time	Yes	No	None	Yes	No	Depends on # of renters

Licensing

There are three types of rental licenses offered through our licensing ordinance: Short Term Primary Dwelling, Short Term Secondary Dwelling, and Vacation rentals. All license types are issued for a two-year period.

Short Term Primary Dwelling Rental

The primary residence of the owner, where the rental duration is fewer than 30 days per booking

- No Land Use process required

Short Term Secondary Dwelling Rental

Not the primary residence of the owner, where the rental duration is fewer than 30 days per booking with a two-night minimum stay, and is rented 60 days per year or less

- Land Use process required

Vacation Rental

Not the primary residence of the owner, where the rental duration is fewer than 30 days per booking, and is rented out more than 60 days per year

- Land Use process required

In order to apply for a license, the applicant must apply online and submit the following documents:

- Building Lot Determination (if not in a platted subdivision)
- Deed
- Floor Plan w/ number of sleeping rooms listed
- Proof of Insurance
- Local Manager Information
- Map of Property w/ access and parking spaces clearly marked
- Proof of Water and Sanitation
- Proof of Primary Residence (for primary rentals)
- Radon Gas Testing Results
- Sales Tax Documentation
- Wildfire Partners Assessment (for primary and secondary rentals)
- Wildfire Partners Certificate (for vacation rentals)
- Proof of Property Taxes Paid (for secondary and vacation rentals)
- Resolution or Determination Letter (for secondary and vacation rentals)
- HERS Certificate or Energy Audit (for vacation rentals)

Once all documents have been submitted for application requests, those applications are then sent around for review from our referral agencies (Public Health, Access & Engineering, Zoning, Building Inspectors, and Wildfire). For the Secondary Dwelling and Vacation Rentals that already went through the land use process, this referral process is to ensure that the license application matches what was approved in the land use approval. The referral/review process can take approximately 6-8 weeks from the time of complete application to issuance of the license.

We have currently issued 45 short term primary dwelling rental licenses, one short term secondary rental license, and seven vacation rental licenses.

There are 11 applications currently under review by referral agencies and eight additional applications ready to go through the review process pending payment of their license fees.

In addition to those that have either obtained their license or who are currently going through the review process, there are 49 application requests awaiting all required documents to be submitted by the applicants. Of these 49 application requests, 44 of them are primary rental, three are secondary rental, and two are vacation rentals.

Harmari's identification of properties renting without licenses has provided us the necessary information needed to reach out to those property owners and ask that they come into compliance. Of those properties that were identified; 21 have stopped renting, eight have obtained a license with us while 32 properties are currently working through either a planning process or the license approval in order to achieve compliance.

Review of Licensing Requirements to Identify Areas for Improvement

During the processing of applications and through public/applicant comments and inquiries, staff have identified licensing requirements that could be updated in order to better the licensing program.

As shown in the statistics above, there are far more Primary Dwelling rental licenses issued and under review than Secondary Dwelling and Vacation Rental licenses. For a dwelling to qualify as a Primary Dwelling Rental, the licensing ordinance requires that the owner live in the residence for six months out of the year. The way that an applicant is to show proof of that six-month residency is to provide a driver's license with the property address listed as the address on the license, along with either a voter registration or vehicle registration listing that property address for the owner. These are items that don't require a time limit for living at a particular property, or proof of residency, in order to change the addresses; therefore, the address on those documents can easily be updated to meet the six-month qualification. This requirement is one that staff has talked a lot about with prospective applicants trying to figure out how they can obtain a Primary Dwelling rental license in order to avoid the land use process. Many neighbors have also called to inform licensing staff that particular owners do not live at the residence for six months and should not hold a primary license. Staff suggests that the amount of time to live at a property, in order for it to qualify as a primary rental, be increased and that the property owner is to sign an affidavit attesting to that amount of time, in addition to providing proof of residence documentation that better proves primary residency.

A building lot determination is a required document for all three types of licenses; however, a building lot determination is performed during the land use review on the secondary and vacation rentals. Staff recommends only requiring a building lot determination on primary rental license applications in order to avoid having to perform redundant reviews.

Radon tests are required to have been performed within the past five years and must be performed by a specific type of professional, but the licensing ordinance does not indicate an allowable radon level. Because this is a health and safety concern, staff feels that this requirement could serve a better purpose by including a specific radon level, rather than specifying who must perform the test.

Our regulations currently only allow for single family dwellings to obtain short term rental licenses. Staff recommends looking into the question of equity as it relates to excluding townhomes and condos.

In terms of property insurance, licenses are issued for two years but insurance policies for only one year. A requirement for the property owner to submit updated insurance on a yearly basis would be beneficial to ensure the properties remain properly insured throughout the term of the license.

With Wildfire Partners expanding into Wildfire Zone 2 (the plains), staff recommends considering whether any changes need to be made to wildfire requirements for short term and vacation rental licenses in Wildfire Zone 2.

Enforcement

Boulder County is a destination for tourist from multiple parts of the United States and from around the world. This fuels demand for short-term rental units in this area. Based on the number of listings found for unlicensed short-term rental properties from the Harmari STR report and continued complaints from residents, it is clear a market for these types of dwellings in unincorporated Boulder County exists. The role of Code Compliance, in this process, is to address unlicensed short-term rentals by bringing these properties into compliance. Compliance can be achieved by receiving zoning and licensing approval, demonstrating the use is a legally existing or ceasing the use.

The Boulder County Code Compliance Team is responsible for the enforcement of the Boulder County Land Use and Building Code as authorized in Article 17 and Article 14 of the Land Use Code. Boulder County Code Compliance Specialists prioritize working with property owners to mitigate code violations prior to initiating enforcement actions. Boulder County Code Compliance Specialist are tasked with providing enforcement of Short-Term Rentals.

The majority of short-term rental cases Boulder County Code Compliance Specialists responded to, between January 2018 and November 2022 were complaints filed by individuals reporting a short-term rental near their property or within their neighborhood. These complaints are categorized as Zoning Violations. The other type of cases received for review were from Harmari STR, which provides a listing of properties advertised as vacation rentals. These reported cases are categorized as Violations of Licensing. During this period Boulder County Code Compliance received a total of 225 cases regarding short-term rentals including 165 Violations of Licensing and 60 Zoning Violations.

Boulder County Code Compliance follows its internal policies and procedures in order to process all complaints including short-term rentals. Through this process, initial research is undertaken to determine if a violation is present. This occurs through an investigation of property history, zoning, code citations, field visits, and other research as needed. If sufficient evidence is not found to support the claim of a violation, the cases is closes with a statement of “No Violation Found.”

When sufficient evidence is found, Code Compliance Specialists initiate “next steps” in the process of addressing the compliant of a reported unlicensed short-term rental. Code Compliance will contact the property owner to discuss and attempt to resolve the violation prior to moving forward in the code compliance process. This may include multiple visits to the subject property for site inspection, contacting neighbors for information, and potentially contacting other county agencies.

If it is determined the property owner is unwilling to cooperate in ceasing renting of the property or actively working to be compliant by obtaining necessary approvals, action is taken. A “Notice of Violation” is issued to begin a process which could lead to legal action. If no action is taken by the property owner to remedy the situation during the time period stated on the “Notice of Violation” the Code Compliance Specialist refers the matter to the County Attorney, which may lead to fines and other potential legal actions.

Boulder County Code Compliance has closed a total of 74 short-term rental cases during the time period between January 2018 and November 2022. This total includes 27 Zoning violations and 47 Violations of Licensing. As of November 2022, Code Compliance Specialists have a total of 151 open short-term rental case. Of these cases, 28 are Zoning Violations and 123 are Violation of Licenses of which 30 are in the process of attempting to come into compliance with the Land Use Code by obtaining zoning approvals and short-term rental licenses.

Table 6: Violations				
	Violations reported	Violations abated or in process		Outstanding violations
		Fully Compliant	In process	
2018-2020 regulation implementation	24	14	3	7
2020-today (Harmari data included)	199	60	34	105

The enforcement of Short-Term Rental regulations is integral to maintaining a certain Quality of Life for Boulder County residents as the potential of disturbance to an area may increase with the increase of available short-term rental units in an area. Based on best practices, clear regulation and consistent enforcement will be key in gaining control over an increasing amount of short-term rental units in unincorporated Boulder County.

NEXT STEPS

There are changes to policies and procedures that CPP can make to address compliance with Land Use Code regulations and the licensing ordinance, as well as improve enforcement. However, these changes may have little impact given our existing regulatory framework and resource availability. As noted in the report above, the timeframes and resources to complete land use reviews and post-approval actions are lengthy. There is also limited capacity of development review and licensing staff, the Planning Commission, and the BOCC to conduct the number of reviews necessary to accommodate short-term rental requests. Enforcement resource constraints include staff capacity, as there are two code compliance officers covering the unincorporated county and enforcing all zoning and building violations.

The Land Use Code and licensing ordinance could be amended to address the regulatory and resource issues. In order to increase the speed and efficacy of compliance, the regulations could be amended to streamline the land use and licensing reviews, make requirements more prescriptive (i.e., geographic limitations, licensing caps, etc.) to reduce discretion throughout the process, and allow concurrent reviews where possible. Any authorization to amend the Land Use Code should also include concurrent authorization to amend the licensing ordinance.

APPENDIX A: REFERENCES

Barron, Kyle and Kung, Edward and Proserpio, Davide, “The Effect of Home-Sharing on House Prices and Rents: Evidence from Airbnb” (March 4, 2020). Available at SSRN: <https://ssrn.com/abstract=3006832> or <http://dx.doi.org/10.2139/ssrn.3006832>

Bekkerman, Ron and Cohen, Maxime C. and Kung, Edward and Maiden, John and Proserpio, Davide, “The Effect of Short-Term Rentals on Residential Investment” (August 23, 2021). Available at SSRN: <https://ssrn.com/abstract=3874207> or <http://dx.doi.org/10.2139/ssrn.3874207>

National League of Cities, “Short-Term Rental Regulations: A Guide for Local Leaders,” (2022). Available at <https://www.nlc.org/wp-content/uploads/2022/05/Short-Term-Rental-Regulations.pdf>

U.S. Census Bureau, “5-Year American Community Survey—Vacancy Status,” (2021), Available at <https://data.census.gov>.

U.S. Census Bureau, “2020 Decennial Census,” (2021), Available at <https://data.census.gov>.

3-204 Referral Requirements and Agency Review

A. Referral of applications

1. When an application is filed with the Community Planning & Permitting Department, the application materials may be referred to interest holders in the property who are not landowners, to adjacent and/or nearby property owners and to appropriate agencies. For all processes requiring a public hearing, unless otherwise specified in this Code, property owners within 1,500 feet of the subject property shall be notified. Based on the specifics of the application, the Director may waive referral requirements if those requirements are unnecessary.
 - a. The applicant is responsible for preparing the referral packets in the manner prescribed by the Director. An error made either intentionally or unintentionally by the applicant in the preparation of referral packets may result in a delay in processing of the application so that the proper referrals can be accomplished.
 - b. All mailings shall be by U. S. Mail, first-class postage prepaid, with the exception of referrals to offices and agencies in the Boulder County interoffice mail delivery route.
2. If the Director determines that the application is complete and acceptable for review and processing, it will be referred to all appropriate property owners and interest holders, and offices and agencies for their information, review, response, and recommendation.

B. Referral Packets

1. Each referral packet shall contain one copy of the site plan (full size or reduced to letter size) and application, and other materials as deemed appropriate by the Director. The number of referral packets required shall be determined by the Director.
2. Referral notices shall be mailed to each owner of estates, rights, or interests in the subject property identified in the title information submitted with the application, and to each identified adjacent property owner (or property owner within 1,500 feet of the subject property) and to appropriate referral agencies. Referral notifications may be distributed via e-mail.
3. Referral notices shall also include the name of the proposal, name of owner of the subject property, docket number, general location, number of acres, proposed use, and any other information as deemed appropriate by the Community Planning & Permitting Director. The notice shall also include information on where to access referral packets on the County's website, and provide staff contact information in case the person receiving the notice wishes to request a hard copy of the referral packet. The complete application referral packet shall be available for public review in hard copy form at the County Community Planning & Permitting Department during business hours.

C. Review of Applications by Agencies and Individuals

1. Referral responses from agencies and individuals
 - a. Referral responses must be received by the Director within 35 days of transmittal (with the exception of Limited Impact Special Review, Exemption Plats, Subdivision Exemptions, Road Name Changes, Vacations, and Variances which are 15 day referrals) in order to insure that recommendations and findings are considered.
 - b. Failure of any office, agency district or individual to respond within the above-mentioned time period, or within the period of an extension which may be expressly granted by the Director, will be regarded as a response with no conflict, unless the Director determines that such failure to respond should be interpreted differently.
2. Boulder County Public Health will review the on-lot sewage disposal reports
 - a. This review will report on the adequacy of existing or proposed sewage treatment systems to handle the estimated effluent and the water quality of the water supply proposed to serve the proposed development.
 - b. Boulder County Public Health may require the applicant to submit additional engineering or geological reports or data and to conduct a study of the economic and engineering feasibility of a sewage treatment works prior to making its recommendations.
3. Boulder County Public Health shall review the potential for radiation hazard.
4. The following referral agencies shall respond to issues dealing with water in accordance with state law:
 - a. The State Engineer
 - (i) The Engineer will issue an opinion regarding material injury likely to occur to decreed water rights by virtue of diversion of water necessary to be used to supply the proposed development.
 - (ii) The State Engineer will also give an opinion as to the adequacy of the proposed water supply to meet requirements of the development.
 - (iii) If the State Engineer finds material injury to decreed water rights or finds inadequacy, then the State Engineer shall express this finding in writing to the Director, stating the reason for the finding, including, but not limited to, the amount of additional or exchange water that may be required to prevent such injury.

- b. A public or quasi-public water supply entity
 - (i) If a public or quasi-public entity is designated as the source of water for a proposed development, that entity shall file with the Director and the State Engineer a statement documenting the amount of water which can be supplied by the entity without causing injury to existing water rights.
 - (ii) The State Engineer shall file with the Director written comments on the report. If the State Engineer finds that the report is insufficient, an opinion indicating the deficiencies shall be transmitted to the Community Planning & Permitting Department.
- 5. The Colorado Geological Survey may evaluate those geologic factors which would have a significant impact on the proposed use of the land.
- 6. Where the application involves dwelling units, the school district shall submit specific recommendations with respect to the adequacy of school sites and the adequacy of school structures.
- 7. The County Engineer shall review all engineering aspects of the proposed development, including, but not limited to, impacts on the multimodal transportation system, impacts to known floodplains, stormwater management issues, grading, drainage, access, retaining walls and referral responses, and shall transmit findings and preliminary recommendations to the Director.
- 8. The County Parks & Open Space Department shall review the application for open space and environmental impacts. Staff will schedule applications with such impacts for discussion before the Parks & Open Space Advisory Committee.
- 9. The County Community Planning & Permitting Department shall evaluate the application for conformance with the Comprehensive Plan, any applicable intergovernmental agreement affecting land use or development, this Code, sound planning and design practices, and comments from the referral agencies and individuals.
- 10. The Colorado Division of Parks and Wildlife shall evaluate the application for its impacts on wildlife and associated habitat.
- 11. The Boulder County Historic Preservation Advisory Board (HPAB), as duly constituted under Article 15 of this Code, shall serve as a referral entity for applications which the Community Planning & Permitting Director deems have the potential to impact structures or resources of historical significance in the County.

D. Post Referral Action

If there are referral comments received by the Community Planning & Permitting Department which require a response from the applicant, the following actions shall occur:

- 1. The Community Planning & Permitting staff will transmit by first class mail, or hand delivery, the comments from referral agencies and individuals as soon as possible following the required referral response period.
- 2. Within 14 days after transmittal of those comments, or by a later date specified by the Director, the applicant shall respond in writing to all issues raised during the referral process.
 - a. Such response shall be considered an amendment to the application, and shall be made part of the application to be used as a basis for a final Community Planning & Permitting staff recommendation.
 - b. If the Director finds that this new information results in a substantial change in the proposal, the Director may re-refer the amended application and supporting materials to those referral agencies and individuals outlined in Section 3-204 (C). The processing schedule will be amended accordingly.
 - c. If the applicant is unable to supply responses within the 14 days allowed, then the applicant may request, in writing, a delay in processing the application for up to 95 days.
 - d. If the applicant fails to supply responses within the specified time, the Director may either base the Community Planning & Permitting staff recommendation on review of the file as it exists, or reject the application as a result of the failure to provide information necessary to its proper review. In the case of the latter, the Director shall inform the applicant in writing.
- 3. As part of the post-referral action, the Community Planning & Permitting staff will make a reasonable effort to apprise the applicant of any deficiency in the application known to the Staff prior to any required public hearing. In the case of any application to plat unsubdivided land, or application for any extension, betterment, or addition to buildings, structures, or plants or equipment of a public utility under C.R.S. 30-28-127, the applicant may request that any technical dispute between a licensed or registered professional retained by the applicant and the County be referred to a qualified employee in the appropriate State department for a recommendation to facilitate a resolution of the dispute. If the recommended resolution results in a substantial change to the application, the Director may re-refer the application as provided in this Subsection 3-204.D.
- 4. The Community Planning & Permitting staff shall make a recommendation based on its analysis of the record on the application, the referral comments and the applicant's responses to the referral comments.

3-206 Post Approval Requirements

- A. No activity or use authorized pursuant to an approval granted subject to the provisions of this Article shall be permitted or allowed to commence unless all post- approval requirements as required by this Code and all conditions of approval have been met.
- B. Development Agreements
 - 1. For special use approvals and final plat or final plat replat approvals under the Subdivision Regulations, a development agreement must be reviewed and approved by County staff, signed by the applicant, and then signed by the Chair of the Board. The approved and executed development agreement shall be recorded in the real property records of Boulder County at the same time the other required post-approval documents implementing the approval are recorded. The development agreement shall embody the terms and conditions of the site specific development plan creating a vested property right pursuant to Section 3-207.
 - 2. The development agreement typically will include the following (as applicable):
 - a. description of the approved development,
 - b. site plan depicting the approved development,
 - c. provisions for construction of improvements,
 - d. performance guarantees and letters of credit,
 - e. evidence of payment of sewer and water tap fees and other necessary fees,
 - f. phasing schedule,
 - g. evidence of transfer of water rights,
 - h. agreements to provide 'as built' plans,
 - i. methods of providing perpetual maintenance of common property and equipment,
 - j. provisions for a home owners association,
 - k. methods for amending the agreement,
 - l. enforcement provisions, and
 - m. language establishing a vested property right in conformity with Part I of Article 68 of Title 24, C.R. S., as amended.
 - 3. The development agreement shall be signed by all owners of the subject property.
- C. Subdivision Exemptions
 - 1. Following approval or conditional approval of an exemption, following actions may be required.
 - a. The applicant shall obtain all signatures necessary for execution of the appropriate documents. The Director shall be responsible for obtaining the signature of the Chair of the Board of County Commissioners.
 - b. The applicant shall supply a title report as defined in Section 3-203.H. which includes all owners of record as of the date of recordation.
 - c. The applicant shall obtain a certification from the County Treasurer's Office that there are no outstanding ad-valorem taxes to be paid on the property being exempted.
 - d. The Director shall verify that the proper signatures have been secured on the exemption documents.
 - e. The Director shall verify that references to the docket number of the exemption and date of approval are included on the deeds.
 - 2. Upon finding that all corrections have been made to the exemption documents, the proper signatures have been received, that all payments have been received, and the documents are in the proper order and ready for recordation, the Director shall authorize the documents to be filed for recording with the Clerk and Recorder.
 - 3. The applicant shall be responsible for all recording fees.
- D. Final Plats
 - 1. The following actions shall occur after approval or conditional approval of the final plat by the Board of County Commissioners and prior to recordation of that plat and associated documents.
 - a. The recordation of required materials shall occur within one year of approval by the BOCC.
 - b. Extensions of this deadline shall be granted per Section 5-500 Expiration of Approvals.
 - 2. The applicant shall provide the Director with all of the proper original documents as required below.
 - a. The applicant shall correct, modify and amend all final plat documents in accordance with approval or conditional approval.
 - b. The applicant shall obtain all signatures necessary for execution of the appropriate documents. The Director shall be responsible for obtaining the signature of the BOCC Chair.
 - c. The applicant shall obtain itemized estimates for the cost of required improvements.

3-207 Vested Property Rights

- A. A vested property right may be established pursuant to Part I of Article 68 of Title 24, C.R.S., as amended, after the following events occur:
 - 1. Approved applications for special use permits, final plats, or final plat replats under the Subdivision Regulations, constitute site specific development plans which will cause property rights to vest as provided in Part I of Article 68 of Title 24, C.R.S., as amended
 - 2. The site specific development plans, as identified in the preceding Subsection 3-207.A.1, shall be deemed approved, and the associated vested property right shall be deemed established, on the date the Board signs a written resolution approving or conditionally approving the subject special use, final plat, or final plat replat application.
 - 3. No later than 14 days after the date of the Board's adoption of its written resolution establishing the vested right, the Director shall publish a notice advising the public of the approval of the site specific development plan and the creation of the vested property right in a newspaper of general circulation of the County.
 - 4. Once established, the vested right shall remain in effect for three years, unless the Board determines, as part of the site specific development plan approval, that a longer period is warranted in light of the relevant circumstances. Those circumstances may include but are not limited to: the size and phasing of the development, economic cycles, and market conditions. Any amendment to an approved site specific development plan shall not extend the three year vesting period unless the Board expressly authorizes an extension based on the foregoing criteria.
 - 5. No activity or use authorized by a site specific development plan approval granted under this Article shall be allowed to commence unless a vested right is first established as required in this Section, and until all other applicable post-approval requirements have been met.

3-300 Application Submittals and Processing

- A. The Director may create a waitlist for accepting applications. When the Director establishes a waitlist, Land Use shall inform prospective applicants regarding the waitlist and notify Applicants when they have reached the front of the waitlist so that their applications may be accepted and processed. Prospective applicants shall generally be placed on the waitlist on a first come, first served basis. However, the Director may prioritize items basis on special circumstances, such as reconstruction-related permit applications submitted after a natural disaster.
- B. When the Director establishes a waitlist, no time limit for processing applications shall apply until the application is removed from the waitlist and accepted for processing.

E. Vacation Rental

1. Definition: 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:
 - a. The dwelling unit is not the primary residence of the owner; and
 - b. The dwelling unit is rented more than 60 days per year.
2. Districts Permitted:
 - a. By Special 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.
3. Parking Requirements: One space per Sleeping Room in addition to one space for the local manager. All parking must be on-site.
4. Loading Requirements: None
5. Additional Provisions:
 - a. All Vacation Rentals must maintain a valid Boulder County Vacation Rental License
 - b. A Vacation Rental may not be marketed or used for weddings, receptions, or similar private or public events.
 - c. Accessory Dwellings are not eligible for this use.

X. Primary Dwelling Short-Term Rental

1. **Definition:** A single-family dwelling unit offering transient lodging accommodations to a single booking party at a time within that dwelling unit for rental duration of fewer than 30 days where the dwelling unit is the primary residence of the owner.
2. **Districts Permitted:** By right in all districts
3. **Parking Requirements:** Three spaces, or one space per designated Sleeping Room in addition to one space for the owner or local manager, whichever is greater. All parking must be on-site.
4. **Loading Requirements:** None
5. **Additional Provisions:**
 - a. All Primary Dwelling Short-Term Rentals must maintain a valid Boulder County Short-Term Rental License.
 - b. A Primary Dwelling Short-Term Rental may not be marketed or used for weddings, receptions, or similar private or public events, with the exception of those by-right events hosted by one or more of the individuals who reside on the property.
 - c. Historic Accessory Dwelling Units are eligible for this use.

Y. Secondary Dwelling Short-Term Rental

1. **Definition:** 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:
 - a. The dwelling unit is not the primary residence of the owner;
 - b. The dwelling unit is rented 60 days per year or less; and
 - c. The dwelling unit is rented with a two-night stay minimum.
2. **Districts Permitted:** By Limited Impact Special Review in all districts
3. **Parking Requirements:** Three spaces, or one space per designated Sleeping Room in addition to one space for the owner or local manager, whichever is greater. All parking must be on-site
4. **Loading Requirements:** None
5. **Additional Provisions:**
 - a. All Secondary Dwelling Short-Term Rentals must maintain a valid Boulder County Short-Term Rental License.
 - b. A Secondary Dwelling Short-Term Rental may not be marketed or used for weddings, receptions, or similar private or public events, with the exception of those by-right events hosted by one or more of the individuals who reside on the property.
 - c. Accessory Dwellings are not eligible for this use.

4-600 Uses Permitted by Special Review and Limited Impact Special Review

A land use designated as a special use in a zoning district is one that – because of its inherent nature, extent and external effects – may be allowed to establish if subject to Special Review to assure the use is located, designed, and operated in harmony with neighboring development and the surrounding area and does not adversely affect the public health, safety, and welfare. The purpose of the review process is to determine the compatibility of the use with the site and surrounding land and uses and the adequacy of services. Public review is necessary because the effect of a special use on the surrounding environment cannot be determined adequately in advance of the use being proposed for a particular location. During the review process, the county considers location, design, configuration, intensity, and impacts by comparing the proposal to the code criteria, intergovernmental agreements, established hazard areas, parcel specific conditions, site context and any other applicable regulations to assure that the use can operate in a sustainable way with minimal danger or impact to the users, the natural environment, or the developed environment.

- A. A use permitted by Special Review may be established in a zoning district only upon approval of the Board, after review by the Planning Commission, subject to conditions and mitigation measures.
- B. A use permitted through Limited Impact Special Review may be established in a zoning district only upon approval of the Board subject to conditions and mitigation measures.

4-601 Review Criteria

- A. A use will be permitted by Special Review or Limited Impact Special Review only if the Board finds that the proposed use meets the following criteria as applicable:
 - 1. Except as otherwise noted, the use will comply with the minimum zoning requirements of the zoning district in which the use is to be established, and will also comply with all other applicable requirements;
 - 2. The use will be compatible with the surrounding area. In determining compatibility, the Board should consider the location of structures and other improvements on the site; the size, height and massing of the structures; the number and arrangement of structures; the design of structures and other site features; the proposed removal or addition of vegetation; the extent of site disturbance, including, but not limited to, any grading and changes to natural topography; and the nature and intensity of the activities that will take place on the site. In determining the surrounding area, the Board should consider the unique location and environment of the proposed use; assess the relevant area that the use is expected to impact; and take note of important features in the area including, but not limited to, scenic vistas, historic townsites and rural communities, mountainous terrain, agricultural lands and activities, sensitive environmental areas, and the characteristics of nearby development and neighborhoods;
 - 3. The use will be in accordance with the Comprehensive Plan;
 - 4. The use will not result in an over-intensive use of land or excessive depletion of natural resources. In evaluating the intensity of the use, the Board should consider the extent of the proposed development in relation to parcel size and the natural landscape/topography; the area of impermeable surface; the amount of blasting, grading, or other alteration of the natural topography; the elimination or disruption of agricultural lands; the effect on significant natural areas and environmental resources; the disturbance of plant and animal habitat, and wildlife migration corridors; the relationship of the proposed development to natural hazards; and available mitigation measures such as the preservation of open lands, the addition or restoration of natural features and screening, the reduction or rearrangement of structures and land disturbance, and the use of sustainable construction techniques, resource use, and transportation management;
 - 5. The use will not have a material adverse effect on community capital improvement programs;
 - 6. The use will not require a level of community facilities and services greater than that which is available;
 - 7. The use will support a multimodal transportation system and not result in significant negative impacts to the transportation system or traffic hazards;
 - 8. The use will not cause significant air, odor, water, or noise pollution;
 - 9. The use will be adequately buffered or screened to mitigate any undue visual impacts of the use;
 - 10. The use will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Boulder County; and
 - 11. The use will establish an appropriate balance between current and future economic, environmental, and societal needs by minimizing the consumption and inefficient use of energy, materials, minerals, water, land, and other finite resources.

12. The use will not result in unreasonable risk of harm to people or property – both onsite and in the surrounding area – from natural hazards. Development or activity associated with the use must avoid natural hazards, including those on the subject property and those originating off-site with a reasonable likelihood of affecting the subject property. Natural hazards include, without limitation, expansive soils or claystone, subsiding soils, soil creep areas, or questionable soils where the safe-sustaining power of the soils is in doubt; landslides, mudslides, mudfalls, debris fans, unstable slopes, and rockfalls; flash flooding corridors, alluvial fans, floodways, floodplains, and flood-prone areas; and avalanche corridors; all as identified in the Comprehensive Plan Geologic Hazard and Constraint Areas Map or through the Special Review or Limited Impact Special Review process using the best available information. Best available information includes, without limitation, updated topographic or geologic data, Colorado Geologic Survey landslide or earth/debris flow data, interim floodplain mapping data, and creek planning studies.
 13. The proposed use shall not alter historic drainage patterns and/or flow rates unless the associated development includes acceptable mitigation measures to compensate for anticipated drainage impacts. The best available information should be used to evaluate these impacts, including without limitation the Boulder County Storm Drainage Criteria Manual, hydrologic evaluations to determine peak flows, floodplain mapping studies, updated topographic data, Colorado Geologic Survey landslide, earth/debris flow data, and creek planning studies, all as applicable given the context of the subject property and the application.
- B. If the proposed use is approved or conditionally approved, the Board may impose such conditions and safeguards to insure compliance with the requirements, standards, and conditions of this Section 4-600. Where development or activity associated with the proposed use cannot completely avoid one or more natural hazard, whether because no other site on the subject property can be reasonably designated or developed for the use or because the proposed site is the best location due to the need to avoid or minimize significant adverse impacts under other applicable review criteria, the use may be conditionally approved only if one or more measures will satisfactorily mitigate all significant natural hazard risk posed by the proposed use to the subject property and to the surrounding area. The violation of any condition, safeguard, or commitment of record shall be sufficient grounds for revocation of the Special Review approval by the Board, after a public hearing held in accordance with provisions of 3-205.C.
 - C. An application for a use by Special Review shall include a development agreement which must be submitted and approved by the Board.
 - D. Where appropriate, in order to enable the proposed use to meet the standards set forth in (A) above, the Board may require the dedication of a perpetual conservation easement upon so much of the site as may be determined necessary to mitigate impacts of special uses.

4-602 Special Provisions

- A. Special Review Approval for Mining
 1. In addition to the standards of approval set forth in 4-601.A., an applicant for open mining, subsurface mining, or limited impact mining must also meet the following:
 - a. compliance with a plan of reclamation; and
 - b. compliance with use, location, and setback regulations established by the Board for the proposed operation.
 2. If the proposed mining use is approved, the Board shall impose such conditions and safeguards as are necessary to insure continued compliance with the requirements set forth in this Paragraph.
- B. Special Review for Development in the ED District
 1. In addition to the standards of approval set forth in 4-601.A., approval for a planned development in the ED district must also meet the following:
 - a. Employment projections and projected space requirements demonstrate a need for such a development.
 - b. The applicant is the intended user of the site and has demonstrated legal interest in the property.
 - c. Direct and indirect local employment opportunities for the community, that would result if the application were to be approved, are consistent with the rate of growth of population as projected within the Comprehensive Plan.
 - d. The public benefits are substantial and there will be no significant negative impacts on the quality of life of those residents in the surrounding area, and no major negative fiscal, service, environmental, or related land use impacts upon the County, or other communities in the County.
 - e. Uses Permitted: Uses shall have no harmful or unpleasant effects which would be more objectionable than the normal environmental features of surrounding areas. Uses within the ED district shall be compatible with surrounding areas of noise, odors, fumes, glare, vibration, smoke, vapors and gases, electrical emissions, and industrial wastes.

- (ix) Through the Special Review process the Board of County Commissioners (BOCC) may require periodic reviews to assure effective monitoring and operation of the range to protect the health and safety of those in the area and to ensure compliance with the Special Use Review approval. If at any time the BOCC finds the operation does not meet the design or operational expectations, they may modify existing conditions or impose additional conditions to address concerns including, without limitation, requiring on-site range staff, cameras, or corrective design measures.
 - i. Enforcement.
 - (i) Firing range noise violations will be enforced if the following criteria are met:
 - (A) A civil action or criminal penalty shall only be commenced against an approved range or its owners or operators following a written complaint from a resident of Boulder County. Grounds for commencing civil action or penalty include noise in excess of permitted levels emanating from a range that results from the operation or use of the range.
 - (B) Written complaints must contain the name and address of the complainant, how long the complainant has resided at the address indicated, and the times and dates upon which the alleged excessive noise occurred. Enforceable complaints must meet the criteria of C.R.S. § 25-12-109, as amended.
 - (ii) Notwithstanding 4-602.F.1.j.i. above, any other provisions of this section may be enforced under Article 17 of the Code, or by any legal or equitable means recognized by the Colorado State Statutes and the Colorado Court Rules, as amended.
 - j. Any future expansion that results in additional firing positions, including without limitation a lengthened daily period of operations or increased length of the direct fire zone or the area of the shotfall zone to accommodate the use of firearms not identified in the then-existing Special Use permit application will constitute a substantial modification under 4-603 of the Code. Changes that are not a substantial modification and are routine maintenance include simple, small-scale activities (e.g., repairing structures such that a building permit is not required under the Code) associated with regular and general upkeep of an existing building, firing line, target line, parking lots, etc. Routine maintenance activities are associated with maintaining a facility, not expansion or new construction.
- G. Limited Impact Special Review Waiver for Bed and Breakfast and Secondary Dwelling Short-Term Rental**
- 1. The requirement for Limited Impact Special Review may be waived if the Director determines that the Bed and Breakfast or Secondary Dwelling Short-Term Rental will not have any significant conflict with the criteria listed in Article 4-601 of this Code.
 - 2. The Director may impose written terms and conditions on these uses that may be reasonably necessary to avoid conflict with the review criteria in Article 4-601 of this Code.
 - 3. The Bed and Breakfast must comply with the Additional Provisions outlined in Article 4-507.A. of this Code. The Secondary Dwelling Short-Term Rental must comply with the Additional Provisions outlined in Article 4-516.Y. of this Code.
 - 4. Notice of the waiver application being reviewed shall be sent to referral agencies and adjacent property owners in accordance with Article 3-204 of this Code.
 - 5. The Director shall not issue the determination for 15 days following such notification and shall consider any comments received by the public.

APPENDIX C: Maps

The “**Primary and Secondary Dwelling Short-Term Rental Potential**” heat map identifies areas in Unincorporated Boulder County where Primary Dwelling Short-Term Rentals and Secondary Dwelling Short-Term Rentals would be permitted (these short-term rental types are permitted in all zoning districts). Lighter green indicates areas of less density while darker green identifies areas of greater density.

The “**Vacation Rental Potential**” heat map identifies areas in Unincorporated Boulder County where Vacation Rentals would be permitted. These rental types are permitted in the following zone districts: F, A, RR, MI, B, C, LI, and GI. Lighter purple indicates areas of less density while darker purple identifies areas of greater density.

The “**Short-Term/Vacation Rentals in Review or Licensing Process**” map identifies current licensing and land use reviews for Primary Dwelling Short-Term Rentals (purple), Secondary Dwelling Short-Term Rentals (orange), and Vacation Rentals (green).

The “**Licensed Short-Term and Vacation Rentals**” map identifies currently licensed Primary Dwelling Short-Term Rentals (purple), Secondary Dwelling Short-Term Rentals (orange), and Vacation Rentals (green).



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APPENDIX C: Primary and Secondary Dwelling Short-Term Rental Potential

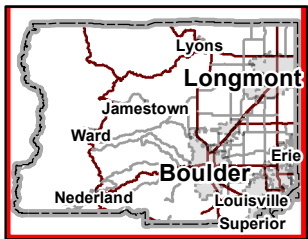
Legend

- Highway
- Major Road
- Municipal Street
- Municipalities
- County Boundary
- Short-Term Rental Potential

0 1.5 3 Miles

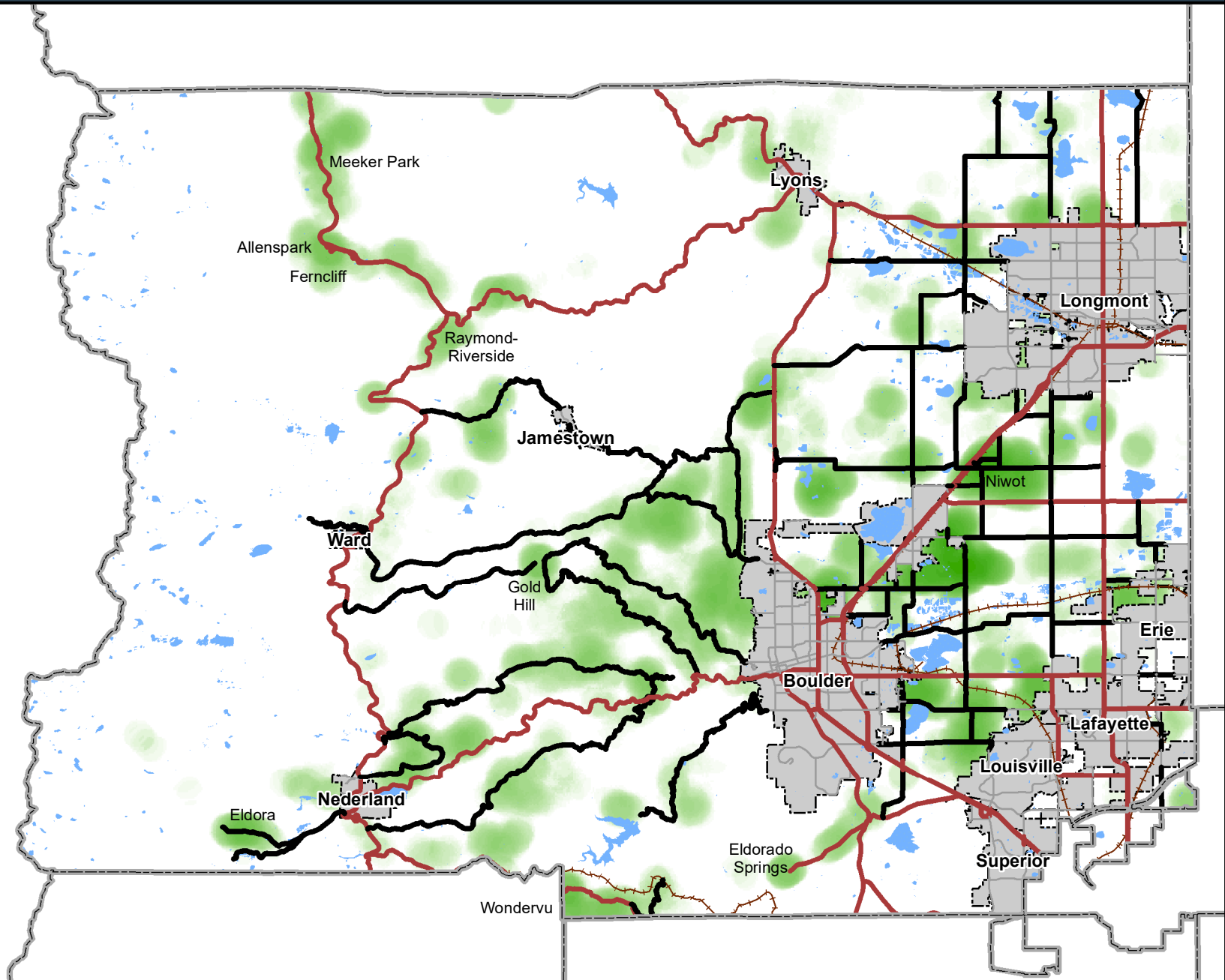


Area of Detail Date: 12/21/2022



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APPENDIX C: Vacation Rental Potential

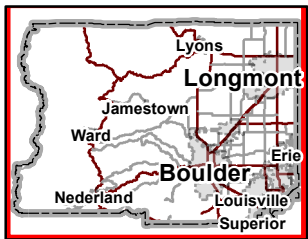
Legend

- Highway
- Major Road
- Municipal Street
- Municipalities
- County Boundary
- Vacation Rental Potential

0 1.5 3 Miles

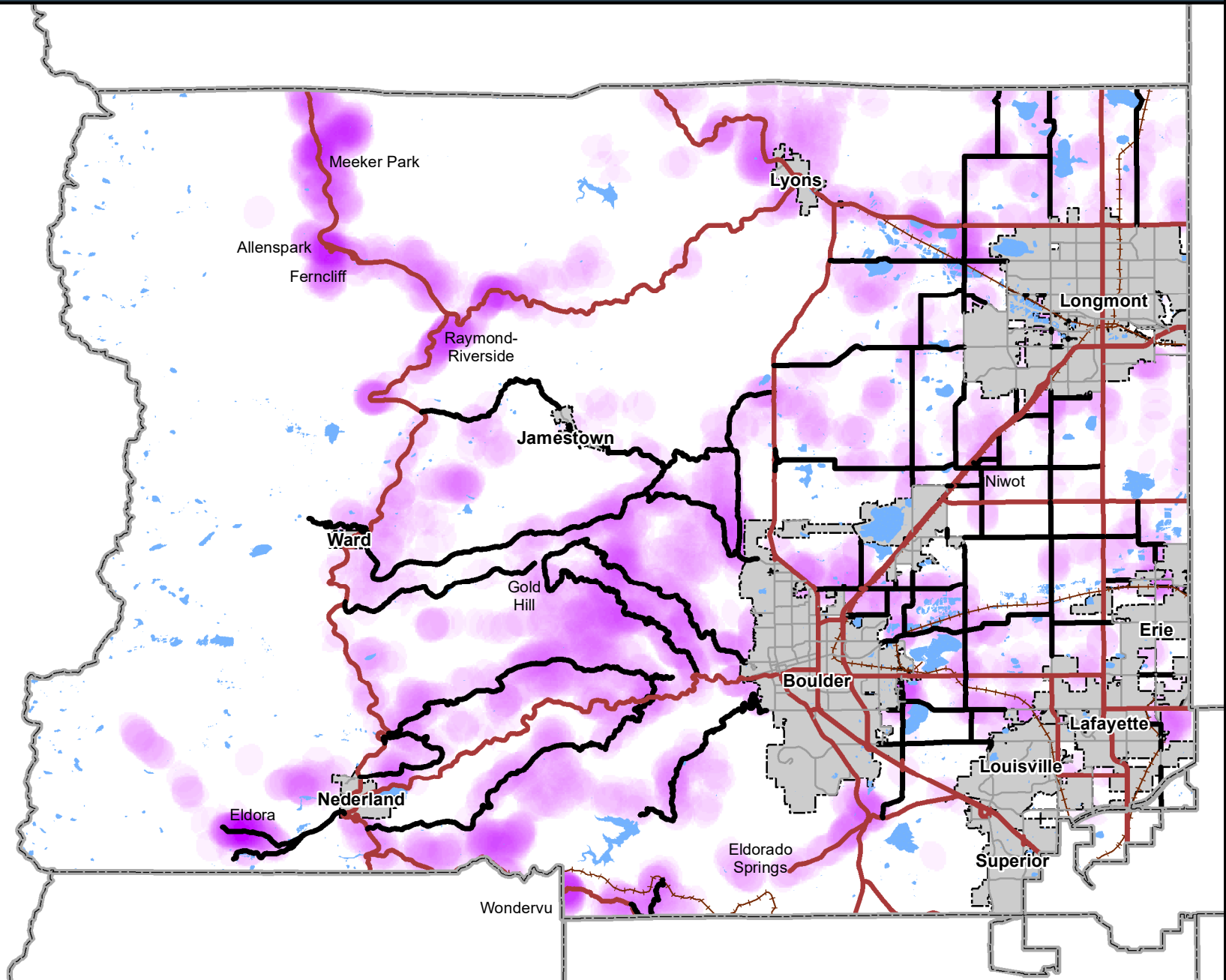


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APPENDIX C: Short-Term/ Vacation Rentals in Review or Licensing Process

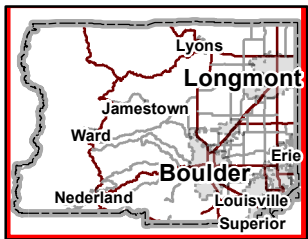
Legend

- Primary Dwelling STR
- Secondary Dwelling STR
- Vacation Rental
- Highway
- Major Road
- Municipal Street
- Municipalities
- County Boundary

0 1.5 3 Miles

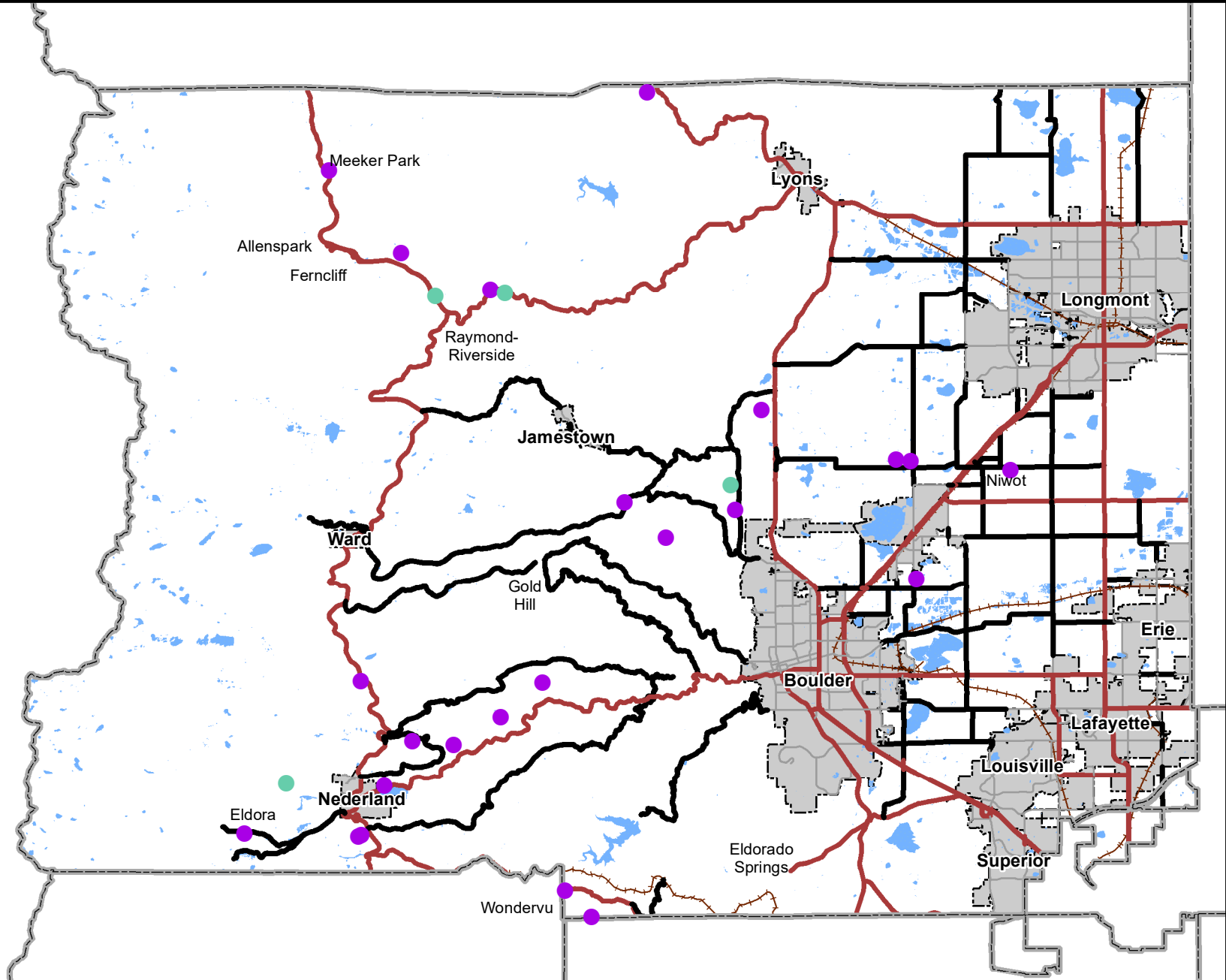


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APPENDIX C: Licensed Short-Term and Vacation Rentals

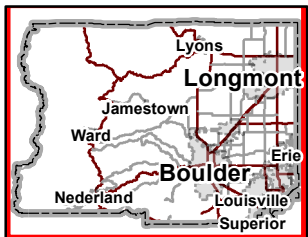
Legend

- Primary Dwelling STR
- Secondary Dwelling STR
- Vacation Rental
- Highway
- Major Road
- Municipal Street
- Municipalities
- County Boundary

0 1.5 3 Miles

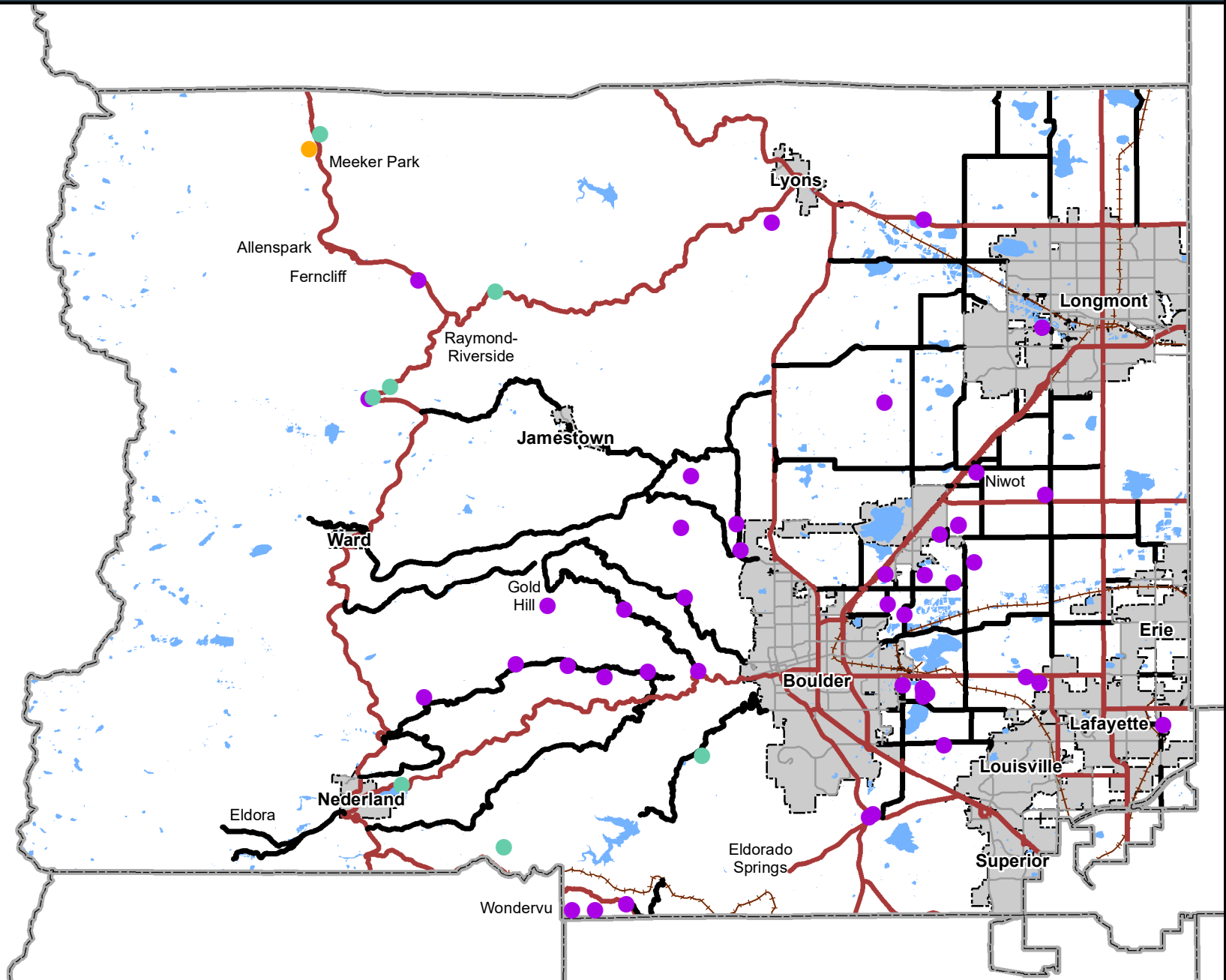


Area of Detail Date: 12/21/2022



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APPENDIX D

From: [Rosemary Donahue](#)
To: ["Rosemary Donahue"](#)
Cc: [Boulder County Board of Commissioners; Case, Dale; Sanchez, Kimberly; hhippley@bouldercounty.org; Gissel, Kathy; Frederick, Summer; Abner, Ethan; jrounds@bouldercounty.org; Rogers, Erica; Jpeterson@bouldercounty.org; Case, Dale](#)
Subject: [EXTERNAL] STR-Boulder County
Date: Sunday, December 25, 2022 6:04:35 PM

December 26, 2023

To Whom This May Concern:

We are part of the Boulder County Mountain Cabin Alliance. We have been involve in short term rentals since the summer of 1990. Since then we have used all forms of property management, real estate brokers, property management companies, our daughter and now ourselves. For several years now we are contracted with VRBO for the online rental. VRBO not only helps up manage the scheduling, but also assures us all taxes are paid and we are covered under their liability insurance before we receive any rental funds. For the past 15-20 years we have used VRBO we have always been Premier 5-star hosts which is based on our property condition and guest reviews. We have written confirmation from our personal guestbooks of scores of highly satisfied guests and now repeat guests. We have always been respectful of our neighbors and in all the years have never had one complaint.

From the beginning we have asked for a grandfather clause be granted to those similar to what is being practiced in the building, planning, and health department. We are now working on the fourth decade of being involved in this historical industry and long before sharing our personal residence in this way. Both of us have been involved directly and indirectly in summer vacation rental since we were young, well over 50 years. We have watched multiple planners come and go in this timeframe. We believe that this experiential track record needs to honored with common sense by those elected and in public service and whose salaries depend on our taxes, some of which comes from this industry.

?

For example, Jasmine Rohdenberg and Rainier Ott whom wanted the recognition of writing these 18 plus pages of regulations (of whom neither are still with the County!), misstated the true number of STR's in Boulder County at well over 800, presented that this was causing great problems with "affordable housing units", when in fact the truth is the county can only account for approximately 170. According to government census numbers, from July 1, 2021 there are 143,154 housing units in Boulder County. Vacation rentals account for .118% of available housing. We also had it confirmed by Dale Case that at least two individuals by name were involved in the earliest meetings where these regulations were discussed. One of the individuals said in effect, we need to make this as expensive as we can on these rental people, and we have heard him say in public, he hopes to live long enough to put an end to all vacation rentals.

The number of concerns are almost endless. A few of the bullet points are

- One property owner allowed only one license (they may have more than one property-paying taxes, insurance, upkeep, etc on all properties) For example, how many liquor stores, marijuana stores, would we be allowed if we were not in vacation rental?

APPENDIX D

- Why is the STR licensing under the same department as liquor and marijuana stores??
- Family gatherings for small weddings, receptions, family reunions have been a part of the mountain culture for a century or more and is our constitutional right for freedom of assembly- What is the legal foundation of not allowing these types of family events for vacation rental owners only? Our parents were married in a lodge in 1940 and our wedding reception was in 1980 that was part of Rocky Mountain Vacation Camp established in 1932. RMVC has at least 12 cabins and lodge that had been historically used from the beginning since 1932.
- What is the legal foundation for limiting number of rental nights when most properties have to be winterized in the fall?
- Not only do the STR's need steady support service work for cleaning, repairs, improvements, etc. providing reliable income for the owners as well as a multitude of community members. All of the vacationers are also supporting local businesses ie restaurants, stables, gifts shops, Rocky Mountain National Park, etc. Has there been a study that can be produced of the total economic down turn that these regulations pose to the general economic welfare of Boulder County? And is STR's a foundation stone to the constitutional mandate for government to promote the general welfare?

We look forward to and appreciate your considerations and response.

Sincerely,
Brian and Rosemary Donahue

APPENDIX D

January 3, 2023

VIA EMAIL

Ethan Abner, Long Range Planner
Boulder County Community Planning & Permitting
P.O. Box 471
Boulder, CO 80306

Mr. Abner,

The following is my response to the request for public comment regarding the short-term rental (STR) and vacation rental (VR) regulations that were passed by Boulder County (BoCo) in December 2020. The Boulder County Cabin Rental Alliance is sending this response on my behalf to avoid possible retaliatory action by staff of BoCo.

As with any government regulations, I think the best way to judge their effectiveness is by applying the following criteria:

- A. Are regulations consistently applied across like groupings of citizens, in this case property owners?
- B. Are the regulations necessary?
- C. Do the regulations accomplish the goals they set out to accomplish?

In numerous public forums to date there have been three major goals outlined for the STR and VR regulations.

1. Preserve the residential housing stock of BoCo.
2. Protect the public from potentially dangerous rental situations.
3. Protect neighbors from the character of their properties being altered by having a VR or STR near by.

In order to most clearly review the regulations in light of these goals and effectiveness criteria, it first makes sense to look at the use review portion of the regulations, which are a requirement of the licensing portion of the regulations.

USE-A

Are regulations consistently applied across like groupings of citizens, in this case owners?

VRs are subject to a Special Use Review (SUR). VRs are also listed as part of Lodging Uses in 4-507. This grouping also includes: Bed and Breakfasts, Campgrounds, Overnight Lodging, Resort Lodges, Conference-Centers, Guest Ranches.

Boarding Houses, Multi-Family Dwelling, and Single Family Dwellings are considered Residential Uses in 4-511. Each is by right in certain zones.

APPENDIX D

STRs are listed as Accessory Uses in 4-516 and are currently considered by right only if the STR is a Primary Dwelling STR. Secondary Dwelling STRs are subject to a Limited Impact Special Use Review (LISUR).

The above is the totality of uses for individual or multiple families / groups of occupants on a short-term or long-term basis. So is regulation consistently applied across all these uses?

- VRs are the only use that requires a SUR across all possible zoning.
- VRs are included in the Lodging Use group. They are however the only use in the group that serves solely a single family or group of occupants. All other uses serve multiple families or groups of occupants.
- VRs are incongruous to all other uses in the Lodging Use group, save a loose commonality in the short-term nature of occupancy.
- The same short-term nature of occupancy is present though for STRs, which are considered an accessory residential use.
- The distinction of a VR from an STR is based solely on the number of nights that the residential property can be occupied by a single family or group over the course of a year. No other use of a property in the class of properties above has such a granularity of separation.
- No other use besides VRs or STRs that houses families / groups of occupants on a single or multiple group basis is subject to any licensing by BoCo to operate. This includes long-term rental of a single-family dwelling, which is not even listed as an accessory use.

It is clear from the above observations that regulation is applied completely inconsistently across the uses pursuant to housing a family or group of occupants on a short or long-term basis. In fact it becomes obvious from the above points that BoCo is specifically targeting VRs and STRs with a use review and licensing process to which no other like property owner is subject. A VR or STR houses a single family or group of occupants in a single-family residence, not multiple families / groups of occupants in a multi-family residence. The exclusive targeting of VRs and STRs is thus discriminatory at the very least.

USE -B

Are the regulations that trigger a use review necessary? Or stated differently, do they make sense?

There have been numerous anecdotal comments in BoCo public hearings that most of the restrictions placed on VRs or STRs, resulting from use reviews, are already present in the licensing requirements for VRs and STRs. Considering the resources necessary from both a BoCo taxpayer and owner standpoint, it becomes clear very quickly that this is not the best use of either's resources, especially when the Planning Commission has stated it doesn't know how to handle VRs or STRs during the use review. This is likely because there is no development or re-development associated with a VR or STR.

APPENDIX D

Beyond being a waste of BoCo and private time and funds though, it is truly questionable if the use review process, as it applies to housing a single family in a residential dwelling for a short-term basis, is even the appropriate mechanism within the code to utilize.

3-100 Approvals and Permits Necessary Prior to Development, outlines over multiple pages of BoCo code the rigor / requirement one must go through in developing or re-developing land in BoCo for a new use. 3-200 General Process Outline then details the SUR or LISUR steps a party interested in this development or re-development must go through, in addition to permitting for the construction itself. Herein lies the mismatch.

The property in question remains a single-family residential dwelling when used as a VR or STR. The fundamental nature / use of the property has not changed. The only modification is the duration of use. It quickly then becomes obvious that the application of a use review to VRs or STRs is a completely incongruent application of a process that was intended for actual land development or re-development.

There have also been various assertions in BoCo public hearings that the use process is necessary because it allows the public and neighbors to comment if they think the use should be approved. But does this make sense? In the one VR use review that has been denied up to this point, the commissioners denied the application because they and neighbors in an adjacent neighborhood believed allowing the VR would change the character of that neighborhood, even though the VR was not in that neighborhood. This does not make sense from a governance point of view, because it is the arbitrary application of an opinion without any basis in data or fact. The whole concept of inviting public opinion as to the presence of a VR or STR creates a potentially extortionary situation where owners can be held hostage by neighbors and BoCo based on nothing but individual personal bias. This is again discriminatory, and ardently flies in the face of use reviews making sense for VRs or STRs.

USE-C

Does a use review for VRs and STRs accomplish what it set out to accomplish?

It is an extreme stretch to link the causality of having to do a use review for a VR or STR to saying that the residential housing stock is somehow preserved as a result of that use review. The property used as a VR or STR is not re-developed. Thus, once sold it could still be used as a single-family residence that is owner occupied or long term-rented. However the majority of properties used as VRs or STRs are second homes, especially in the mountains. So they are not and most have never been part of the residential housing stock for primary occupancy.

It is similarly impossible to construe that a use review will keep potential renters of VRs or STRs from dangerous situations. The planning review process of the use review currently does attempt to uncover what it deems unpermitted work on properties that happened prior to the VR or STR application, but this is driven by stipulations in VR and STR licensing, not the use review itself. The only other use that does not require development or re-development of a single-family dwelling is a long-term rental.

If BoCo truly cared about protecting the public from dangerous rental situations, it would at the very least hold single-family dwelling long-term rentals to the same safety standards it has asserted for VRs and STRs. BoCo has chosen not to do this. Instead BoCo has utilized the use review process to target building code situations it perceives as issues for residential single-family dwellings used as a VR or STR, even if there is no potential danger to rental occupants from those perceived situations. Such a contradiction in the application of code to a single type of owner within the larger group previously outlined is not only discriminatory. It is a high jacking of the development / re-development review portion of the use review process to target improvements done on a single-family residential dwelling, most likely both by another owner, and prior to the property being used as a VR or STR. So again the use review fails the test of accomplishing the goal BoCo set out to solve.

It has been stated in BoCo public hearings, that the use review gives voice to the public to preserve the character of their properties from being altered, as a result of a VR or STR nearby. Any views expressed though are solely opinions. They are unfounded in fact or data of any kind. The main offences that have been outline as needing to be prevented are parking, noise / partying, and trespassing. Parking and no parties / gatherings are covered as part of licensing. Law already covers trespassing. The opinion is often touted that a VR or STR changes the character of the area for the surrounding properties. It can also be asserted that that a long-term rental of a single-family dwelling does the same. A long-term rental is generally not as well cared for because it is not owner occupied. VRs and STRs must be well cared for because of the shorter-term nature of their tenancy. Both these assertions though, as well as any assertion made by a neighbor within any forum within the use review process, are an opinion, and to restrict an owner's rights based on opinions or biases that cannot be proven by fact is discrimination. So again the use review not only fails to address the final goal, it puts in place multiple layers of pervasive discrimination against an isolated group within the larger group of property owners previous outlined.

USE-CONCLUSION

The application of a use review to VRs and STRs fails across all tests of effectiveness and accomplishment of the goals set forth by BoCo. It is blatantly discriminatory both in its isolated targeting of VRs and STRs, and in its application of anyone's hearsay or opinion to the detriment of the VR or STR property owner. The use review wastes both public and private funds. It places, what others have chronicled in more detail, an undo burden of thousands of dollars of expense exclusively on VR and STR property owners. It is also a mismatch of code instrument / process, created for development / re-development, to a perceived problem that has little to no supporting data to validate it is an actual problem. Instead, there is the simple reality that a single-family residential dwelling is housing a single family or group of persons regardless of their long or in these cases shorter-term tenure.

LICENSING

In reviewing the licensing process and requirements, it seems most efficient to step through its individual pieces as they relate the stated goals of BoCo. Then conclude with judging the overall effectiveness of licensing for VRs and STRs.

LICENSING – Preserve Housing Stock

- ❖ 2. C. One License per Person
- ❖ 4. A. 4. Proof of ownership
- ❖ 11. A. License Non-Transferable

These restrictions could be perceived as preserving housing stock, but do they really? Proof of ownership does prevent anyone but the owner of the property from attaining a license to use the single-family dwelling as a VR or STR. Additionally, one license per person will certainly limit the number of VRs or STRs a person can own. However, what any effort at preservation of housing stock fails to take into account is that most of the properties in question in unincorporated BoCo, especially in the mountains, have always been second homes. They have also historically been let on a less than long-term basis. Furthermore, the restriction of a single license per person, entity, trust etc. fails to account for families where one member owns their own property, has an interest in a brother's, sister, relative's, property, so they might also have their own second home in the mountain, and likely could inherit an interest in a third from their parent. It also discounts the likelihood of a couple marrying, where in each has a second mountain home. These are gross oversights of the current regulations.

Finally, making a license non-transferable takes all the time and expense the current owner has spent in attaining a license and nullifies it. The likely intent of this provision is to try and convert housing stock that was a VR or STR back to primary residency. Given that nearly all of the stock in the mountains currently being used as a VRs or STRs are second homes, the likelihood of these single family dwellings not remaining second homes, which will likely need to be VRs or STRs to be purchased, is very slim. By extension, it makes it harder for an owner of one of the properties to sell because BoCo has put in place these artificial barriers. Thereby and again, these restrictions discriminate against this singular class of owner within the larger group of property owners previously outlined.

LICENSING – Public Safety

- ❖ 4. A. 2. Proof of Insurance
- ❖ 4. A. 6. Floor Plan
- ❖ 5. A. 2. Building Inspection
- ❖ 5. A. 3. Wildfire Mitigation
- ❖ 6. A. 1. Occupancy Limit
- ❖ 6. A. 2. i. thru v. and viii. thru ix. Guest Safety and Other Information
- ❖ 6. A. 2. x. Indoor Radon Gas Test Report (provided to guests)
- ❖ 6. A. 2. xi. HERRs Certificate or Energy Audit (provided to guests)
- ❖ 6. A. 3. Outdoor Fires
- ❖ 6. A. 4. Local Manager

- ❖ 7. Inspection
- ❖ 12. Violations

It could be construed that proof of insurance is a good thing, and most business advisors would argue that rental insurance on a property that is being rented short-term or long-term is the right thing to do. However, is it right for a government entity to mandate this? Especially, since BoCo has no liability should something happen on the property. Or, is this instead government overreach?

No VR or STR owner would argue with the necessity for a safe single family dwelling, that has smoke detectors, carbon monoxide monitors, and egress for guests. Nor would they argue against the single-family dwelling being in good working order and in a state of good repair that must not pose a significant risk to the health, safety, or welfare of the occupants or surrounding property. The problem is what constitutes this significant risk? When the regulations further state there must be no unpermitted work on the property for VRs, and sleeping rooms must be legally existing. The questions are raised what constitutes a legally existing sleeping room, and what if the work on the property was not done by the current owner? How is unpermitted work rectified, and isn't this already covered by a safety inspection deeming the property fit for occupancy? Furthermore, the code goes on to say occupancy is limited precisely to two adults (should this be occupants to include children?), per sleeping room or the occupancy limit of the OSWTS, whichever is fewer. The code defines what a sleeping room is in its definitions, then contradicts itself later by saying the sleeping room must be legally existing. The obvious intention of all of this is the safety of potential occupants, but there is such a lack of consistency / clarity in the above combination of regulation that if they are taken as a whole to even a moderate interpretation. Many single-family dwellings in BoCo would likely find themselves in trouble even as primary residences.

This in turn calls into question the asserted goal / intention of public safety in general by BoCo, because BoCo is very selectively applying this public safety exclusively to VRs and STRs rather than applying it to all single-family residences, regardless of the term of tenancy, or occupancy.

Moving onto guest information an owner is required to provide, again no VR or STR owner would argue with the necessity to inform occupants about septic, wildlife, or wildfire safety, local fire restrictions, prohibition of outdoor fires, posted exit routes, or trash / recycling information. I would suspect most probably provide this information already because it is in the best interest of the owner and guests alike. However, providing a radon gas testing report, and HERS certificate / energy audit begs the question – why? The short nature guest of tenancy, combined with the fact that the cost of heating, cooling, powering the single-family dwelling is absorbed by the owner make the value of these bits of guest information highly questionable. There is no guest safety argument that makes sense. Furthermore, BoCo already has in place that certain energy standards must be met when improvements are made to any single-family dwelling. So again, why does a guest need to be informed of this? Like the liability insurance, both these requirements represent government overreach, and an effort to put as much

regulation as possible in place to make acquiring a STR or VR license as difficult and expensive as possible.

VR and STR owners would likely not argue against the requirement for wildfire mitigation. The timeline for compliance though is unrealistic. Even for a modest property it could take at least a year and thousands of dollars to comply. For a large property, it could be multiple years and tens of thousands of dollars to reach compliance. I'm sure Wildfire Partners could supply BoCo regulators with actual compliance data on timelines and cost so that a more realistic compliance timeline could be implemented. Again though, if the wildfire safety and preparedness of the entire county is the true concern of BoCo regulators, why not place the same burden on all property owners?

Regarding local management and guests being informed of who the local manager is, again I suspect all VR or STR owners already accomplish this. I say this because it is again in their best interest to do so.

The inspections section of the licensing code could be construed as in the public interest if there already weren't a safety inspection requirement for attaining a license. That said, at its most conservative interpretation, the inspection section's language gives unrestricted and immediate (without notice and at any time) access to the property by the BoCo Director of Planning and Permitting or by definition their designee. It further adds the same shall also have access to the property to inspect in the case of potential violations. Inspection in the case of violation makes sense, but even this should require restrictions of at a set time as agreed upon by the owner and BoCo. Such an unrestricted inspection framework violates the civil liberties of the property owner, and if challenged legally would most certainly be struck down.

The violations section of the licensing code takes up 1/6 (nearly one page) of the regulations: omitting recitals, definitions, and signatures. There have also been calls in public hearing around the violations section for data regarding violation letters sent and penalties collected. Nowhere else in the BoCo Code are violations and penalties so verbosely and with such severity set forth, save possibly 12-1500 Fines and Penalties, which apply to Oil and Gas Operators.

For the most part it appears violations, fines and penalties are handled by Article 14 • Rubbish, Weeds & Brush, & Unsafe Structure, or the BoCo sheriff for trespassing, vandalism, parking, noise, unlawful burning, use of fire-arms, etc. This begs the question of intent of BoCo. Does BoCo really view the public danger from VRs and STRs with the same severity that it views that of an Oil and Gas operator? Or would these violations be more appropriately handled within the confines of code and law that already previously existed?

LICENSING - Protect Neighbors

- ❖ 4. A. 4. Parking Plan
- ❖ 4. A. 8. List of Adjacent Owners
- ❖ 5. A. 4. Parking and Access

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- ❖ 6. A. vi. Good Neighbor Guidelines (provided to guest)
- ❖ 6. A. vii. Map of Parking and Property Boundaries (provided to guests)
- ❖ 6. A. 6. Provide Copy of License to Neighbors
- ❖ 12 Violations

The submittal of a parking plan, subsequent analysis of it pursuant to the Boulder County Multimodal Transportation Standards and the Boulder County Land Use Code, and the further analysis by the County Engineer or the County Engineer's designee to determine if it is viable and any potential hazards have been mitigated – all reads as overkill. The question that needs to be answered is does enough onsite parking exist for the number of guests that will occupy the single-family residence. The litmus test up to now has been one space for every sleeping room, plus one space for the manager. Public meetings up to now have given rise to the question is this valid from the standpoint that families usually travel in a single car? So maybe it's one and a half spaces per two rooms and a half space for the manager because they will seldom be there at the same time as the guests. Additional questions have been asked of the environmental impact of forcing more parking to be created on a property that will likely never be used. Surely a simplified calculation could be created with the caveat that the number of cars on the property cannot exceed the maximum number of spaces. Then providing / posting this information for guests becomes a simple task for owners, just as they provide the maximum number of guests that can stay at the property.

Providing good neighbor guidelines to guests is something owners likely already do through screening, pre-booking agreements, house manuals, etc. There seems to be an underlying assumption through most of the current regulations that the owner of a VR or STR doesn't care about their neighbors. Nothing could be further from the truth. No VR or STR owner wants bad or noisy guests, who don't take care of or stay on the property, and cause problems. All have strategies in place to screen out these types of guests.

By being forced to provide a copy of the license to neighbors at their request, BoCo inappropriately and unfairly sets up an adversarial relationship from the beginning. BoCo is attempting to make the neighbors of a VR or STR a sort of police. It furthers this by asking for mailing address information on adjacent neighbors, and then uses it to inform them of primary dwelling STRs. Assumedly for all VRs and STRs, this information will be used to inform neighbors as well. To what end? When one examines the ambiguity of what constitutes a violation, combined with a VR or STR license that can be revoked / not renewed if there are violations by the VR or STR, what is the value of all this, other than BoCo does in fact want to turn neighbors into a sort of watchdog on a VR or STR with the intent of shutting them down? This is unfortunately done under a bias of "guilty until proven innocent", which follows in line with much of the other discriminatory targeting throughout the new VR / STR code.

LICENSING - Conclusion

STR and VR owners are the only homeowners subject to licensing by BoCo. No other member of the group previously outlined is subject to any licensing process. So the

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licensing regulations also fail the test of being applied fairly across like groupings of citizens / property owners.

One could assert that that some sort of regulation is necessary to accomplish the goals that BoCo has set forth. However, the residential housing stock these rules claim to protect was for the most part never primary residential housing to begin with. And the current restrictions harm families who have more than one property in their family. Furthermore it was originally stated that these regulations were necessary to curb the 700 plus STRs / VRs in BoCo. We have never heard where this 700 plus number came from, nor have we seen the actual data that supports this number. What we have heard touted is the number of STRs and VRs in BoCo has been reduced to barely 100 plus. This data is apparently based on the service BoCo is using to find licensed and unlicensed VRs and STRs in BoCo. We have been led to believe that the number of VRs and STRs in BoCo has been reduced by 85% over the past couple years at a time when the industry at large is said to have added 25% more rentals year over according to AirDNA. The only logical conclusion that can be drawn from the above is that these regulations, which have already been proved repeatedly to be hyper discriminatory, were crafted under dangerously false pretenses.

Regarding the larger question of protecting the public from dangerous rental situations, a simple home inspection with clear guidelines would be ample for VRs and STRs. However, unless such an inspection was applied across all types of owners previously outlined, we again have hyper discriminatory action by BoCo. It might be asserted that the development / redevelopment permitting process other owners of this group go through as part of their use review process ensures the public's safety. However, this safety is only ensured at the time the use is granted and building permits closed. Again there is no licensing to ensure the safety standards of these properties are maintained. Furthermore, there are no safety requirements for a single-family dwelling rented long-term. Such a myopic skewed implementation by BoCo of public safety standards away from every type of rentable residence in BoCo calls into serious question the validity of the stated goal itself – BoCo's concern for protecting the renting public from dangerous rental situations.

Regarding the protecting of neighbors from the character of their properties being altered by the presence of a VR or STR, the regulations examined here in clearly show BoCo's bias against VRs and STRs in the county. They further set neighbors up as a sort of police to catch VR / STR violators in the act, with violations that are not clearly defined due to the gross ambiguity of interpretation present in much of this code, and punish them in a manner similar to the potential damage that could be caused by an Oil and Gas Operator. Repeatedly in public hearings representatives of BoCo have said this severity is necessary due to public outcry when initially gathering feedback pursuant to the crafting of these regulations. Much of this claimed feedback sounds anecdotal at best. What has never been produced is the data from public surveys that supports such a ground swell of public opinion against STRs and VRs. Nor I suspect has such data been evaluated for its level of tainting by the misrepresentation that seven times as many STRs and VRs were present in BoCo at the time of the inquiry.

RECOMMENDATIONS

What could be done that would make sense for all parties involved?

A single distinction should be used for the shorter-term renting of a single-family dwelling. This distinction or use is in all cases an accessory use by right, and should not be restricted by the number of days it can be rented.

If BoCo is going to solely require licensing of shorter-term rented single-family dwellings, that is to say no other owner in the previously outlined group will be required to obtain a license to rent their property. BoCo must do so with the lightest of touch, so as to not discriminate, while keeping true to its originally outlined goals.

For public safety, this would include the current items of a floor plan (showing the location of fire extinguishers, carbon monoxide monitors, smoke detectors, egress), a permitted OSWTS if applicable, a permitted well if applicable, providing of guest safety and other info (excluding Radon, HERRs Certificate or Energy Audit). Occupancy limits should be based on the number of sleeping rooms as currently defined for properties on sewer, and the maximum number of occupants for the OSWTS for properties not on sewer. Any outdoor fires save gas grills and/or gas fire pits should not be allowed. Wild Fire Partners Certification could be required, as it is for new development / redevelopment. However, a timeframe of years must be given for an owner to achieve compliance. This should be based on an aggregate of all currently certified properties where in the timeframe is something like 90% of the longest time to certification.

There should be no property inspection, unless BoCo is going to take a more comprehensive approach to code enforcement / public safety at least across the group of owners previously outlined. Should BoCo choose to proceed with prejudice against owners renting single-family dwellings on a shorter term basis, the inspection can only validate the safety measures outlined on the floor plan, as well as electrical, plumbing, heating, cooling systems are in good working order, and the structure is sound. This validation of the property's systems and structure must be unambiguously defined pursuant solely to the safety of occupants and surrounding properties. Violations of current code are not violations as long as at one time the manner of implementation was considered safe, as many of these properties are 50, 75 or 100 or more years old.

Owners should provide proof of ownership. The deed of sale as registered with the BoCo clerk should be sufficient. Striking a balance between marrying into others property, inheriting property, partial ownership of property, and outright ownership of property, a maximum of 4 properties owned or having interest in strikes a fair balance. Once a property is licensed that license should be transferable, likely for a fee of course and with notification of BoCo, in a similar manner as an OSWTS use permit is transferred at the time of sale.

A parking plan with property boundaries should certainly be submitted and posted. But the requirements of this plan should be based on a more realistic formula of the spaces

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necessary and / or the maximum number of cars that can be present on the property at any given time. BoCo should take a more neutral, pragmatic approach on the existence of single-family dwellings rented shorter term, that is devoid of the initial bias, discrimination and prejudice with which the regulations currently seethe. BoCo must utilize the current public complaint mechanisms it already had in place prior to the current regulations to highlight a problem property based on parking, noise / parties, trespassing, wildfire, vandalism, or safety complaints by the guests themselves. Previously in place violation mechanisms should be utilized to mitigate these issues. It should be noted, “I don’t want a Air BnB near my home, second home, long-term rental home”, is not a valid complaint. Just like, “I don’t like my neighbor”, is not a valid complaint. BoCo then collects the data, to see if the problems they say / said were a problem, really are a problem.

Best Regard,

Anonymous Member of the
Boulder County Cabin Rental Alliance

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Boulder County Commissioners
Boulder Count Attorney
Ethan Abner

Re: Short-Term Rentals Review Process

Thank you for the opportunity to participate in the Short-Term Rental Regulation review process.

The current short-term rental regulations were enacted to control what the County determined were over 700 short-term rental (STR) dwellings. The County now admits to only 170 STRs, less than 1% of the County's estimated 20,000 dwellings. This fact alone supports a major overhaul of the current unnecessary, burdensome, and expensive two-step STR regulation process.

The current STR regulations require county residents who desire to offer short-term rentals of secondary dwellings to comply with both a lengthy and intensive Land Use Review process and a comprehensive Licensing Ordinance. The County has never identified any other comparable jurisdiction that requires residents to go such considerable expense and effort to occasionally rent a secondary dwelling. (See Staff Presentation to County Commissioners, Dec 3, 2022, p.9. All of the comparable jurisdictions cited regulate STRs only by administrative review.) When the planners who drafted the regulations presented only the Licensing Ordinance, the planning directors told them to also include a Land Use review process.

The Land Use code review process introduces complex, confusing, and unnecessary factors into what should be a straightforward and simple licensing procedure. The only factors relevant to STRs licensing should be the adequate protection of public health, safety, and welfare. Other factors, such as the impact of a particular rental on affordable housing, compatibility with the neighborhood, length of stay, etc., are arbitrary and subjective, and depend solely on judgment of the staff member who conducted the Land Use review process. This results in significantly different restrictions and conditions placed on similarly situated properties, as well as conditions that go well beyond protection of the public, health, safety, and welfare.

The Land Use review process requires officials to use factors outside the public health, safety, and welfare to make STR decisions. These factors include but are not limited to protecting affordable housing and the slippery and elusive "compatibility" determination. Consideration of these two factors is entirely misplaced and unnecessary in regulating the mere 170 STRs that exist in the County.

Consider:

- The County has never provided evidence that STRs impact affordable housing in the County. The County relies heavily on the Comprehensive Plan provisions concerning protection of affordable housing for County residents. This reliance may be understandable in dealing with 700 STRs, but certainly a mere 170 STRs would have little impact on the County's affordable housing inventory. In the STR hearings I attended, "protecting affordable housing" seems to be pretense for taking the familiar "not in my backyard" stance. In fact, the Commissioners who enacted the STR scheme

leaned heavily on NIMBY with little mention of protecting affordable housing. (One Commissioner stated on the record “People complain.”). And staff admitted only that STRs “**might**” impact affordable housing. (In response to my CORA request, staff admitted that they had not received any complaints of people unable to find affordable housing due to STRs.) Staff relied on studies from huge metropolitan areas such as New York and Chicago to support the impacts on affordable housing caused by investors who buy dozens of dwellings to conduct STRs, but provided no evidence that this was happening in Boulder County. (See Staff Presentation to BOCC, Dec. 3, 2022, p. 3-4).

- The County has adequately protected affordable housing by prohibiting STRs of more than 60 days in 361 platted subdivisions. Remarkably, the County has no idea how many total homes are in these 361 subdivisions. However, with only 170 STRs operating in the County, it seems reasonable to assume that shutting down vacation rentals in 361 subdivisions captures many of the 170 STRs in the County. (In response to my CORA request as to how many homes are in the 361 platted subdivisions, the County stated it does not have this information, and that in order to respond, a new document would need to be created, and they have no obligation under CORA to do so.).
- The folly of using the affordable housing rationale as a means to limit STRs was evident in a recent STR application. The applicant requested to rent a dwelling located on 5 acres in east Boulder for 365 days a year. The five acres are relatively isolated from other homes. The parcel is close to one of the busiest highways in the County and close to the former IBM complex. The applicant had installed security devices, conducted a professional noise study, and voluntarily undertook other projects to alleviate any impacts to neighbors. Staff suggested the applicant could conduct STRs for 180 days, and offer the dwelling for long-term rental the remaining 180 days, thereby protecting affordable housing. The Commissioners stated this “split the baby” approach was entirely unworkable, and denied the 365 day request on the usual “compatibility” grounds.
- “Compatibility” is a slippery and elusive concept that should not be used to regulate short-term rentals. The County has decided the “compatibility” issue by prohibiting rentals of more than 60 days in 361 platted subdivisions. The restriction was based entirely on concerns of parking, trash, and noise. The County also adequately addressed “compatibility” by prohibiting events such as weddings in all STRs. As applied to STRs, “compatibility” is code for NIMBY. This was apparent in a recent decision by the Commissioners to deny a vacation rental on a five acre parcel outside a platted subdivision as “incompatible” based on the neighbors’ unproven concerns about traffic and noise. And, staff applies the “compatibility” factor inconsistently. In one staffer’s assessment, a dwelling close to natural areas is “compatible” with the area and allowed 365 rental days because visitors traditionally come to Boulder County to visit natural areas. However, in a different application, another staffer refused the 365 day request as “incompatible” to limit visitor disruptions to the natural areas.

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The Land Use Code unduly complicates STR decisions.

- The complicated Land Use review process confuses County staff, applicants, and Commissioners. County staffers do not understand the Land Use code requirements and often cannot answer even basic questions. The staffers make arbitrary recommendations concerning the number of rental days and compatibility. As well, staff's conditions are highly intrusive and suggest a distrust of applicants. One staffer went so far as to require applicants to remove couches to eliminate any possibility of hosting more than the allowed number of guests.

In an apparent misunderstanding of the Land Use code, staff requires Vacation Rental applicants to complete a Development Agreement, which must be recorded in the County records. (At a recent STR hearing, a Commissioner asked staff "What is a Development Agreement?"). Even a cursory reading of the Land Use code provisions indicates a Development Agreement is just that, an agreement between a land developer who is developing vacant land, and agrees to conditions such as utilities, grading, etc. required by the County. An experienced staffer explained to one STR applicant that a Development Agreement was not required because no change to the physical aspects of the property. Yet the County requires residents who rent a dwelling for 60 days to complete and pay for this expensive and unnecessary procedure.

The County categorized Vacation Rentals as a commercial use in the Land Use code. Section 4-101(7). Applicants who rent their homes for 60 days are now subject to the same restrictions and requirements as purely commercial uses, such as campgrounds, bed and breakfasts, hotels, resort lodges, guest ranches, and conference centers. It is difficult to understand how a single-family home that is rented for 60 days can be categorized as these purely commercial uses. (All the applicants who requested 365 rental days stated on the record that they use their dwelling parts of the year and would not rent the entire year.) This another example of overregulation of 170 STRs.

The Land Use Review process is unduly intrusive, lengthy and expensive. Applicants report spending thousands of dollars and sometimes more than a year to comply with all of the requirements.

The Land Use review is not necessary to adequately protect the public health, safety and welfare, or to protect affordable housing. No other neighboring counties require such intrusive, lengthy, and expensive processes. As set forth below, the comprehensive and detailed Licensing Ordinance requirements adequately protect affordable housing stock and the public health, safety, and welfare.

- An individual and all related entities and individuals can only have one STR license.
- There must be a local manager who can arrive on the property within one hour.
- Applicants must provide proof of insurance with a minimum liability of \$500,000.
- Applicants must provide a copy their deed to prove ownership of the property.

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- Applicants must provide a parking plan, floor plan showing locations of all smoke and CO detectors and fire extinguishers, as well as sleeping rooms with egresses.
- Applicants must provide a list of adjacent owners with their contact information.
- Applicants must provide proof of payment of property taxes.
- Applicants must provide proof of approved sewage systems.
- Applicants must provide guests with detailed information concerning the results of a radon test, the dwelling's energy proficiency assessment, wildlife concerns, and proper garbage disposal.
- The County Engineer must approve the parking and egress, and identify traffic hazards.
- The County Building Inspector must conduct a comprehensive inspection of the dwelling and the "Licensed Premises" to insure there is no "significant risk to health safety, and welfare for the occupants or surrounding properties."
- Applicants must undertake wildfire mitigation and obtain a Wildfire Partners Certificate.
- Applicants must provide a copy of their rental license to neighbors.

I urge the County to remove STR regulation from the Land Use Code. The detailed comprehensive Licensing Ordinance absolutely protects the public health, safety, and welfare, protects affordable housing, and mitigates NIMBY concerns. No additional regulation is needed to control the 170 STRs in the County.

Thank you for your time and attention.

Ilona Dotterrer

December 12, 2022

APPENDIX D

From: [Edward Yagi](#)
To: [Abner, Ethan](#)
Cc: [Sanchez, Kimberly](#); [!LongRange](#)
Subject: Re: [EXTERNAL] Re: Short-Term Rental Public Listening Session Follow-Up (Question)
Date: Tuesday, December 20, 2022 10:37:58 PM
Attachments: [image001.png](#)

Ethan,

I am as impressed that you located this as I am dismayed it was so difficult to find. As you prepare your own report, I strongly encourage you to clear up the associated remaining concerns:

-- Rodenburg and the other authors of the original report did an extraordinarily unprofessional job of documenting the primary sources of their STR data, if the primary source was in fact Granicus/Host Compliance. They made the rest of us really play Easter Egg Hunt to locate it, possibly deliberately. Is anyone going to be held accountable for this?

-- The report is totally unclear what "779 listings for 647 units" means. Why would 132 units (more than 20%) have more than one listing? It makes no sense that any STR would have multiple "listings."

-- It is perfectly obvious that Rodenberg et. al. went out of their way to employ misleading terminology, telling commissioners that there were "more than 700 listings" instead of using the more far meaningful (and much lower figure) of actual units. Again, will anyone be held accountable for this?

-- How (or why) Granicus allegedly identified so many STRs and Harmari so few demands an explanation. Dale Case's suggestion that the new regs "scared off" more than 500 hosts, or about 80% of the total, insults the intelligence.

-- Why did BoCo choose Harmari rather than Granicus to perform active enforcement, and did anyone consider the dangerous implications of using AI to spy on county taxpayers?

-- Indeed, why was active enforcement considered at all, and by what standards (compelling public interest) does the county deem STRs deserving of far more regulation than schools, pharmacies, day-care centers, or marijuana dispensaries? Even 141 STRs represents less than 1/10th of 1% of Boulder County's housing units.

That's LESS than ONE-TENTH OF ONE PERCENT.

<https://www.census.gov/quickfacts/fact/table/bouldercountycolorado/HCN010217>

-- Granicus Host Compliance's White Paper lists a number of smart, rational, detailed recommendations on how (or even WHETHER) to regulate STRs. The authors of the original report totally ignored all of them. Why?

Cheers, Edward

On Mon, Dec 19, 2022 at 9:32 AM Abner, Ethan <abner@bouldercounty.org> wrote:

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Edward, I believe the information that you're looking for can be found on page C9 of the staff report you referenced.

I will add this e-mail to the comments.

Best,

Ethan

From: Edward Yagi <yagi.edward@gmail.com>
Sent: Thursday, December 15, 2022 7:43 PM
To: Abner, Ethan <eabner@bouldercounty.org>
Cc: Sanchez, Kimberly <ksanchez@bouldercounty.org>; !LongRange <longrange@bouldercounty.org>
Subject: [EXTERNAL] Re: Short-Term Rental Public Listening Session Follow-Up (Question)

Ethan,

Thank you for your solicitation.....you reminded me that as a matter of fact I DO have a question. You will see it at the end of this email. Please add this to the official records for the subject review.

Very near the end of the Listening Session on 12/12, Deputy CP&P Director Sanchez asked me the following question related to my objection to active enforcement: "If I could, and I don't mean this as a challenge, but I want to better understand your comment...how does that [my objection to BoCo hiring private companies to perform data mining, specifically with the express intent of active enforcement] reconcile with your request that our analysis be more data based? Because I think Harmari was allowing us to come up with some of the base data that we are using for our analysis." My reply was that BoCo should perform surveys such as you have done in the past for the 747 Project, etc.

However, I should have added that because nearly all STRs advertise either online or via real estate agents, by spending an hour or so online and making a few dozen telephone calls -- and using your own database of complaints that the BOCC SAYS you have -- BoCo could easily have produced relatively accurate data two and a half years ago yourselves, before

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you proposed the new regulations. It is safe to say that all concerned assumed that that is precisely what BoCo did. But from Ms. Sanchez' question, this no longer appears to be the case.

Ms. Sanchez said: "Harmari was allowing us to come up with some of the BASE DATA [emphasis added] that we are using for our analysis." But Boco's contract with Harmari didn't exist until the summer of 2021. In the fall of 2020, BoCo stated unambiguously, definitively, and repeatedly that "records" proved there were 700 "advertised short-term rentals" in Boulder County. BoCo has no reason to ask a private citizen in late 2022 for advice on data gathering (with or without using Harmari) if it had all the data they needed to enact the new laws in 2020:

A) BoCo has a color map on page 3 of its 425-page staff report as evidence, stating "Attachment E" as reference:

<https://assets.bouldercounty.gov/wp-content/uploads/2020/11/dc-19-0005-staff-report-20201203.pdf> (as an aside, however, I read all 35 pages of Attachment E and saw no sources or references for this data. I did see a lot of very skeptical comments about BoCo's motives, however).

B) BoCo's numerical "facts" were also reported in the local press: "There are over 700 short-term rentals — housing occupied for less than 30 days — listed in Boulder County, [BoCo STR specialist Jasmine] Rodenburg told commissioners, but she said probably **many more are operating off the books.**" So, BoCo specifically cited "books" (meaning records) that you had already analyzed. <https://www.longmontleader.com/local-news/commissioners-ok-new-rules-for-short-term-rentals-in-boulder-county-3153523>

C) BoCo's official presentation in this attachment says "700 listings" <https://assets.bouldercounty.gov/wp-content/uploads/2020/12/dc-19-0005-staff-presentation-20201203.pdf>.

Nothing in any of these official sources say "estimated" or "approximate." They say "records demonstrate 700" listings without citing any primary sources or references -- but clearly implying Boulder County's own records.

So, logically there seem to be two possibilities. 1) BoCo HAD "records" or "books" that proved that there were "700 listings" (all quotes taken from BoCo documents or employee statements) and reported them as fact to the commissioners who accepted them as fact when

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approving the regulations....but Harmari, professionals paid specifically to find STR listings....can't find them over a period of 18 months -- AND no one in BoCo now, including yourself or Ms. Sanchez, ever had any knowledge of these records and/or can't locate them now.

Or 2) Ms. Rodenburg and the other authors of the various official reports -- and their supervisors responsible for their accuracy -- were all simply lying from the beginning. Which of these possibilities do you consider more plausible, or are there other possibilities I have missed?

Regards, Edward Yagi

On Thu, Dec 15, 2022 at 3:33 PM Abner, Ethan <eabner@bouldercounty.org> wrote:

Good afternoon everyone—for those of you who were able to join us on Monday for the public listening session regarding short-term rentals, thank you for taking time out of your evening to participate.

For your awareness, the information session part of the meeting will be recorded and posted online at <https://www.youtube.com/@bouldercountycpp>

The Board of County Commissioners will hold a public hearing on the two-year review process on January 17, 2023. Once the Board reviews the report and staff presentation, the Board will determine whether any changes to the Land Use Code are needed. Any further action beyond the report to the Board would be based on the direction given to staff by the Board. Sign-up to receive Boulder County Land Use Code news and information, including notices of proposed amendments, public meetings and hearings: <https://boco.org/Land-Use-Code-News>

Email comments or questions about Boulder County's Short-Term and Vacation Rental Land Use Code regulations, Licensing Ordinance, and enforcement processes to: longrange@bouldercounty.org, or learn more at www.boco.org/dc-19-0005

Best,



Ethan Abner | Long Range Planner I

Boulder County Community Planning &
Permitting

Mailing Address: P.O. Box 471, Boulder, CO
80306

Main: 303-441-3930 | Direct: 303-682-6892

eabner@bouldercounty.org

www.BoulderCounty.gov

APPENDIX D

From: [Edward Yagi](#)
To: [Abner, Ethan](#)
Subject: Re: [EXTERNAL] Feedback (submitted in advance of the Dec. 12 STR Public Listening Session)
Date: Thursday, December 8, 2022 4:46:41 PM
Attachments: [image001.png](#)

You're welcome.

ey

On Fri, Dec 9, 2022 at 12:35 AM Abner, Ethan <eabner@bouldercounty.org> wrote:

Mr. Yagi—thanks for taking the time to provide me with your comments.

Best,



Ethan Abner | Long Range Planner I

Boulder County Community Planning & Permitting

Mailing Address: P.O. Box 471, Boulder, CO 80306

Main: 303-441-3930 | Direct: 303-682-6892

eabner@bouldercounty.org

www.BoulderCounty.gov

From: Edward Yagi <yagi.edward@gmail.com>
Sent: Thursday, December 8, 2022 2:36 AM
To: Abner, Ethan <eabner@bouldercounty.org>
Subject: [EXTERNAL] Feedback (submitted in advance of the Dec. 12 STR Public Listening Session)

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Dear Mr. Abner,

Thank you for your message. I plan to attend all STR-related gatherings, in person if possible. I understand that the 12/12 event is online only.

My feedback (for now) on the background, current status, review process, and recommendations for proceeding are attached.

I am in the process of sending to all of the addressees individually, which BoCo seems to discourage by not providing individual email addresses in a readily accessible manner. This may take me several days to complete.

For the record, I and two of my adult children are in the process of obtaining doctoral degrees. We are all also co-owners of our property in Allenspark. We were all very offended at the comments by you and other officials at the public hearing on October 19 disparaging the importance, value, and necessity of doctoral-level data, research, and analysis.

It should go without saying, but apparently all of the employees and leadership of Boulder County need reminding, that if a local government is intent on severely curtailing multiple rights of its citizens and taxpayers, including property rights, privacy rights, and the right to be left alone, it is not only desirable but REQUIRED – both on ethical and moral grounds AND to withstand court challenges, to have objective, Ph.D-level data confirming the “compelling public interest” that makes such infringement necessary.

If you don't have objective, rigorous, evidence-based findings, you have no basis to infringe on our rights.

Edward Yagi

On Fri, Dec 2, 2022 at 7:57 AM Abner, Ethan <cabner@bouldercounty.org> wrote:

Good afternoon—I just wanted to make sure you were aware of the information and listening session below. If your e-mail is not enabled to view certain text, the formatting

may appear in an odd manner. You can also view this information at [our website](#).

Dec. 12 Public Listening Session on Short-Term and Vacation Rentals

Register to attend virtual public meeting from 5-7 p.m. on Dec. 12

Boulder County, Colo. - Boulder County Community Planning & Permitting is hosting an information and listening session on Dec. 12 for the two-year review of the county's Short-Term and Vacation Rental Land Use Code regulations, Licensing Ordinance, and enforcement processes.

Staff will provide information and a timeline for the two-year review. Following the introduction, staff will hold listening sessions in virtual breakout rooms to hear from members of the public.

The county's Short-Term and Vacation Rental Land Use Code regulations and Licensing Ordinance apply to the unincorporated areas of Boulder County, not in cities and towns.

What: Information and listening session to get public input on the county's Short-Term and Vacation Rental regulations, Licensing Ordinance, and enforcement processes.

When: Monday, Dec. 12, from 5-7 p.m.

Where: Virtual meeting via Zoom. Register to attend at boco.org/Dec12STR

Registration is required, but participants can register at any time, including after the meeting has started. To participate over the phone dial 833-568-8864 (toll free) and input the meeting ID: 161 220 1719

The information session part of the meeting will be recorded and [posted online](#).

Background

Boulder County updated [Land Use Code](#) regulations related to Short-Term Dwelling and Vacation Rentals in 2021 in Docket DC-19-0005. The final text amendments were signed by the Board of County Commissioners (BOCC) on January 5, 2021, and became effective February 7, 2021.

Licensing for short-term rentals began on March 1, 2021 and compliance and outreach began in March 2022. The required review was initiated in August 2022. Staff presented an initial review of land use applications for short-term rentals to the Board of County Commissioners and Planning Commission on October 19, 2022. View the [staff presentation and supporting documents](#).

According to the approval [Resolution 2020-104](#), the efficacy of the Land Use Code

amendment must be reviewed within two years of adoption, but no sooner than one year following full implementation. Learn more at boco.org/dc-19-0005.

Next Steps

Staff will continue to collect information throughout the remainder of the year. All reports to the BOCC will be available to the public, and the BOCC will hold a public hearing on the two-year review on January 17, 2023. Once the Board reviews the report and staff presentation, it will determine whether any changes to the Land Use Code are needed. Any further action beyond the report to the Board would be based on the direction given to staff by the Board.

For more information, contact Ethan Abner at eabner@bouldercounty.org or 303-682-6892.

Best,



Ethan Abner | Long Range Planner I

Boulder County Community Planning & Permitting

Mailing Address: P.O. Box 471, Boulder, CO 80306

Main: 303-441-3930 | Direct: 303-682-6892

eabner@bouldercounty.org

www.BoulderCounty.gov

December 8, 2022

To: Boulder County Commissioners
Matt Jones
Claire Levy
Marta Loachamin
Boulder County Land Use Office (CP&P)
Ethan Abner
Dale Case
Hannah Hippely
Kim Sanchez
Boulder County Attorney's Office
Ben Pearlman
Erica Rogers
Boulder County Planning Commission
Mark Bloomfield, Chair
Gavin McMillan, Vice-Chair
Conor Canaday
Sam Fitch
Lieschen Gargano
Ann Goldfarb
Dave Hsu
Sam Libby
Chris Whitney

From: Edward Yagi

Subject: Regarding the current review of Boulder County's short-term rental and vacation rental (STR) policies and regulations

I hereby submit the following data and insist that this entire document be made a permanent part of the public comments regarding the subject review. This submission consists of five (5) parts:

Part 1. Statement regarding the damage caused by the current regulations and the systemic wrongdoing involved in their promulgation

Part 2. Fact Sheet of Boulder County government wrongdoing (partial)

Part 3: Boulder County Comparison with Nazi Germany (fact sheet)

Part 4: Analysis of the financial cost of Boulder County's anti-STR policies

Part 5: Proposal

Part 1

Statement regarding the severity of the damage caused by the current regulations

and the systematic wrongdoing involved in their creation and promulgation

The proverbial elephant in the room at the present time is Boulder County's obvious desire in fall 2022 and beyond to pretend that the current regulations are wonderful, great, fantastic, beloved by all, and maybe – just *maybe* – could be *slightly* tweaked to make them even better – with just a smidge of public opinion thrown in as a nice-to-do but by no means required and beneficial (by Boulder County) afterthought. This is an utterly false narrative and a continuation of Boulder County's bad faith, worse ethics, and non-existent respect for public opinion, data, evidence-based decision-making, or the truth.

The inescapable truth is that the current STR regulations are a gross abomination...a travesty of local government that has dishonored Boulder County for a generation. If local government were the motion picture industry, Boulder County's current STR rules are "The Human Centipede": a revolting and disgusting perversion so foul that it shames not only everyone associated with it personally and professionally, but also the entire industry – in this case, local government in Colorado – with which it is associated.

Boulder County is obviously trying to sweep the background and historical record underlying the current regulations under the rug. However, at least a few dismayed and appalled citizens will not let this happen, but rather ensure that the facts become part of the historical record, never to be forgotten – and do everything possible to ensure that those responsible are held duly accountable.

Fifteen years after the county's first aborted and incompetent efforts to force STR regulations down the throat of a community that had absolutely no need for any – and nearly four years after it secretly began to draft the current regulations, and more than two years after approving them – ANY improvement would be a step in the right direction. However, Boulder County is deluding itself if it believes that if a fair, reasonable, and honest set of new regulations can be agreed upon, then the public will simply forget how we all got into this situation in the first place, and that everyone will simply live happily ever after.

An acceptable outcome of the current STR review process will be a welcome, necessary, but only small first step towards the years-long and very painful process of rebuilding trust lost between the Boulder County government and its citizens as a result of the wrongdoing over the last several years. The damage that has been done will take a generation or more to repair. This is in part because the STR rules are only the latest in a long string of horrific, unprofessional, incompetent, illegal, and unethical behavior by Boulder County, going back at least to when it violated Colorado State law outright in the process of hiring Ben Pearlman to be county attorney:

<https://www.coloradohometownweekly.com/2011/12/29/legal-experts-boulder-county-violated-sunshine-laws-with-ben-pearlman-discussion-e-recording-shows-leaders-wary-of-political-pushback-on-commissioners-appointment/>

This long string of horrific, unprofessional, incompetent, illegal, and unethical

behavior, including and very notably the total absence in Boulder County of any ethical training or standards or Code of Conduct, includes not only the current STR debacle, but also the Rainbow Open Space Nursery scandal, the county's consistently unacceptable record of consumer service as extensively documented elsewhere in the public record (e.g., water rights requests and solar power regulations in summer 2022), current citizen outrage over pointless, stupid, and unenforceable anti-2nd amendment regulations, and the unannounced spraying of toxic chemicals directly on citizens, just to name a very few. As another Boulder County taxpayer concisely informed Mr. Ethan Abner on 12/6/22:

The STR regulations at issue here have caused a lot of problems for a lot of people in the county. Not only the applicants, but basically all involved with the Regulations have had great difficulty dealing with them. I am surprised Dale Case and Kim Sanchez have not been more forthright in admitting the regulations are a failure and I attribute it to their role in getting these rules implemented in 2020. I can vouch for the fact that most of what they and others report about the regulations to you and the Commissioners has not been truthful or accurate. I am sending the attached 3-page letter for consideration during this process, but the letter doesn't do more than scratch the surface of the problems. These regulations are an assault on the middle-class families trying to hang on to properties in the historic vacation zones in the Boulder mountains, and practically speaking the County can't administer such complex rules. I initiated the process in February of 2021, had my public hearing in September 2021 and then the County refused to follow up with me after the Commissioners approved my use because their licensing program is broken. My story is duplicated by nearly everyone who interfaces with this process. Boulder needs to do better. We don't need the most complicated set of rules for this in the entire country, aimed at dissuading people from even applying. I am alarmed that at the hearing last month nobody spoke the truth about how awful these regulations are.

To demonstrate how uninformed and ignorant the BOCC has become, possibly due to deliberate withholding of information from Land Use Department employees, during the above person's hearing before the BOCC in September 2021, Commissioner Levy chided the applicant(s) for not providing more input into these "awful" rules during the deliberation phase, utterly oblivious to the fact that the applicant was, in fact, the leader of the Boulder County Mountain Cabin Alliance that valiantly attempted to provide exactly such input – beginning at the first moment that the County – at a very late date, began half-heartedly informing the public of what it was planning – only to be ignored and rebuffed by the County at every turn. It is significant and indicative of the county's astounding incompetence that at this applicant's hearing county staff did not inform the BOCC of the applicant's background and standing in the community and in the regulation-forming and STR rules complaint process.

Everyone working in the Boulder County government apparently needs reminding that their primary job is to protect the rights of the taxpayers who pay their salaries. Where this requires reasonable regulation to balance genuinely conflicting rights, the first rule should always be to "do no harm" – meaning, do not restrict or

infringe upon rights without hard, solid evidence of compelling public interest. Boulder County has ignored this requirement repeatedly over the last twenty years, preferring to exercise brute authority at whim for pet projects at best, and possibly for personal gain at worst.

A clear and highly objectionable example of Boulder County's infringing of rights on falsified data and unsubstantiated rumors was during the STR public hearing on October 19, 2022, when the official responsible for briefing both the BOCC and county's Planning Commission, Ethan Abner, made a presentation that was notable for information that was inaccurate or untrue as well as critical information that was deliberately left out. Mr. Abner also joked about his intention to do sloppy work regarding follow-up analysis, literally promising to not perform doctoral dissertation-level effort.

It ought to go without saying that if a local government is going to severely curtail multiple rights of taxpayers and citizens, including property rights, privacy rights, and the right to be left alone, it is not only desirable but REQUIRED – both on ethical and moral grounds AND in order to withstand court challenges, to have objective, Ph.D-level data confirming an objective, evidence-based “compelling public interest” that makes such infringement necessary.

The residents, citizens, and taxpayers of Boulder County are tired of the casual, joking, smarmy, smirking, “what me worry” attitude of Boulder County officials literally paid to be the subject matter experts but who are utterly ignorant of basic facts, cannot answer simple questions, ignore customer complaints, do not return telephone calls, do not return emails, otherwise don't do their jobs, and frequently dress like homeless people in public meetings. (Taxpayers ought to be able to expect, in a business environment, a business casual dress code. If you are a public servant and speaking on the record, dirty jeans and a sloppy shirt are a disgrace – although in the case of Boulder County, sloppy dress is certainly consistent with sloppy thinking, sloppy work, and sloppy attitude.)

The residents, citizens, and taxpayers of Boulder County are tired of the officials literally being paid to be subject matter experts in matters of regulation and licensing saying “Well I'm not sure but...” or “Don't hold me to this but...” or “That was before my time so it's unclear what....” or “I'm not the expert on this but....” They ARE the experts on all of this and that's why they are being paid. If they have no reliable, objective sources for the information they proclaim as fact, they must say so. If their predecessors made up information out of thin air or promulgated lies, they must say so. If objective facts exist they MUST be in the relevant files. If the facts or the files don't exist or never existed, officials must say so.

Boulder County employees must stop making jokes about their ignorance. If they don't know what they are doing, don't know where information is, can't defend information and provide sources for data they are purporting to be facts.....they should resign. The objective facts outlined in this report are NOT funny. BoCo staff and officials not taking them seriously is a disgusting affront to public service and the imperatives of governance – and make a mockery of ethical and moral codes of

conduct (which, it must be noted again, BoCo refuses to have).

Boulder County must realize that it cannot make amends for its bad faith, poor leadership, incompetence, wrongdoing, ineptitude, unprofessionalism, and unethical behavior even with a total overhaul of the current STR rules.

However, if the county chooses to reverse its current course of action and revise the current STR rules in good faith, honesty, and respect for the rights of the taxpayers who pay their salaries, it will be a good and important start.

Part 2

Fact Sheet of Boulder County Government Wrongdoing (partial)

1. Relies on Colorado State law to justify their legal authority to pass and enforce regulations. However, they claim and act such that state laws regarding employee behavior and ethical conduct do not apply to them.
2. Has no written Code of Conduct or, if any such document exists, refuses to share it with the public.
3. Has budgeted half a million dollars annually, starting in 2022, for diversity/inclusion purposes that is totally unnecessary as comprehensive civil rights laws have already existed in the U.S. for half a century.
4. Inexplicably and possibly uniquely for any local, state, or federal government entity, the Boulder County government apparently has no ethics office, no ethics officer, and no written ethics policy.
5. Boulder County has no formal mechanism to monitor, record, or address taxpayer complaints.
6. Systematically ignores taxpayer telephone calls and emails regarding issues it does not wish to discuss.
7. Created short-term rental (STR, also called “vacation rentals;” terms are not standardized leading to rampant confusion) laws based on imaginary and fabricated pretenses without a shred of evidence.
8. Has been dishonest and inconsistent regarding the need for any STR regulations at all, citing in various times and places number of housing units, home price inflation, “affordable” (presumably low-cost and/or taxpayer subsidized) housing, rent costs, safety, building code compliance, unsubstantiated complaints, and not-in-my-backyard (NIMBY) issues – none of which have any valid and established connection with STR activity in most jurisdictions, including Boulder County.
9. Passed STR regulation with no idea whatsoever how many STRs even exist in the county, in any form. The extent of STRs remains a complete mystery as the county

has never conducted a survey to find out.

10. Appear to have held secret meetings with anti-STR extremists in extraordinary and deliberate violation of both ethical principles and Colorado State and other laws.

11. Refuses to either confirm or deny if it held secret meetings despite documentary evidence that it has.

12. Actively suppresses or tries to suppress contradicting facts and opinions, both within the county government and from the public.

13. Tampers with due process to prevent public debate or render it irrelevant; specifically, it held only ONE public hearing on STR rules on the shortest possible legal advance notice in 2020. The commissioners voted to approve the new rules at the SAME meeting, demonstrating that they had decided to approve the rules in advance, regardless of the facts presented by the few public speakers able to speak on such short notice.

14. Does not respond to some Colorado Open Record Act (c.f., Freedom of Information Act) requests in a timely basis, reportedly ignores some requests, and has denied others on rhetorical grounds (e.g., citizens are asking for “documents” or “information” rather than “records” without explaining any relevant distinction).

15. Falsely accuses critics of positions they have not taken.

16. Approved unenforceable and un-administrable regulations without reading them or understanding their contents.

17. Deliberately put thousands of Boulder County taxpayers into long-term, forced non-compliance, under threat of fines that, were they to try to enforce them today, now greatly exceed the value of the properties.

18. Constantly changes or re-interprets its own rules and policies. In many cases, they make up new rules and policies on the spot.

19. Has refused to put a formal STR regulation moratorium in place, citing excuses that are patently false (such as making up new, nonsensical definitions of commonly used terms such as “effective” and “enforced”).

20. Has forced many of its most junior and vulnerable county employees to do pointless and wasteful work, face-to-face with justifiably enraged and resentful applicants who are paying thousands of dollars simply to have their privacy invaded waste everyone’s time, demonstrating that the rules exist only to deter applicants.

21. Deliberately expedited into approval extraordinarily complex and punitive changes to the already excessive (and widely ignored) Land Use and housing codes at the very height of the Covid-19 pandemic crisis, when panic and social disruption were at their very greatest (evidence of bad faith).

22. Grossly mis-wrote the STR rules. A single word such as “may” or “the” can change the entire meaning of a statute. The STR rules were written by openly biased and objectively inexperienced and incompetent staff, all of whom mysteriously quit as soon as the laws were passed. The rules were passed with apparently with no oversight or editing, resulting in intents, purposes, and meanings too vague to comprehend more than a year later. Examples: commissioners, Land Use staff, and legal staff debate at length over the following: Definition of “bedroom.” If guests may legally sleep on a sofa bed (the conclusion: no). How to determine occupancy limits, since there are many ways, all subject to interpretation, to calculate and evaluate number of bedrooms, parking capacity, sewage system capacity, and “neighborhood conformity” – especially in the case of only very infrequent use. If language allowing rentals of “more than 60 days a year” means that it is illegal for an owner to rent LESS than 60 days a year and/or live in their own home themselves year-round (the consensus was muddled but appeared to be: yes, any use other than that expressly permitted is illegal). All of the above can be seen in videos on the county’s website.

23. Claims that regulations are “signed” or “approved” or “effective” on different dates, while saying they are “implemented” on yet different dates based on dates of “enforcement” that are not officially announced nor formally authorized. Following the letter and spirit of the law itself, Boulder County (BoCo) was to begin a review of the new rules in December 2021. However, BoCo is now re-interpreting terms, at whim with no authority OR evidence, in order to push review of the STR rules into January 2023 at the earliest.

24. Forced a local citizen to file a Colorado Open Records Request (CORA) asking for a copy of the contract BoCo made with a private company for active enforcement (in other words, investigating and snitching). A month and \$80.00 later, Boco replied that the contact was available online in the public document portal.

25. Paid \$17,000 in taxpayer funds to a company called Harmari STR (not a U.S. company) in 2021 to spy on taxpayers online, and renewed this contract in July 2022. Information on Hamari’s website indicates they play on the fears of the NIMBY crowd.

26. Actively enforces STRs. Of the hundreds of services that BoCo is paid to provide, STRs are the ONLY matter – apparently in the entire history of Boulder County – that the county subjects to “active” enforcement. All other business enforcement is “passive”, meaning BoCo’s enforcement relies on public complaints.

27. Approved the STR rules ignoring documented taxpayer sentiment 80~98% in favor of STRs.

28. Voted on agenda items that are objectively confused and unclear, even to the commissioners voting on them (e.g., April 28, 2022).

29. Frequently unfairly rushes through meetings without due process (April 28) or suddenly cancelling meetings scheduled months in advance (multiple occasions).

30. Spells “virtual” on its website “vertual” [sic] along with many other spelling and

grammatical errors.

31. Ignores the fact that public comment regarding STRs has been in SUPPORT of STR activity and applications at a ratio of approximately 40 or 50 in favor to 1 against.

32. Misrepresents reports that it pays private company to assemble and provide to BoCo as “complaints.”

33. At an April 7, 2022 Virtual Town Hall, the Boulder County commissioners stated on the record that the reason for delaying review of the STR rules was lack of staff capacity due to the Marshall Fire. This directly contradicts expansive, written explanations from those very same staff that the reason, explicitly, concerns the definition of “implementation” and has nothing to do whatsoever with the Marshall Fire. This comment by the commissioners was also illogical in that the County continues to process, enforce, and implement STR rules simultaneously with claiming that it lacks the capacity to merely REVIEW them. If in fact the county lacks sufficient capacity to REVIEW the STR rules due to the Marshall Fire, it certainly ought to lack the capacity to actively ENFORCE them – something it does with no other policy. If the County is too desperate to review the STR rules, logically they should simply put a moratorium on them, something that has been proposed constantly and the commissioners repeatedly refuse to do.

34. Weaponized the federally and/or state-funded “Wildfire Partners Program” by making mandatory a program designed to be purely voluntary. This weaponization destroyed much of the goodwill the Program had been able to create with the general public as a result of being purely voluntary, flexible, and non-intrusive.

35. According to some fire experts, may be criminally or civilly liable for the destroyed property due to the Marshall Fire due to insufficient fire mitigation of county-owned lands in the wildland urban interface (WUI).

36. Cuts off the audio and video of online comment speakers for being “off topic,” which is an egregious violation of the First Amendment right to free speech (ex: 9/8/22).

37. Commissioners and staff are possibly criminally incompetent in terms of being willingly ignorant of the contents and implications of the rules they passed, are responsible for enforcing, and are supposed to be the subject matter experts (SME) on. On 10/13/22, commissioner Levy had absolutely no idea what a “development agreement” was, and neither did Ian Brighton, supposedly the SME. The STR applicant was totally blindsided by this new requirement despite months (a year or more?) and presumably close to \$10,000 worth of resources expended.*

38. Uses public funds and time to unethically (and possibly illegally) endorse or oppose ballot initiatives before the public. On October 11, officially declared, without the consent of the electorate, Boulder County’s official position on several upcoming ballot measure. Nearly every state in the country has explicit prohibitions on such blatant abuse of official power (e.g., Iowa “prohibits the use of public funds for any

political purpose, including the express advocacy of a ballot issue"
<https://ethics.iowa.gov/use-public-money-or-property-political-purposes>)

*B. Development Agreements

1. For special use approvals and final plat or final plat replat approvals under the Subdivision Regulations, a development agreement must be reviewed and approved by County staff, signed by the applicant, and then signed by the Chair of the Board. The approved and executed development agreement shall be recorded in the real property records of Boulder County at the same time the other required post-approval documents implementing the approval are recorded. The development agreement shall embody the terms and conditions of the site specific development plan creating a vested property right pursuant to Section 3-207.

2. The development agreement typically will include the following (as applicable):

- a. description of the approved development,
- b. site plan depicting the approved development,
- c. provisions for construction of improvements,
- d. performance guarantees and letters of credit,
- e. evidence of payment of sewer and water tap fees and other necessary fees,
- f. phasing schedule,
- g. evidence of transfer of water rights,
- h. agreements to provide 'as built' plans,
- i. methods of providing perpetual maintenance of common property and equipment,
- j. provisions for a home owners association,
- k. methods for amending the agreement,
- l. enforcement provisions, and
- m. language establishing a vested property right in conformity with Part I of Article 68 of Title 24, C.R. S., as amended.

3. The development agreement shall be signed by all owners of the subject property.

39. In late 2011, Boulder County commissioners violated Colorado State "sunshine laws" regarding secret, internal discussions to hire then-commissioner Ben Pearlman to be County Attorney – a position he continues to hold today, eleven years later. This represents both a "clear violation" of state law and also of ethical rules arguing against conflicts of interest.

40. A strategy of engaging in activities it wishes to hide from public scrutiny or review by burying them in busy times of the year (such as the end-of-year holidays), releasing information to the public at the last minute (giving the public the minimum amount of time to see and respond) and also strategically releasing information late in the afternoon on the final working days before an extended holiday, thus abusing "minimum number of days of advance notice" rules (they did this in the case of at least the Ben Pearlman hiring decision, the Rainbow Open Space scandal, and of course the entire current STR rules review process, repeatedly).

Part 3

Boulder County Comparison with Nazi Germany

A version of the essay below appeared in the November 2022 edition of the local newspaper “Allenspark Wind.”

Godwin’s Law says that if any argument continues long enough, someone will eventually compare their opponent to Hitler. On October 6, 2022 I opined to the Boulder County commissioners that their customer service “makes Nazis look like helpers at Disneyland.” Commissioner Claire Levy thought it wise to make a huge deal out of this comparison, and I agree. Therefore, I hereby present this list of: “22 Ways In Which Boulder County Invites Comparisons to Nazis.”

This is a fact sheet. Everything in the document has robust documentary evidence.

1. Make housing your big message. The Nazis used *Lebensraum* or “living space,” territory necessary for life and economic self-sufficiency, as their rallying cry. Boulder County has a written “Comprehensive Plan” (with an oddly totalitarian tinge to it) that proclaims: “The county prioritizes housing for Boulder County residents and limits [other] uses.” BoCo invokes this clause specifically when it shuts down short-term rentals (STRs). It’s same concept as *Lebensraum* with almost identical terminology.

2. Scapegoat a prosperous but “cheating” minority. For the Nazis, this was the Jews. For Boulder County, it’s property owners with an extra bedroom or an old family cabin. Attacking those *perceived* to be more well off than the average Joe exploits envy, robs scapegoats of sympathy, and has the added bonus of confiscating and redistributing their wealth, which BoCo stated explicitly was one of their objectives: specifically “lowering property values.”

3. Pretend *you* are the one under attack. The Nazis asserted that Jews were attacking from within and neighbors were attacking from outside. BoCo’s Comprehensive Plan invokes the word “threat” eleven times. The monsters under Boulder County’s bed include tourists, absentee and non-resident property owners, investors, technology, AirBnB, and – if you look carefully – anyone who isn’t white and middle-class. See #19 below for more on this one.

4. Exploit a crisis. The Nazi’s rammed their policies through during the peak of the Great Depression when people were frightened, off-balance, and pre-occupied with survival issues. Boulder County rammed their STR policies through during the peak of the covid panic when people were frightened, off-balance, and pre-occupied with survival issues. They did so even though STRs were in the center of BoCo’s radar screen as far back as 2007.

5. Drown your enemies in bureaucracy. Everything the Nazis did was technically perfectly legal. They wrote the laws, passed them, and acted as judge, jury, and executioner with no appeal while endlessly creating more rules and moving the goal posts. The commissioners of Boulder County do precisely the same thing...to the point even *they* have no idea where the goal posts are. It is impossible for the

average person to appreciate how complex BoCo has made the STR process: multiple approvals by multiple entities, public notices, public hearings, dozens of subjective conditions, forestry work, and multiple complex legal documents – much of which applicants are never told about in advance. On October 13, 2022, a shocked applicant at a public hearing listened in stunned disbelief that after a year of effort and many thousands of dollars, he is now hearing – for the first time – that he is now required to draft a massive, complex, legal public document to be formally recorded with the county called a “development agreement” that appears nowhere in the STR ordinance nor on any checklist (see #21 for more on this).

6. Rule by decree. On March 23, 1933, three days after the Dachau concentration camp opened, Hitler proposed the Enabling Act and it passed the next day, giving Hitler absolute power. On October 13, 2022 Matt Jones, Claire Levy, and Martha Lochamin voted unanimously to deny vacation rental application LU-22-0018 for not being “compatible with neighborhood character” although the application was in total compliance with every requirement in the ordinance – *and* both the county’s Planning Commission and Planning & Permitting Department recommended approval (see also #19).

7. Weaponize existing good programs. In the early 20th century, Germany had the most advanced and prestigious medical system in the world. The Nazis weaponized it almost beyond comprehension. No German profession had a higher percentage of Nazi party members than physicians. Boulder County took perhaps the best program it had, the purely voluntary Wildfire Partners Program, and made it a requirement for STRs. This weaponization is triply cruel because not only is WPP compliance totally subjective, it can be prohibitively expensive and in many case impossible regardless of cost because forestry professionals are unavailable or non-existent.

8. Make a little list. The Nazis documented everything in exquisite detail, including lists of their victims so that none would escape. Boulder County does the same and I have seen it: an Excel spreadsheet with hundreds of names and addresses. This is called “active enforcement.” BoCo doesn’t do this for any other industry, and it sets a horrible and dangerous precedent. BoCo taxpayers are paying tens of thousands of dollars for a foreign firm to spy on them for BoCo’s little lists. See next item.

9. Subcontract out the dirty work. No Nazi ever built a gas chamber...they hired ordinary private companies to do it for them. On June 1, 2021, Boulder County hired a foreign company called Harmari, not subject to U.S. privacy laws, to actively spy on Boulder County property owners using online technology. For five years. Obtained under Colorado’s Open Records Act, this contract was renewed by BoCo officials Dale Case, Kathy Gissel, and Alicia Christopher on June 17, 2022.

10. Control the guns. Ironically, the Weimar Republic began to register guns to keep them out of the Nazi’s hands. The instant the Nazis took power they confiscated the guns AND the list – and we all know what happened next. On August 2, 2022, despite vociferous public opposition Boulder County passed five significant new anti-2A regulations. Their sole justification was “we had to do something” (see next item).

11. Big Lies. The Nazis gave this tactic its name. BoCo’s official policy that “short-

term rentals deplete the county's housing stock" meets every requirement of a Big Lie. Another lie: BoCo calls the spying records Harmari provides them "complaints," with one citizen's address constituting one "complaint." But a complaint requires a grievance, harm, or claim. Harmari's reports to BoCo are merely reports they are contractually obligated to provide in exchange for hard cash. This lie was carefully designed by BoCo to deceive others into believing that these so-called "complaints" are grievances received from the general public.

12. Identify your targets to the public. The Nazis infamously forced Jews to wear yellow stars. In a jaw-dropping "you can't make this stuff up" similarity, Boulder County marks STR applicants for recrimination by their neighbors by posting HUGE YELLOW SIGNS on their property – and BoCo's original plans were for these signs to be permanent. BoCo further requires at least one and sometimes two or more public hearings at which extensive personal and sensitive information is placed online forever, and at which members of the public are encouraged to denounce the applications into rejection, sometimes successfully (refer to #6 and #13 below).

13. Incite citizens to fight and turn on each other. The Nazis rewarded people for betraying their friends and neighbors. BoCo's STR regulations were carefully designed to pit neighbor against neighbor in both the short and long term. Even if the current regulations are eventually relaxed, those who endured the existing rules can be expected to feel anger and resentment toward those who won't have to endure the torture and expense they had to go through.

14. Inclination for brutality. You need not engage in genocide to be cruel. Even the Nazis started off small: a look here, a word there. BoCo's STR fine structure is brutal almost beyond description: in theory BoCo could now fine every unlicensed STR in the county, which is to say nearly all of them, nearly \$1,000,000 each. A rough estimate of the total cost to legally operate one STR is more than \$100,000. The promotional language of their mercenary, Harmari, reeks of intimidation and violence ("Use our TaxCrawler software to Establish, Enforce and Win the Endgame of short term rental compliance!"). The Wildfire Partners Program weaponization was discussed in #7. The violent, angry language in some of BoCo's emails to taxpayers is genuinely frightening. But there is genuine violence as well. On April 5, 2022, Boulder County sheriffs brutally beat a defenseless man with a history of mental illness who was in county care yet denied treatment by the county for his condition. He was smashed three times in the face with a closed fist and kneed in the ribs while on the ground. He was helpless, fully shackled with leg and wrist irons, and wearing only underwear and flip-flops. The video is all over YouTube, mostly with the warning: "Graphic content, viewer discretion advised." The Boulder County commissioners have not only issued no statement condemning this violence, but on October 11 they went out of their way to vote to *pay for the legal defense* of the perpetrators. They didn't have to do this, but they did, so now we taxpayers are paying huge sums to defend perpetrators of violence – and we have a right to know and can justifiably worry under what conditions violence may be used against us.

15. Silence critics. The Nazis killed their enemies. BoCo routinely violates the First Amendment to the United States Constitution. On September 8, 2022, commissioner Marta Loachamin physically shut down the online audio and video of a public

speaker exercising their Constitution right to speak during their allotted time at a public hearing held specifically for the purpose of public comment.

16. Contempt for what the public thinks. In his book *Last Train from Berlin: An Eye-Witness Account of Germany at War*, celebrated U.S. journalist Howard K. Smith compared filing a protest with the Nazis with being a correspondent with no broadcast equipment: “Carefully writing a script, dropping it in the nearest manhole, and that was the end of it.” Replace “script” with “email” and you have Boulder County...I documented two striking, recent examples in the October 2022 Wind. Also, the STR rules approved in December 2020 do precisely the opposite of what Allenspark citizens said they wanted at a community meeting held on July 23, 2019.

17. Contempt for citizen’s privacy. We can safely skip over the Nazis on this one. In response to an STR application, BoCo sends hundreds of notices to neighbors, government agencies, and community organizations. They are trolling for a reason, however arcane, they can use to deny it. This puts huge amounts of applicants’ personal information online forever, including the location of bedrooms and security cameras.

18. Contempt for human life. Again, no need to get into details with the Nazis. Given Colorado’s well-documented, horrific record of gun violence, BoCo’s intrusion into individual property rights is wildly irresponsible. More than one Allenspark resident has told me: “If anyone from the county sets foot on my property, I’ll shoot them.” We may have just been lucky that no one has been killed yet (that we know of anyway, although BoCo tried hard on April 5).

19. Minorities don’t fare so well. The Nazis passed their Nuremburg Laws on September 15, 1935. Boulder County passed their STR regulations on December 3, 2020. Of the number of STR applications that have made it as far as a public hearing before the commissioners – still leaving the entire licensing procedure ahead of them – the commissioners seem to have approved all of the white applicants and rejected all of the Hispanic ones. I witnessed one of these rejections live on October 13 (see #6 above).

20. Catastrophic destruction in the name of public service. The Nazis ultimately destroyed most of Europe with their inhumanity, overreach, and megalomania. In the three years of BoCo’s STR pogrom, property values have skyrocketed and housing stock has *decreased* – including by 1000 units due to the Marshall Fire, which might not have happened if BoCo had put its millions of dollars and years of anti-STR efforts into fire mitigation instead. No one has any idea how many STRs even exist, although it’s a good bet that the vast majority of them are simply ignoring the current rules. This destroys respect for the rule of law in general and BoCo’s credibility in particular. If BoCo wanted to dis-incentivize STRs, the last thing it should have done was involve the Land Use process, since a Land Use approval stays with the property forever, thus actively incentivizing both current and future owners – who may have never thought of renting out their property – to continue to do so.

21. Ignorance. At the Nuremburg trials, experts were shocked at how obviously unintelligent most of the captured Nazis were. This led one to coin the famous

phrase: “the banality of evil.” More than three years into the STR process, neither commissioners nor BoCo staff understand their own rules or appreciate the damage they cause. When asked about the Harmari contract at a face-to-face Town Hall meeting in Lyons on June 16, 2022 – the day before BoCo renewed their contract for another year – both Loachamin and Levy *claimed to know nothing about it* (they also said they would “get back” to the speaker about it but never did – more lies. Matt Jones couldn’t be bothered to attend a Town Hall). Their confusion and ignorance was on full display again during hearing SU-22-0005 on October 13. Observing from about 2:55:00 on the county’s own video, commissioner Claire Levy asks “Just for my edification, the development agreement that’s required here? What is that? What are the components of that?” and the BoCo official responsible for the entire application, Ian Brighton, *has absolutely no idea*. He splutteringly defers to another staffer, Summer Frederick, who needs a full minute to explain, after which Levy says in flustered bemusement, “Thanks....well.....I should have asked that a long time ago.” See #2, #5, #7, #8, #9, #14, and #20.

22. Well poisoning. Nazi propaganda revived the ancient calumny of Jews poisoning wells. In another astounding “no one could possibly make this up” parallel, Boulder County restricts or prohibits STRs by claiming: well.....well poisoning. BoCo falsely asserts that septic systems that have accommodated “X” number of people full time with absolutely no problem for decades may in no way handle X+1 persons for a handful of days per year without contaminating the public water supply. In the real world, this happens exactly as often as actual well poisoning by Jews: never. However, county commissioners adore this argument and have employed it not once but many times. It’s all available for public viewing on the county’s own website.

The message to Boulder County: you don’t have to slaughter six million people to invite comparisons to the Third Reich. Getting over a couple of lower hurdles, which you have more than successfully accomplished, is perfectly sufficient. The key lesson of the Holocaust is NOT that comparisons are off-limits. It is instead that ordinary people must stand up to bullies at an early stage, *before* things get out of hand. After things get out of hand is too late.

Part 4

Analysis of the financial cost of Boulder County’s anti-STR pogrom

As best as can be determined from secondary sources, since BoCo steadfastly refuses to release information, in the exactly two years since the current rules were passed in December 2020 BoCo has issued only 41 licenses for owner-occupied STRs. These require no “Special Use” or “Limited Use” land use approval - just the STR license. It does not appear that *anyone* got a license -- of any kind -- in the entire first year.

BoCo only received a mere 20 applications for STRs/VRs that require a land use approval. Of these 20, the commissioners have to date reviewed only 14, with only one rejected (the notorious Vizzuett case) with the other 6 still in limbo. Of the 14 that were approved, a mere 9 have completed BOTH the land use and licensing

processes. Accordingly, no more than 50 STRs/VRs in total are operating somewhere in the county with a license.

The actual number of STRs/VRs is utterly unknown. Harmari seems to have identified, in about 15 months, only about 150 units that are operating but are ignoring approval requirements. Many of these have already been identified as false positives. It is possible, if not likely, that the total number of non-owner-occupied STRs in all of unincorporated Boulder County is only a few dozen.

From internet research, the average hourly wage of a BoCo employee is \$29/hour. Staff reports for a single STR/VR are about 50 pages long. It takes about 4 hours to generate one page of material such as this (200 hours, or \$5800). In addition, a very large number of people (the applicants, CP&P staff, county attorneys, the Planning Commission, commissioners, and dozens of government and community agencies) are involved in every application. Assuming 100 people, all of whom spend 3 hours on each application on average, requires another 300 hours and \$8700. One complex STR/VR needs TWO public hearings, each involving around 50 participants (one can see this briefly on Zoom when one is promoted to panelist), each lasting around 3 hours, with pre-and-post work included. Thus, $2 \times 50 \times 29 \times 3$, or an additional \$8700. The total so far is now \$23,200 per land use application -- all BEFORE THE LICENSING PROCESS EVEN BEGINS.

It can thus be said with a high degree of certainty that BoCo has spent (or wasted) \$324,800 JUST on actual land use procedures for the 14 properties that have gone through it, with at least one being rejected after all that money, a year of effort, and recommended approvals from both staff and BoCo's own Planning Commission. Assuming that the remaining 6 applications are all halfway through the process on average (\$11,600 each, or \$69,600), the total is now up to \$394,400.

Exactly 50 licenses have been issued (41 owner-occupied, 9 not owner-occupied). Each has to take at least 2 weeks of staff time, or 80 hours, meaning another \$2320 per license, or \$116,000 for all fifty. So the total of ONLY BoCo taxpayer money spent on STRs/VRs "processing only" to date is around \$510,400.

BoCo expended extraordinary time to draft, review, debate, and pass the new ordinance, changes to the land use code, and supplemental materials. At least two CP&P staff (Jasmine Rodenburg and Raini Ott) were devoted to this issue, probably full-time, from 7/2/19 through March 2021, or 21 months. That's \$5027 (monthly salary, perfectly reasonable even if they were lower-level hires, factoring in benefits, or the total cost to taxpayers) $\times 2 \times 21$, or \$211,134. At least ten high-level officials with high compensation (e.g., all 3 commissioners, the head and deputy head of CP&P, multiple county attorneys) were involved. Assuming 10% of their time over 21 months, this is $10 \text{ people} \times 10\% \times \$100,000/\text{year} \times 1.75 \text{ years} = \$175,000$.

Now add the \$35,000 paid so far to Harmari to spy on taxpayers, residents, and citizens, plus at least one BoCo staff must be spending 50% of their time managing the Harmari contract and otherwise engaged in active enforcement since June 2021. This gives $1 \text{ person} \times 50\% \times \text{monthly salary} \times 19 \text{ months}$ (through the end of this year) = \$47,757. Thus, the total of admin processing (\$510,400), rule

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creation (\$211,134), senior management time (\$175,000), Harmari (\$35,000), and enforcement (\$47,757) is \$979,291 -- almost exactly one million dollars.

It is uncertain how much it costs APPLICANTS to go through the entire process. It certainly depends on the property and could be \$50,000 or more. But an applicant was quoted in writing "\$3000 to \$5000" for just BoCo's review fees by Jesse Rounds on 8/18/21. The following information is from one applicant who is, after two full years of effort, still only about half-way through the entire process with no sign of when the process will end:

The BoCo planner's hourly rate is \$160/hr

- . Land Title endorsement - \$144
- . radon test - \$140
- . radon mitigation/installation fan - \$950
- . install a new electrical outlet to run the radon fan - \$127

Wildfire mitigation: 90% of the work done themselves due to lack of service providers. Contract out to cut some of the bigger trees: approximately: \$1500
2 carpenters for 2 days & also hired a laborer for a handful of days. Approximate cost \$2000 in labor + \$500 in materials

Totals:

- . SU application fee: \$2070
 - . Wildfire mitigation (2021 & 2022): \$4000
 - . Radon test & mitigation: \$1,217
 - . Land title endorsement: \$144
- Total: \$7431

Note: the above does NOT include the "development agreement" drafting, of which almost no one – including this author – had been aware of until nearly two years into the process. Approval, and registration with the county recorder, etc. may require a lawyer and cost several hundred to several thousand dollars.

It is safe to assume, therefore, on average, \$4000 in administrative fees, plus another \$6000 for Wildfire Partners, driveway alterations, etc. for an average of \$10,000 per property. Thus, the TOTAL cost to legally operate each STR/VR in Boulder County is an estimated \$19,586 to the taxpayer and \$10,000 to the applicant. That's \$29,586 per property, or \$1,479,300: just short of \$1.5 million in economic loss to issue 50 licenses for no public benefit and tremendous destruction of public trust in the county's ability to manage its affairs.

And all of the above does not even consider the loss of staff TIME not devoted to fire mitigation, helping Marshall Fire victims, and other public services. In reality, effectively ALL of the losses center around the mere 14 applications BoCo is now "analyzing" for the upcoming two-year review, because only these 14 "advanced through most of the land use review process" and were thus able to provide any kind of data for analysis.

\$1.5 million squandered over 14 properties is MORE THAN \$100,000 PER

PROPERTY. In terms of time and money spent with so little to show for it and so much ill will and distrust created, there may be nothing similar to this waste in the history of local Colorado government. As was clear in the joint Planning Commission/Commissioners meeting on October 19, 2022, the county has not even the most basic understanding of its own county, and much of the information discussed was inaccurate and untrue.

Not one person – not a single commissioner, planning commission member, or staffer, had any idea how many housing units even exist in unincorporated Boulder County. The county has never bothered, for example, to collect even basic data such as the following:

# of housing units in the US:	142 million (2022)
# of STRs:	1,059,541
# of housing that is STR:	0.74%
# of housing units in uninc BoCo:	20,000 (Dale Case, 10/19/22)
Possible estimate of STRs in BoCo:	149
# of new housing units annually:	1,564,000 (September 2022)

According to a July 2022 mid-year update on the U.S. short-term rental industry by AirDNA, there were 1,059,541 available units on various listing platforms in 2021, which was a slight increase from the number of listings in 2020 but still down 9.9% from the number of available listings in 2019.

In other words, the U.S. adds EVERY YEAR more housing to the U.S. market than the total number of STRs that even exist. This, among many other factors including the paltry number of STRs in Boulder County, reveals the county's bold, up-front claim – presented without the slightest shred of evidence – that STRs “deplete the housing stock” a total lie.

The most basic problem remains what it has always been. BoCo created an ordinance based on NO reliable data of how much STR activity actually exists, and therefore has NO grasp of either benefits or hazards. Current policy is based 100% on commissioner whim and the howls of a handful of upper-middle class white voters, with NO priority given to the property or privacy rights of the owners.

The policy is also unabashedly hostile from the point of view of customer service. According to one applicant:

My planner seemed to spend more time (on my dime) trying to find, or create problems with my property (that didn't exist), instead of doing his job. He also continually gave me incorrect information, which precipitated costly decisions and also gave the BOCC some of the same incorrect information, which formulated conditions of my approval. It took me months and a lot of time & stress to prove his evaluation was incorrect. Bottom line, I don't trust them to make rational decisions.

Even BoCo's current review (from October 2022) is fraught with logical problems. Speaking as a professional and highly trained data analyst, fourteen properties is NOT a statistically acceptable sample size for any kind of scientific analysis of this nature. **Until BoCo has more data, they have no legitimate business doing anything besides repealing the current rules and gathering more data.**

On October 19, 2022, Planning Commission member David Hsu made the only honest comment of the day when he said “We don’t know what we’re approving.” Under these conditions, the only rational approach to take at this point is to REPEAL all of the rules approved in December 2020 and engage in a multi-year, collaborative effort beginning with voluntary registration and scientific data collection. Problems should be addressed when they are objectively and rigorously identified, not imagined.

Part 5

Proposed way forward (5-step process)

The author of this document is a member of the Boulder County Cabin Rental Alliance, owners of property in unincorporated Boulder county. Many of us have experienced the county’s current vacation rental (or short-term rental, STR) scheme to some extent. We understand the need for and support reasonable STR regulations. The county’s current regulations are objectively invasive, punitive, burdensome, expensive, complex, unenforceable, and utterly unworkable for both county employees and county residents.

In the more than three years since Boulder county began this initiative, it has wasted an estimated one million dollars in budget, issued almost no licenses, severely damaged trust between the county government and the taxpayers who fund it, and continues to divert county resources from vastly more pressing issues including climate change, fire mitigation, and Marshall Fire rebuilding. The longer the county delays in establishing a new policy, the greater the animosity will be between nearly all STR operators who will operate under the new policy and the tiny handful who suffered the tremendous indignities, time, and expenses of the old policy.

To gather the facts necessary for rational, fair, workable regulations, and to try to re-establish trust with the community, the current Short-Term Rental Regulations AND changes to the Land Use Code must be immediately repealed in their entirety and replaced with “confidence building measures” as follows:

Step 1: Repeal in full everything put in place between December 2020 and the spring of 2021.

Step 2: Formally and officially, as a matter of policy, renounced and eliminate ANY connection between STRs and the Land Use approval process. Similarly, eliminate any connection between STRs and housing stock as other jurisdictions, including Boulder County’s neighbors in Grand Lake, wisely and rationally have done:

The [Grand Lake] board views the [STR] issue as being separate from the affordable housing crisis, according to [Mayor] Kudron. We have an affordable housing problem,” Kudron said. “We have short-term rentals that have perceived issues with noise, degrading of the community, and things like noise and trash. This board specifically has separated those two.

<https://www.skyhine.com/news/short-term-rental-regulation-tops-discussion-at-grand-lake-board-meeting/>

Step 3: Draft, promulgate, and enforce a Boulder County Employee Code of Conduct as well as comprehensive Ethics Guidelines and mandatory annual ethics training. These guidelines must include objective standards for replying and responding in full to customer requests for information and services.

Step 4: Establish an independent, third-party Special Commission to investigate and recommend punishment for the Boulder County employees responsible for creating, disseminating, and/or encouraging deceptive and unethical information residents, citizens, taxpayers, and other officials. Particular focus should be placed on all of the current and past county commissioners, Dale Case, and most especially Ben Pearlman – who appears to be a living conflict of interest and without whose approval and connivance very little of the wrongdoing described in this report could have possibly taken place.

Step 5: Replace the current STR rules with the following:

NEW PROPOSED SHORT-TERM RENTAL REGISTRATION POLICY

1. Purpose. These regulations are to determine the status of current and proposed Short-Term Rental units in Boulder County including their number and locations, ownership structures, extent of operations, and economic and social impact on the community.
2. Registration. Every housing unit in Boulder County rented, or planned for rental, for less than thirty days shall report to Boulder County the address, owner, property manager if different from the owner, and estimated number of days of rental per year
3. Maximum occupancy: In general, short-term rental units are limited to a maximum of 8 persons. Any greater number must be shown to be appropriate given the overall nature of the property and the frequency of its use.
4. Fees. STRs that intend to operate for fewer than 120 days total each calendar year shall be approved upon payment of a \$400 license fee, valid for four years. STRs that intend to operate for 120 days per year or more shall be approved upon completion of an on-site inspection for basic safety and payment of an \$800 license fee, also valid for four years.
5. Reduced fees with completion of annual survey: Any property that completes an annual survey verifying total days rented, average length of stay, average number of

guests, and fire mitigation steps completed will be issued a renewal license at 50% the normal rate.

6. Enforcement: Enforcement will be complaint-based. *There must not and will be no active enforcement by any third party.* Property owners will be contacted after confirmation of valid complaints and directed to address the issue. Properties that are unregistered will be directed to register. Repeated valid complaints or failure to register may result in denial of future license(s) and/or a reasonable fine.

7. Review. These rules will be reviewed starting in January 2026 to include objective, impartial, third-party reviews of statistical analysis of the data received, objective evidence of public health and safety and economic issues, and number of valid, verified complaints. Any changes must incorporate input by all stakeholders.

APPENDIX D

From: [Mike Daley](#)
To: [Abner, Ethan](#)
Subject: [EXTERNAL] input on STR
Date: Thursday, December 8, 2022 2:48:33 PM

Regarding the 2 year review if short term rental meeting coming up. I cannot attend the 12/12 meeting but here is two items of input form me as the President of the Allenspark Fire Protection District.

1. I encourage you to keep the requirement that does not allow vacation rentals to have outside fires other than a gas grill.
2. I encourage you to add a requirement that vacation rentals have a landline and requires owners to sign up for "reverse 911 calling". This will allow this system to contact whatever renter is there when an evacuation occurs. In this are cell phones do not work, this is key to a successful evacuation as they can be contacted and makes them safer with the landline and the sheriff and our firefighters safer not having to drive down every road looking for unnotified persons.

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December 6, 2022

VIA EMAIL

Ethan Abner, Long Range Planner
Boulder County Community Planning & Permitting
P.O. Box 471
Boulder, CO 80306

CC: Board of County Commissioners
Boulder County Mountain Cabin Alliance

Re: Boulder County Short Term Rental Regulations

Mr. Abner,

I have been involved since early 2020 in attempting to persuade the County either to reject or withdraw the current STR Regulations. While I also plan separately to provide evidence of the failure of these regulations on every level, at this time I would like only to draw your attention to a recent public hearing that I believe serves as the best indictment of the current system of dealing with short term rentals and illustrates that the County Commissioners themselves believe that these regulations are unnecessary. I am referring to the Vizzuett public hearing from October 13, 2022.

At this hearing, the Vizzuetts, as applicants, asked the Commissioners to approve the use of their property as a vacation rental. The Vizzuetts had carefully read the regulations prior to buying this property. They were aware that because their property's size was greater than five acres and because it was not inside a platted subdivision, the property was eligible to be a vacation rental property. The Vizzuetts expected that after a hearing approving their use of the property, they would then have to pass through the incredibly onerous licensing ordinance, with all of its costly requirements and inspections – most of which have nothing to do with vacation rental. This licensing ordinance is by far the most restrictive of any ordinance in the State of Colorado, and outside of a direct ban on short term rentals there could not be any higher level of restriction on use. Violation of any aspect of the ordinance is punishable by a fine of up to \$1,000 per offense per day. Notwithstanding the monumental effort required to comply with this ordinance, the Vizzuetts decided to proceed with purchasing this property and to begin moving through the land use review and licensing processes. In other words: they believed they could trust Boulder County.

The Vizzuetts started off with the year-long endeavor of scheduling their public hearing. In advance of their hearing, they worked with Sam Walker, one of the CP&P Planners, to submit all required documentation for the hearing, and Mr. Walker sent their application around the County to dozens of local agencies and groups for comment. These groups included, for example, local fire departments and County governing agencies, such as the department of transportation. Mr. Walker presented the read-out at the October 13, 2022 hearing, and to no one's surprise, these agencies either did not respond, readily consented, or consented after a thorough review with comments and stipulations (such was the case with the transportation department). The Planning & Permitting group conducted their own in-depth review and agreed that the Vizzuetts' requested use of the property complied with the County comprehensive plan and would not have an adverse impact to the property site. Keep in mind, that no other jurisdiction in the United States of America places this degree of public scrutiny on proposed short term rentals. And, what's more – assuming the Commissioners' agreed with the general recommendation to approve the use – the Vizzuetts would still have had to comply with the most onerous licensing we know of.

At the hearing, several of the Vizzuetts' neighbors stated that they did not want a short term rental property in their vicinity. All of the neighbors' concerns would have been addressed through the Vizzuetts' compliance with the rigorous terms of the licensing ordinance. Both Mr. Walker and the Vizzuetts themselves made this point in responses to the neighbors' objections.

At the hearing, Commissioner Levy stated that any vacation rental or STR application may be granted only at the discretion of the commissioners themselves. The Commissioners denied the Vizzuetts' application to use their property as a vacation rental on two grounds: (a) a detriment to Boulder County housing stock that would result from excluding the Vizzuetts' property from the long-term rental pool; and (b) owing to neighbors' complaints and the vicinity to a platted subdivision, a short term rental property was not suited to the "character" of the Vizzuetts' neighborhood.

This decision by the Commissioners raises the following concerns with the STR regulations:

1. STRs have no impact on Boulder County housing stock. This rationale for denying any STR application has no merit. In 2020, Mr. Dale Case testified that there were 700 vacation rental properties in the entire County, although more recently he said that his prior testimony untruthfully overestimated the total. Even if there were so many STR properties, in the aggregate they would have no meaningful impact on the price of housing. Any particular property's impact would be even less significant. At the hearing no testimony was taken as to the impact on housing stock of the Vizzuetts' land use proposal because it would have been ridiculous to inquire into the impact, and this rationale for the Commissioners' decision was obviously contrived. No one who attended the hearing or would read about it could possibly believe that housing stock concerns really had anything to do with the Commissioners' decision that day. Boulder has extremely expensive homes for reasons not related to vacation rental. More importantly, the Commissioners' decision will have no impact on whether or not this particular property is rented on a long-term basis. If there is a battle to fight on housing availability, the Commissioners should take that up with the powers that reside in Boulder or individuals like Mr. Case whose permitting policies have crippled the ability of homeowners to build any new homes in Boulder – they should not target middle class families like the Vizzuetts.

2. The "Character of the Neighborhood" argument underscores the arbitrariness of this process. For any particular property, a neighbor can tell the Commissioners that they do not want a STR in their backyard because that STR is not suitable to the "character of the neighborhood." If this type of activity can be successful in defeating the text of the regulations and the licensing ordinance, as well as the hard work and recommendations from CP&P staff and dozens of groups in the County, then this "Character of the Neighborhood" test should be settled at the beginning of the process, before all the groundwork and before incurring thousands of dollars of fees, inspections and other effort. The Commissioners should make public their own personal STR exclusion zone maps so that CP&P staff can tell applicants from the outset that their property, despite otherwise meeting the regulations' criteria, is in an unsuitable area. Also, "character of the neighborhood" challenges from articulate and affluent neighbors of the Vizzuetts will no doubt be afforded more weight than challenges from other types of neighbors. A more appropriate response from the Commissioners would have been to allow the Vizzuetts' use of the property, holding them to account for complaints (news flash: the licensing ordinance and general nuisance law already address this!).

3. The public should be able to rely on written regulations. Reasonable persons, such as the Vizzuetts, would generally interpret the STR regulations to mean that a 5+ acre property outside a platted subdivision is eligible as a vacation rental property in Boulder. This is because those size/parcel restrictions are written into rules which already exclude nearly all housing stock in Boulder County (i.e., in a subdivision) from being eligible as an STR, and any other potential concerns are more than addressed by the onerous licensing ordinance. People making investment decisions in Boulder should have a right to rely on written rules without worrying about an arbitrary decision by Commissioners (see above) overriding the rules. This is a

general good governance principle. In Colorado we like the assurance provided by rule of law, and not the uncertainty of living at the whim of arbitrary authority.

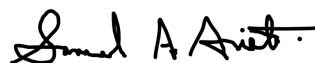
4. The Regulations do not say what they mean. Based on my observations from the hearing, the regulations are missing key unwritten provisions that the Commissioners believe are important part of the rules: these at least include (i) a restriction on the number of nights per year that can be rented on a short-term basis, and (ii) a bar on properties adjacent to a subdivision being eligible as a vacation rental property.

5. The Commissioners do not trust the Licensing Ordinance. No rational person could think that a STR operating under Boulder's highly restrictive and punitive licensing ordinance would create any sort of problem for the County. If the Commissioners are not willing to allow ordinance-compliant STR activity at any eligible property then the whole system needs to be reevaluated and replaced with something else. Alternatively, the presence of such a highly restrictive ordinance would seem to indicate that the public review process is completely unnecessary because of the assurances provided by the ordinance itself.

6. The Commissioners value neighbors' opinions over professional recommendations and individual property rights. At the hearing, the Commissioners sided with complaining neighbors despite the neighbors' objections going against CP&P staff's recommendations, the recommendations of the consulted government agencies, and the licensing ordinance itself. In addition, the Commissioners' decision was at the expense of the Vizzuetts' rights as property owners to use their residential property for residential purposes – they proposed no objectionable change in land use. If the Commissioners will make a property owner's right to own a STR subjective on the neighbors' opinions then there is no need for complex STR regulations. The matter can simply be settled by popularity contest.

Mr. Abner, in case it was not apparent from the above description, I am taking issue here with the STR Regulations themselves, and not merely objecting to the Commissioners' decision at the Vizzuett hearing. For many other reasons not mentioned above, the current STR Regulations fail to solve any problem in Boulder County and rather create a new set of problems for Staff, applicants, the Commissioners and everyone else involved in the process. The Vizzuett hearing merely exemplifies part of what is wrong in Boulder and the outcome of that hearing should make it clear that none of the parties involved have any reason to like the current system – actually the Commissioners' decision shows that they do not respect CP&P staff, the text of the regulations, or the licensing ordinance. I urge the County to take a more aggressive stance at looking at the pain and waste created by these Regulations. I fear, based on the recent testimony, that the County's effort will not go far enough at overturning and correcting this public policy failure. It is a failure that everyone recognizes who comes into contact with the current rules, although some are willing to say this more explicitly than some others. I urge you and the other County employees to recognize this failure and correct course.

Best Regards,



Samuel A. Arieti, Allenspark

APPENDIX D

From: [Samuel Arieti](#)
To: [Abner, Ethan](#)
Subject: [EXTERNAL] Re: FYI: Dec. 12 Public Listening Session on Short-Term and Vacation Rentals
Date: Tuesday, December 6, 2022 11:14:07 AM
Attachments: [BC Letter - 12-6-22.pdf](#)

Ethan,

Thanks for the invitation and I will plan to attend. The STR regulations at issue here have caused a lot of problems for a lot of people in the county. Not only the applicants, but basically all involved with the Regulations have had great difficulty dealing with them. I am surprised Dale Case and Kim Sanchez have not been more forthright in admitting the regulations are a failure and I attribute it to their role in getting these rules implemented in 2020. I can vouch for the fact that most of what they and others report about the regulations to you and the Commissioners has not been truthful or accurate. I am sending the attached 3 page letter for consideration during this process, but the letter doesn't do more than scratch the surface of the problems. These regulations are an assault on the middle class families trying to hang on to properties in the historic vacation zones in the Boulder mountains, and practically speaking the County can't administer such complex rules. I initiated the process in February of 2021, had my public hearing in September 2021 and then the County refused to follow up with me after the Commissioners approved my use because their licensing program is broken.

My story is duplicated by nearly everyone who interfaces with this process. Boulder needs to do better. We don't need the most complicated set of rules for this in the entire country, aimed at dissuading people from even applying. I am alarmed that at the hearing last month nobody spoke the truth about how awful these regulations are. Please be aware that there is a vacation rental community in Boulder that is very distressed because we have no advocate in this process.

Samuel A. Arieti
(773) 531-7680
sarieti@gmail.com

On Dec 1, 2022, at 4:57 PM, Abner, Ethan <eabner@bouldercounty.org> wrote:

Good afternoon—I just wanted to make sure you were aware of the information and listening session below. If your e-mail is not enabled to view certain text, the formatting may appear in an odd manner. You can also view this information at [our website](#).

Dec. 12 Public Listening Session on Short-Term and

Vacation Rentals

Register to attend virtual public meeting from 5-7 p.m. on Dec. 12

Boulder County, Colo. - Boulder County Community Planning & Permitting is hosting an information and listening session on Dec. 12 for the two-year review of the county's Short-Term and Vacation Rental Land Use Code regulations, Licensing Ordinance, and enforcement processes.

Staff will provide information and a timeline for the two-year review. Following the introduction, staff will hold listening sessions in virtual breakout rooms to hear from members of the public.

The county's Short-Term and Vacation Rental Land Use Code regulations and Licensing Ordinance apply to the unincorporated areas of Boulder County, not in cities and towns.

What: Information and listening session to get public input on the county's Short-Term and Vacation Rental regulations, Licensing Ordinance, and enforcement processes.

When: Monday, Dec. 12, from 5-7 p.m.

Where: Virtual meeting via Zoom. Register to attend at boco.org/Dec12STR

Registration is required, but participants can register at any time, including after the meeting has started. To participate over the phone dial 833-568-8864 (toll free) and input the meeting ID: 161 220 1719

The information session part of the meeting will be recorded and [posted online](#).

Background

Boulder County updated [Land Use Code](#) regulations related to Short-Term Dwelling and Vacation Rentals in 2021 in Docket DC-19-0005. The final text amendments were signed by the Board of County Commissioners (BOCC) on January 5, 2021, and became effective February 7, 2021.

Licensing for short-term rentals began on March 1, 2021 and compliance and outreach began in March 2022. The required review was initiated in August 2022. Staff presented an initial review of land use applications for short-term rentals to the Board of County Commissioners and Planning Commission on October 19, 2022. View the [staff presentation and supporting documents](#).

According to the approval [Resolution 2020-104](#), the efficacy of the Land Use Code amendment must be reviewed within two years of adoption, but no sooner than one year following full implementation. Learn more at boco.org/dc-19-0005.

Next Steps

Staff will continue to collect information throughout the remainder of the year. All

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reports to the BOCC will be available to the public, and the BOCC will hold a public hearing on the two-year review on January 17, 2023. Once the Board reviews the report and staff presentation, it will determine whether any changes to the Land Use Code are needed. Any further action beyond the report to the Board would be based on the direction given to staff by the Board.

For more information, contact Ethan Abner at eabner@bouldercounty.org or 303-682-6892.

Best,

<image001.png> **Ethan Abner | Long Range Planner I**
Boulder County Community Planning &
Permitting
Mailing Address: P.O. Box 471, Boulder, CO
80306
Main: 303-441-3930 | Direct: 303-682-6892
eabner@bouldercounty.org
www.BoulderCounty.gov

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November 15, 2021

Board of County Commissioners & Planning/Permitting Dept Employees
1325 Pearl St, Third Floor
Boulder, CO 80302

Re: Boulder County Short Term Rental Regulations

Commissioners and Staff of the Community Planning & Permitting Department:

This letter responds to statements made by Commissioner Loachamin and Kim Sanchez of the Community Planning & Permitting Department ("CPPD") that they invite public comments regarding the effectiveness of the County's Short Term Rental ("STR") Regulations and that those rules will be reviewed in January. Given that the County will review the Regulations and may consider alternatives, I respectfully request that a public meeting be scheduled so a wider audience can have input into the process. Below is a list of some talking points I and others would like to address in that meeting:

1. Colorado has given the County the authority to regulate STRs, but beyond the goal of doing "something" you have never consistently explained what you hope to achieve with the Regulations, citing, at different times, the following goals:

- a). The Regulations are necessary to promote public safety because STRs are dangerous.
- b). The Regulations reduce wildfire risk and confrontation with wildlife.
- c). The Regulations diminish property values and promote affordable housing.
- d). The Regulations make things administratively easier for property owners, CPPD, and the Commissioners. Comr Matt Jones has made this case in several public townhall events.

For example, last December the Regulations' authors cited item (c) above as the rationale, whereas in April, Mr. Case cited item (a). We should explore in an open meeting whether any of these rationales make sense (particularly because, as you know item (d) obviously does not). Instead of having such intrusive, expensive and burdensome Regulations, it may be possible to adopt new limited rules that narrowly focus on achieving the County's goal, whatever it happens to have shifted to being at the moment.

2. During the land use approval hearings, the County Commissioners simply appear to be uneducated about the Regulations, invent new uncoded requirements and ignore the advice and recommendation of the professional staff who have performed the physical inspections and prepare the meeting presentations. If there are unwritten rules governing STR activity in Boulder County, then those rules should be made public or added to the Regulations. For example, Comr Levy believes there are zones where STRs cannot be authorized and Comr Loachamin believes a law prevents rental of residential property on a short-term basis for more than 180 nights/year. Further, if you approve of the current, wholly discretionary, system, there should be ways to make the process less time-consuming and expensive. We should discuss whether it would be best to take the mystery out of the current system – i.e., (a) admit that it is entirely arbitrary or (b) ensure that it is rule-based. Either type of system would be better than the confusion that reigns today.

3. Comr Jones has stated publicly (for example in a townhall on 6/29/20) that the Regulations work well because they eliminate the need for public hearings (among other inaccurate claims); however, as you know, the Regulations require up to two public hearing processes per STR. If the Commissioners who approved the Regulations failed to read the text and did not intend to approve major items in the Regulations, then we should discuss whether that is cause to withdraw the current rules.

4. CPPD assigned Jasmine Rodenburg to write the Regulations in 2020. Ms. Rodenburg was a 2017 graduate of UC Law School with no land use or legislative experience, and it is little surprise that her

Regulations are not administrable. We should discuss in much detail why she was chosen to draft regulations and what in the authorship process can be corrected if new regulations will be written instead.

5. I have heard that Open Records requests to the County have revealed that correspondence from Ms. Rodenburg's drafting of the Regulations show that her intent was to "maximize" the cost and burden of property owners seeking STR licenses. In addition, the County seems to be routinely denying Open Records requests (such as my own) on this topic. The CORA rules were adopted to promote openness in government. We should discuss the problems caused by Ms. Rodenburg's goals and also why the County is intentionally obscuring its processes related to STRs by rejecting the public's CORA requests.

6. Many property owners who want to go through the STR licensure process or comment publicly on the Regulations fear to do so because the rules are not enforced uniformly and were written to allow maximum arbitrary authority – in other words, even if you meet all the criteria and CPPD recommend approval, there is no way of knowing whether you will be granted a license at the end of the 1+ year process. I request that if new regulations are considered, that the County appoint an independent agent in the process who will advocate on behalf of STR owners. I can explain to you some conversations I have had on this topic with people who are distressed about the situation and afraid to speak up.

7. The public hearing process for STRs is unique in the United States of America. We should discuss whether it is necessary or whether it is wasteful, duplicative and an invasion of privacy.

8. STR rental activity is residential activity. Whether or not you believe that to be the case, you must understand that a significant percentage of the population does believe that, and your attempts to regulate STR activity should be limited, at least to some extent, to take into account this important perspective. Instead, at the moment, we have some of the most intrusive Regulations of STRs in the country. Please consider the following legal analysis supporting my claim about STRs being residential in nature:

The Colorado Court of Appeals has addressed the issue of whether the use the property for short term rentals is considered a commercial use in two recent cases. In Houston v. Wilson Mesa Ranch Homeowners Ass'n, 360 P.3d 255, 256, (Colo.App. 2015) the Court dealt with an attempt by the Board of a Homeowners Association to bar an owner from listing his property as a short-term rental through VRBO. The Court stated for the purpose of interpreting restrictive covenants, "residential" is defined as used, serving, or designed as a residence or for occupation by residents. "Residence" meant the act or fact of abiding or dwelling in a place for some time; an act of making one's home in a place. "Residential use," without more, is consistently interpreted as meaning that the use of the property is for living purposes, or a dwelling, or a place of abode. The Court held that as long as the property is used for living purposes, it does not cease being "residential" simply because such use is transitory rather than permanent. Mere temporary or short-term use of a residence does not preclude that use from being "residential." The Court in O'Neil v. Conejos Cnty. Bd. of Comm'rs, 395 P.3d 1185, 1190 (Colo.App. 2017) found that the receipt of income does not transform residential use of property into commercial use.

Given the above, we should discuss whether your concerns with STRs can be addressed without regulations that restrict residential use of property. For example, if you are concerned that neighbors may complain about a STR next door, we could explore whether that situation could be addressed with other existing laws that, for example, would allow me to ask police to shut down a loud party hosted by my neighbors' teenage children when their parents are out of town. I strongly believe that if we could only identify the logical reason underpinning your desire to regulate STRs, we could then find a way to address that concern without resorting to overburdensome regulation that raises such controversial land use questions.

9. At times your primary concern with STRs has involved complaints by neighbors. We should discuss the extent to which neighbors should have a right to intercede with you to prevent certain types of residential activity at homes in Boulder County.

10. Even if you disagree about the need to regulate some residential uses of property versus others, you must realize that STRs represent “micro-economic” activity on a small scale, with most STR owners doing no more than recouping some housing costs. Is it really appropriate to intrusively get government involved in this sort of activity? Could it be done with a lighter touch? Are there other residential uses of homes that you want to control in a similar fashion? What really sets apart STRs from rentals longer than 30 days?

11. Assuming the County will adopt new rules for STRs, one focus should be administrability. Even though STRs involve no change in the use of property, CPPD staff are routinely going overbudget on their reviews and communicating incorrect information to landowners. The CPPD appears to be a revolving door for staff, and it is not possible to educate new staff on such complex rules. Many of the staff are ineffective and do not stay for long. New rules should be simple to understand, explain and enforce, reflecting that the CPPD is not presently capable of administering a complex regulatory regime. For practical reasons you may want to consider limited regulations instead of an all-encompassing framework.

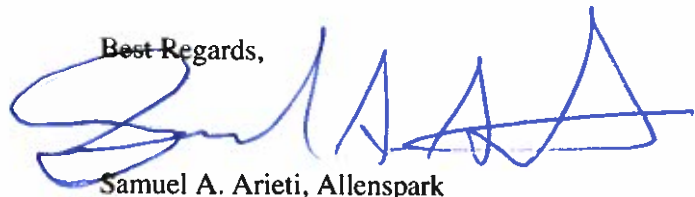
12. The Regulations cannot be administered fairly because of their complexity. County employees cannot agree on the interpretation and enforcement and property owners cannot get simple questions answered. The Regulations have completely irrelevant requirements, like radon testing, energy audits, and wildfire mitigation. The process on the whole takes over a year to go through and can easily cost ten thousand dollars (including fire mitigation work). We can discuss more examples and better alternatives.

13. There are many problematic parts of the Regulations, from the \$1,000 penalty per violation per day (i.e., limitless penalties), to the one license per person rule, to the rule restricting any social events from being advertised or taking place at an STR. Let’s discuss the problems caused by these provisions.

14. Finally, it should not go unsaid, that errors by CPPD staff, misstatements and arbitrary decisions by the Commissioners, and Ms. Rodenburg’s failures as an author of the Regulations all create an atmosphere of distrust surrounding the County’s position on STRs. Tempers have reached their limit and patience may have passed the breaking point. Given the situation, it seems necessary that the County come clean publicly about these deficiencies and commit to adopting a better course.

I would like to stress that, regardless of your position on the Regulations, which CPPD staff may feel some attachment to, all of you know that the above points are, at least, valid reasons for public concern and worthy of further discussion. Your actions have given the public ample reason to believe that good governance principles have been disregarded in the process of drafting, approving and implementing these Regulations. I ask you to please schedule a time (preferably in person) where the concerned public can discuss all of the above topics and others in an open format, and where we can begin to work together with the shared goal of creating an effective means for Boulder County to regulate, or not regulate, STRs.

Best Regards,

A handwritten signature in blue ink, appearing to read 'Samuel A. Arieti', is written over a horizontal line.

Samuel A. Arieti, Allenspark

FRONT RANGE LAND SOLUTIONS

Rosi Dennett, A.I.C.P.

Office 303-682-9729
Cell 720-220-1451
rosidennett@gmail.com

210 Lincoln Street
Longmont, CO 80501
www.rosiplanning.com

November 18, 2022

Ethan Abner, Long Range Planner
Boulder County Community Planning & Permitting
PO Box 471
Boulder, CO 80306

Re: Short-Term and Vacation Rental Regulations

Dear Ethan,

I have been retained by the Boulder County Mountain Cabin Alliance (which consists of over 60 property owners) to assist with communicating their suggestions on the County's consideration of new regulations for short-term (STR) and vacation rentals. These property owners are currently in various stages of the County's rental review process and have first-hand experience with the challenges working within the current regulations and license permitting. As well, most property owners participated in all of the County's public participation opportunities during the promulgation of the current regulations.

We followed online the workshop with Planning Commission and the Board of County Commissioners (BOCC) on October 19, 2022. I apologize if this public feedback is out of order in your consideration process, but it was not clear by the 'Next Steps' mentioned in your presentation at the workshop if public input was going to be formally solicited. The County has a long-standing practice of including public participation in its land use decisions, so it seems appropriate and beneficial to provide some initial feedback now and not wait until regulations are amended. I was frankly surprised that no one asked in the workshop what the public thought of the current regulations.

Another interesting observation from the workshop was the staff confirmation that substantially fewer short-term rentals exist in the county than the County originally anticipated when the current regulations were adopted approximately two years ago. One of the expressed concerns at that time was how these short-term rentals were affecting the housing supply in the County. Since only approximately 170 were found by the County's consultant, when it was previously estimated to be around 700+, clearly scaled back regulations would be more appropriate to accomplish the intent of the regulations without being such a burden on the public and County staff.

We were encouraged to hear many of the board members express the general opinion that the current requirement for review by Planning Commission and/or Board of County Commissioners was not necessary provided staff continues to analyze compatibility with the neighborhood in the staff review process. Keeping that in mind, it seems an appropriate staff level review could be a single item review, or a waiver review tailored to the neighborhood compatibility analysis that could be appealed to the BOCC if necessary. All other requirements pertaining to health and safety could then be handled

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administratively in licensing. We understand that primary dwelling short-term rentals of fewer than 30 days would remain as a by-right use without a staff review process.

Other requirements currently in the regulations, such as parking spaces and number of nights, should also be reconsidered. We noted several board members also expressing concerns with those requirements. It is not clear why additional parking spaces are needed as people vacation together and primarily travel in one vehicle which can easily be accommodated by the existing parking available for the residence.

It is also not clear why the length of stay (i.e., 3 days, 5 days, etc.) matters to the County. The County's concern on the limit of the number of total days rented per year is also not clear. We understand that staff routinely told applicants that the BOCC would not approve short-term or vacation rentals unless the applicant agreed to a defined number of rental days. And most, if not all, of the applicants to date confirmed they either use their dwellings or close them when they are not being rented. Revised regulations should set limits on guests based on a holistic evaluation of the property including its location, structure size, how recently it was constructed, and the number of days per year it is vacant.

We also are concerned that vacation rentals have been placed in the same land use category as campgrounds, bed and breakfast facilities, resorts, lodges, conference centers, and guest ranches (see Land Use Code Section 4-507). It is difficult to understand how a single-family home (with one to a few bedrooms) that a family uses when it is not rented is the same as these purely commercial enterprises. The use of the home does not change whether occupied by the family or occupied by guests, it is all residential living.

An important consideration that was not well articulated in the workshop is how arduous and costly the review process and licensing process are for the property owners and how demanding and labor intensive the process is for County staff. These mountain cabins have a long history of being vacation rentals, and some of these property owners have been waiting months for final approval. We understand the need to take public safety steps, but the added requirements of title commitments, wildfire mitigation, radon inspections, code compliance, energy efficiency, renter insurance endorsements, parking, etc. adds a significant cost to the property owners. The staff comment at the workshop that the average timeline is five to six months to complete the review process does not accurately reflect the experience of my clients, especially when it takes 6 months alone just to receive a date an applicant is allowed to submit the requested materials to initiate the review process and licensing may take another 2 plus months. Several of my clients have been in the process for 18 months or more and still have not received their license. The fact that only 41 out of 90 active primary residential STRs license applications have been processed, one secondary STR and only 8 vacation rental licenses have been issued in almost a two-year period (as reported by County staff at the PC/BOCC workshop), is indicative of a timing issue and an extremely lengthy review process.

During the regulation review process when the current regulations were adopted, County staff acknowledged that similar jurisdictions do not require both a land use review process and a licensing procedure. Combining the two processes into one step would greatly assist the property owners and help the County staff to complete the review process in a timelier fashion. In addition, some of the requirements should be

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reconsidered as being unnecessary such as the license requirement of proof of insurance when that is not required for commercial buildings or dwellings.

Since the existing number of these rentals is significantly less than previously thought by the County, it also seems to be an unnecessary regulatory overreach for the County to pay a third party for enforcement rather than depending on the complaint-based zoning enforcement that has historically been the preferred approach in the County.

Also in light of the fewer number of STRs and vacation rentals that actually exist, we'd like the regulation precluding an individual to be a sole owner, or partial owner of more than one property to be revisited. A few of my clients are partial owners of family cabins in the mountains and solely own their own home. To disallow these individuals from renting both their family-owned home and their own home out nightly is not clear, especially if the license is under two different names. These individuals have lived in the area for years, or decades, and these homes have never been in the long term rental pool. These are not corporations that purchased multiple homes strictly for investment purposes and know nothing about the area, but are residents who employ and provide a living wage to many other residents.

The current regulations and licensing process seem punitive for a property owner to rent out their home when not in use. Placing the focus of the requirements on potential adverse impacts at the omission of recognition of the positive attributes of these rentals (such as promotion of tourism and assisting families with maintenance expenses to keep properties in ownership of longtime County residents) results in unbalanced and heavy-handed regulations. The protection of public health, safety and welfare is an important goal stated in the County Comprehensive Plan, but other goals and policies should also be considered (such as encouraging economic health and stability, promotion of tourism and recreation to the local economy, regulations that encourage the private sector to provide a mixture of housing types, and encouraging preservation and rehabilitation of existing housing stock). Recognizing the extreme importance of wildfire mitigation today, it is also worthy to note that the rental income from many of these STRs has gone directly to pay for wildfire mitigation costs onsite.

In summary, we look forward to working with the County on amending the rental regulations to better address the issues while recognizing the value of having this type of housing as part of the housing mix for the County. Particularly in the mountains as has been historically done for many years.

Thank you for your consideration.

Sincerely,

Rosi Dennett, AICP
Planning Consultant

Copies: Board of County Commissioners
Dale Case, County CP&P Director