

RESOLUTION 2020-104

A resolution approving Boulder County Land Use Docket DC-19-0005: Text amendments to the Boulder County Land Use Code related to the Short-Term Dwelling Rental and Bed and Breakfast Lodging Uses.

Recitals

A. The Board of County Commissioners of Boulder County (the “Board”) is authorized to amend the text of the County's Zoning Regulations according to the procedures in the regulations and C.R.S. § 30-28-112, -116 and -133.

B. Under other statutory authority, the Board is empowered to adopt regulations related to the control of land use, including but not limited to Article 65.1 of Title 24 (Areas and Activities of State Interest); Articles 67 and 68 of Title 24 (Planned Unit Developments and Vested Rights); Article 20 of Title 29 (Local Land Use Enabling Act); Articles 11 and 15 of Title 30 (County Powers and Police Power); Article 1 of Title 32 (Special District Control); and Article 2 of Title 43 (County Highways), C.R.S.

C. By Resolution 94-185, adopted October 18, 1994, the Board approved a unified Boulder County Land Use Code (the “Code”), which the Board has amended on subsequent occasions.

D. In the present Docket, DC-19-0005 (the “Docket”), authorized by the Board at a public meeting on July 2, 2019, Boulder County Community Planning & Permitting (CP&P) staff proposed text amendments to the Code (the “Proposed Amendments”), as set forth in the Boulder County Land Use Department’s memorandum and recommendation dated December 3, 2020, with its attachments (the “Staff Recommendation”).

E. The existing use provisions for Short-Term Dwelling Rentals were created in 2008 as part of DC-07-002. 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. Moreover, best planning and land use regulation practices regarding short-term rentals have evolved since 2008. Additionally, in March 2020, the Colorado State Legislature passed HB 20-1093 authorizing counties, including Boulder County, to license and regulate short-term rentals. As a result, CP&P staff are proposing a two-pronged approach to regulate short-term rentals: first, text amendments to the Boulder County Land Use Code and second, a Licensing Ordinance. The text amendments and the Licensing Ordinance will work together to regulate short-term dwelling rentals in Boulder County.

F. The Proposed Amendments include updates to both the Short-Term Dwelling Rental and Bed and Breakfast uses in Article 4 of the Land Use Code. The updates will clarify the

definitions of both Short-Term Dwelling Rental and Bed and Breakfast, align the zoning districts in which they are allowed with other existing principal lodging uses and the county's goals for housing stock and affordability, clarify that they cannot be used for weddings or other events, and allow Special Review (SU) applications for additional capacity. The amendments also differentiate Short-Term Dwelling Rentals into three different categories: Primary Dwelling Short-Term Rental, Secondary Dwelling Short-Term Rental, and Vacation Rental. Finally, the proposed text amendments clarify the Dwelling definition in Land Use Code Article 18-137.

G. The Boulder County Planning Commission (the "Planning Commission") held a duly noticed public hearing on the Proposed Amendments on October 21, 2020. The Planning Commission recommended approval of the Proposed Amendments, with staff's recommended condition of concurrently adopting the proposed Short-Term Rental and Vacation Rental Licensing Ordinance. Additionally, the Planning Commission directed staff and the Board of County Commissioners to consider several changes to the Proposed Amendments, as further summarized in the Staff Recommendation.

H. On December 3, 2020, the Board held a duly noticed public hearing on the Docket and considered the Staff Recommendation, documents and testimony presented by the County Community Planning & Permitting Department staff. Sixteen members of the public spoke.

I. On December 3, 2020, the Board held a Second Reading of Ordinance No. 2020-01: An ordinance by the Board of County Commissioners for the County of Boulder for the Licensing of Short-Term Dwelling Rentals and Vacation Rentals within the unincorporated area of Boulder County. The Board adopted the Ordinance with amendments. The Ordinance will become effective 30 days after publication of the amendments to the Ordinance. Based on the Public Hearing, the Board finds that the Proposed Amendments included in **Exhibit A** meet the criteria for text amendments contained in Article 16-100.B of the Code, in that the existing text is in need of amendment; the Proposed Amendments are not contrary to the intent and purpose of the Code; and the Proposed Amendments are in accordance with the Boulder County Comprehensive Plan, subject to the conditions stated below. In its discussions, the Board requested two changes, one addressing the schedule of review of the Proposed Amendments and the other to edit Article 4-507.E.2.a.

Therefore, the Board resolves:

1. The Proposed Amendments in **Exhibit A** are approved, effective as of the date Ordinance No. 2020-01: An Ordinance by the Board of County Commissioners for the County of Boulder for the Licensing of Short-Term Dwelling Rentals and Vacation Rentals within the Unincorporated Area of Boulder County is effective.
2. 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.

3. Under §30-28-125, C.R.S., the Board authorizes the Clerk to the Board to transmit this Resolution, with its **Exhibit A**, to the County Clerk and Recorder for filing and appropriate indexing. This transmittal should state recording Reference **No. 2735571**, the recording of the Boulder County Land Use Code on November 4, 2005, which this transmittal amends.

A motion to conditionally approve the Docket was made by Commissioner Matt Jones, seconded by Commissioner Elise Jones, and passed by a 3-0 vote.

ADOPTED as a final decision of the Board on this 5th day of January 2021.

**BOARD OF COUNTY
COMMISSIONERS
OF BOULDER COUNTY:**



Deb Gardner, Chair



Matt Jones, Vice Chair



Elise Jones, Commissioner

ATTEST:



Clerk to the Board

Exhibit A

DC-19-0005 Short-Term Dwelling Rental and Bed and Breakfast Update

4-101 Forestry (F) District

B. Principal Uses Permitted

- 7. Lodging Uses (see 4-507)
 - a. Bed and Breakfast (I) (S)
 - d. ~~Short-Term Dwelling~~ Vacation Rental (I) (S)

C. Accessory Uses Permitted (see 4-516)

- 18. Primary Dwelling Short-Term Rental
- 19. Secondary Dwelling Short-Term Rental (I)

4-102 Agricultural (A) District

B. Principal Uses Permitted

- 7. Lodging Uses (see 4-507)
 - a. Bed and Breakfast (I) (S)
 - d. ~~Short-Term Dwelling~~ Vacation Rental (I) (S)

C. Accessory Uses Permitted (see 4-516)

- 22. Primary Dwelling Short-Term Rental
- 23. Secondary Dwelling Short-Term Rental (I)

4-103 Rural Residential (RR) District

B. Principal Uses Permitted

- 7. Lodging Uses (see 4-507)
 - a. Bed and Breakfast (I) (S)
 - b. ~~Short-Term Dwelling~~ Vacation Rental (I) (S)

C. Accessory Uses Permitted (see 4-516)

- 21. Primary Dwelling Short-Term Rental
- 22. Secondary Dwelling Short-Term Rental (I)

4-104 Estate Residential (ER) District

B. Principal Uses Permitted

- 7. Lodging Uses (see 4-507)
 - a. ~~Short-Term Dwelling Rental (I)~~
 - a. Bed and Breakfast (I)

C. Accessory Uses Permitted (see 4-516)

- 19. Primary Dwelling Short-Term Rental
- 20. Secondary Dwelling Short-Term Rental (I)

4-105 Suburban Residential (SR) District

B. Principal Uses Permitted

- 7. Lodging Uses (see 4-507)
 - a. Bed and Breakfast (I) (S)
 - b. ~~Short Term Dwelling Rental (I)~~

C. Accessory Uses Permitted (see 4-516)

- 17. Primary Dwelling Short-Term Rental
- 18. Secondary Dwelling Short-Term Rental (I)

4-106 Multifamily (MF) District

B. Principal Uses Permitted

- 7. Lodging Uses (see 4-507)
 - a. ~~Short Term Dwelling Rental (I)~~

C. Accessory Uses Permitted (see 4-516)

- 15. Primary Dwelling Short-Term Rental
- 16. Secondary Dwelling Short-Term Rental (I)

4-107 Manufactured Home Park (MH) District

B. Principal Uses Permitted

- 7. Lodging Uses (see 4-507)
 - a. ~~Short Term Dwelling Rental (I)~~

C. Accessory Uses Permitted (see 4-516)

- 14. Primary Dwelling Short-Term Rental
- 15. Secondary Dwelling Short-Term Rental

4-108 Transitional (T) District

B. Principal Uses Permitted

- 7. Lodging Uses (see 4-507)
 - e. ~~Short Term Dwelling Rental (I)~~

C. Accessory Uses Permitted (see 4-516)

- 16. Primary Dwelling Short-Term Rental
- 17. Secondary Dwelling Short-Term Rental (I)

4-109 Business (B) District

B. Principal Uses Permitted

- 7. Lodging Uses (see 4-507)
 - c. ~~Short Term Dwelling~~ Vacation Rental (I)
 - d. Bed and Breakfast

C. Accessory Uses Permitted (see 4-516)

16. Primary Dwelling Short-Term Rental
17. Secondary Dwelling Short-Term Rental (I)

4-110 Commercial (C) District

B. Principal Uses Permitted

7. Lodging Uses (see 4-507)
 - c. ~~Short-Term Dwelling~~ Vacation Rental (I)
 - d. Bed and Breakfast

C. Accessory Uses Permitted (see 4-516)

16. Primary Dwelling Short-Term Rental
17. Secondary Dwelling Short-Term Rental (I)

4-111 Light Industrial (LI) District

B. Principal Uses Permitted

7. Lodging Uses (see 4-507)
 - c. ~~Short-Term Dwelling~~ Vacation Rental (I)
 - d. Bed and Breakfast

C. Accessory Uses Permitted (see 4-516)

20. Primary Dwelling Short-Term Rental
21. Secondary Dwelling Short-Term Rental (I)

4-112 General Industrial (GI) District

B. Principal Uses Permitted

7. Lodging Uses (see 4-507)
 - c. ~~Short-Term Dwelling~~ Vacation Rental (I)
 - d. Bed and Breakfast

C. Accessory Uses Permitted (see 4-516)

20. Primary Dwelling Short-Term Rental
21. Secondary Dwelling Short-Term Rental (I)

4-117 Mountain Institutional (MI) District

B. Principal Uses Permitted

7. Lodging Uses (see 4-507)
 - a. Bed and Breakfast (I) (S)
 - d. ~~Short-Term Dwelling~~ Vacation Rental (I) (S)

C. Accessory Uses Permitted (see 4-516)

18. Primary Dwelling Short-Term Rental
19. Secondary Dwelling Short-Term Rental (I)

Use Tables • 4-507 Lodging Uses [TO BE UPDATED]

Use Tables • 4-516 Accessory Use [TO BE UPDATED]

4-507 Lodging Uses

A. Bed and Breakfast

- ~~1. Definition: An owner-occupied or tenant-occupied single family dwelling unit offering transient lodging accommodations within that dwelling where meals may be provided.~~
- ~~2. Districts Permitted: By Limited Impact Special Review in F, A, RR, SR, and MI~~
- ~~3. Parking Requirements: One space per guest room in addition to the two spaces required for the single family dwelling~~
- ~~4. Loading Requirements: None~~
- ~~5. Additional Provisions:~~
 - ~~a. A Bed and Breakfast may have no more than three guest rooms or serve no more than six guests per night.~~
1. Definition: A Facility offering transient lodging accommodations to one or more booking parties at a time for a rental duration fewer than 30 days where:
 - a. At least one meal per day is provided; and
 - b. A manager or owner resides on the premises; and
 - c. A manager or owner is present during all rental periods.
2. Districts Permitted:
 - a. By Limited Impact Special Review in F, A, RR, SR, ER, H, and MI provided there are no more than three guest rooms or no more than six guests served per night.
 - b. By Special Review in F, A, RR, SR, H, and MI if there are more than three guest rooms or more than six guests served per night.
 - c. By right in B, C, LI, and GI
3. Parking Requirements: One space per guest room in addition to one space for the residing manager or owner. All parking must be on-site.
4. Loading Requirements: None
5. Additional Provisions:
 - a. A Bed and Breakfast may not be marketed or used for weddings, receptions, or similar private or public events.
 - b. Historic Accessory Dwelling Units are eligible for this use.

E. Short Term Dwelling Rentals

- ~~1. Definition: A dwelling that is rented in durations of less than 30 days. This includes dwellings rented out by individual owners and dwellings rented out on~~

behalf of an owner by a property management group. Dwellings rented on a month to month or longer basis shall not be considered as part of this use but rather part of the otherwise applicable dwelling use.

2. ~~Districts Permitted:~~
 - a. ~~By right in all districts if rented between one and 14 nights per year, with no additional use restrictions under this Article 4-507(E).~~
 - b. ~~By right in A, F, H, MI, T, B, C, and ED if rented between 15 and 45 nights per year, provided the Additional Provisions (Article 4-507(E)(6)) are met.~~
 - c. ~~By Limited Impact Special Review in RR, ER, SR, MF, MH, LI, and GI if rented 15 or more nights per year, provided the Additional Provisions (Article 4-507(E)(6)) and the special use criteria in Article 4-601 of this Code are met.~~
 - d. ~~By Limited Impact Special Review in A, F, H, MI, T, B, and C if rented 46 or more nights per year, provided the Additional Provisions (Article 4-507(E)(6)) and the special use criteria in Article 4-601 of this Code are met.~~
3. ~~Parking Requirements: One space per bedroom~~
4. ~~Loading Requirements: None~~
5. ~~Additional Provisions For All Short-Term Dwelling Rentals:~~
 - a. ~~Historic accessory dwelling units are eligible for short-term dwelling rental use. Family care and agricultural accessory dwelling units are not eligible for this use.~~
6. ~~Additional Provisions For Rentals of 15 Nights or More Per Year:~~
 - a. ~~Short-term dwelling rentals subject to these Additional Provisions as specified above, must meet the following standards:~~
 - (i) ~~Owners must complete a short-term dwelling rental registration form and submit it to the Land Use Department where the registration form shall be available for public review. The registration form will include the address of the rental unit, the number of bedrooms in the house, the owner's name, address, and phone number, and the name and phone number of a property manager, if applicable.~~
 - (ii) ~~Dwellings must have an on-site wastewater system recognized and approved by Boulder County Public Health according to their applicable regulations. Existing systems do not need to be repaired or replaced unless required by Boulder County Public Health.~~
 - (iii) ~~Dwellings must have been constructed under a valid building permit and received final inspection approval and meet applicable~~

Building Code requirements as required when the dwelling was constructed or when upgrades to the structure subject to a building permit were made. Structures built before building permit requirements were imposed shall be structurally sound, with any plumbing, electrical, and heating and cooling systems in a good state of repair.

- (iv) — The parcel on which the dwelling is located must be a legal building lot under this Code, and legal access from a public road to the subject parcel must be demonstrated.
 - (v) — Dwellings must contain operable fire extinguishers in each bedroom and in the kitchen.
 - (vi) — Dwellings must contain operable smoke detectors in each bedroom and additional locations where appropriate.
 - (vii) — Dwellings must contain an operable carbon monoxide detector in the dwelling installed as per the manufacturer's instructions.
 - (viii) — This use must comply with the adopted Boulder County noise ordinance as applicable.
 - (ix) — A map clearly indicating the subject parcel boundaries and appropriate parking spaces must be provided to renters.
 - (x) — For dwellings rented out 45 nights or less per year, two adults per bedroom with a maximum of eight people may occupy one dwelling, unless the Director approves a greater capacity, which can be demonstrated based on parking, parcel size, the on-site wastewater system, or other relevant circumstance.
 - (xi) — For dwellings rented 46 nights per year or more, the maximum occupancy of the dwelling shall be two adults per bedroom with a maximum of eight people or a lower number of people based on the size of the permitted and approved on-site wastewater system, unless the Director approves a greater capacity, which can be demonstrated based on parking, parcel size, the on-site wastewater system, or other relevant circumstance.
- b. — For rental intensities that require Limited Impact Special Review:
- (i) — The requirement for Limited Impact Special Review may be waived if the Director determines the short-term dwelling rental will not have the potential for significant conflict with the criteria listed in Article 4-601 of this Code. The Director may impose written terms and conditions on the short-term dwelling rental use as may be reasonably necessary to avoid conflict with the review criteria in Article 4-601. Any short-term dwelling unit for which

the Director waives Limited Impact Special Review shall still be subject to the Additional Provisions of Article 4-507(E)(6).

(ii) — Notice of the waiver application being reviewed shall be sent to referral agencies and adjacent property owners.

(iii) — If the Director grants a waiver, the owner shall submit an annual report to the Department which shall be made available for public review. The report shall indicate the number of nights the dwelling was rented in the previous year, the number of bedrooms, contact information for the owner and property manager (if applicable) of the dwelling, and additional items as required by the Director related to the administration of this Article 4-507(E).

e. — Compliance with these additional provisions shall be the responsibility of the owner. The County reserves the right to enforce these provisions in accordance with applicable zoning and building enforcement procedures.

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.

4-516 Accessory Uses

W. 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 a 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.

X. 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.

4-602 Special Provisions

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.X 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.

18-137 Dwelling

A. A building or portion thereof used exclusively for residential occupancy, including one-family dwellings and multiple-family dwellings, but not including hotels, motels, tents, ~~seasonal vacation cabins~~, camper trailers, or other structures designed or used primarily for temporary occupancy.

B. A dwelling shall also include the following types of residential buildings which are factory made and not constructed on site:

1. Manufactured homes which are not less than 24 feet in width and 35 feet in length, which are installed on an engineered permanent foundation in accordance with all applicable County requirements, and which have a brick, wood, or cosmetically equivalent exterior siding and a pitched roof, pursuant to C.R.S. 30-28-115(3)(a), as amended; and
2. Factory built modular housing which is certified by the State of Colorado to meet Uniform Building Code requirements pursuant to the Colorado Housing Act of 1970, C.R.S. 24-32-701, et seq., as amended.