



## PLANNING DEPARTMENT

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**To:** Board of County Commissioners

**From:** Jessica Potter, Senior Planner

**Date:** November 23, 2021 Regular Meeting

**Subject:** PLN21-120; Introduction and First Reading of Amendments to Summit County Ordinance No. 20 for the regulation and management of short-term vacation rentals, including but not limited to incorporating overlay zones and licensing types, and other amendments to accomplish the forgoing.

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### **Purpose**

This is the first reading to introduce amendments to Summit County Ordinance No. 20 concerning the regulation and management of short-term vacation rentals in unincorporated Summit County. Adoption or modifications to an ordinance requires two readings; the second reading is scheduled for December 16, 2021 and the ordinance will be appropriately published as required by state statute, should the BOCC determine it is appropriate to move forward.

### **Background**

In December 2018, Summit County adopted short-term vacation rental (STR) regulations applicable to properties within the unincorporated areas of Summit County (PLN17-151). The STR regulations have been in effect since March 2019, and the County has been engaged in permitting and monitoring STRs since that time. Following changes at the state level to allow Counties to regulate STRs as licenses as opposed to land use permits, on June 22, 2021 the BOCC approved changes to the Land Use and Development Code (Code) (PLN20-076) and adopted Summit County Ordinance No. 20 (Ordinance) (PLN21-041). These changes moved the majority of the STR regulations from the Code to the Ordinance and allowed Summit County to streamline enforcement of STR violations in coordination with the Sheriff's Office.

On September 14, 2021, the BOCC approved a moratorium on the issuance of new STR licenses that went into effect on September 18, 2021. The purpose of the moratorium was to pause the issuance of licenses to allow staff time to propose new regulations aimed at mitigating some of the negative externalities associated with STRs such as neighborhood incompatibilities and the loss of local workforce housing. Resort areas were specifically exempted from the moratorium in recognition of their intended and historic use as a vacation rental bed base and their relatively low conflict within the resort neighborhoods. The resort neighborhoods include Copper Mountain, Keystone, and two unincorporated subdivisions at the base of Peak 8 in Breckenridge. After the moratorium was adopted, Tiger Run Resort was added as an area of exception from the moratorium through the special exception process in recognition of its historic use as a vacation rental resort and long-standing prohibition against long-term occupancy.

Following the adoption of the moratorium, nearly weekly BOCC work sessions were held concerning the proposed regulations, 6 as of the preparation of this report. During these work sessions, the BOCC considered a significant amount of data regarding the nature and impact of short-term rental activity throughout the County. Additionally, public input was solicited at two open houses on October 7<sup>th</sup>, and October 14<sup>th</sup>, and a survey was posted on the county website from October 7<sup>th</sup> through October 17<sup>th</sup> to gather additional feedback from the public.

The proposal was reviewed by the Countywide Planning Commission (CWPC) at two meetings on November 1 and November 8. The CWPC acts as an advisory body for all code amendments. While the CWPC has no authority, nor regulatory advisory capacity pursuant to the ordinance, the updates to both the Code and the STR Ordinance are related, so their meetings and recommendation for approval on an 8-1 vote are documented here.

### **STR Trends:**

Some of the trends showing tension between STRs and traditional neighborhood character / residential uses are bulleted below. Throughout this report, the terms “Resort areas” or “Resort zone” and “Neighborhood areas” or “Neighborhood zone” are used. Maps are included in Attachment A.

- STR growth in Neighborhoods: 2020 approvals: 65% Resort area / 35% Neighborhoods; 2021 approvals 55% Resort / 45% Neighborhoods.
- Increase in STR Permits: Total number of STR approvals increased 19% from 2020 to August 2021. (To account for variations in number of active permits over the course of an entire year, a mean of all approvals for 2020 was used.) As a comparison, new home construction increases approximately 1% a year.
- Increase in the number of homes purchased for use as a STR: The number of new home sales that resulted in an STR increased 21% from 1<sup>st</sup> half 2020 to 1<sup>st</sup> half 2021.
- Neighborhood Change: Sales from Jan 1, 2020 – June 30, 2021 – 80% of market rate housing was purchased by non-locals (based on Assessor records of mailing addresses).
- Conflict in Neighborhoods: Complaints from Neighborhood areas (outside of Resort areas) = 86% of complaints, but are 35% of total STRs.
- Neighborhood Change: The cost of housing is at an all-time high in Summit County, while this is part of a nationwide trend, public opinion from the surveys reveal that the majority of respondents attribute at least some of the rise in costs to STRs

### **Proposal: STR Licensing Ordinance**

#### **Structure and Relationship to the Code:**

The amendment to the Ordinance and Code are closely related and many of the revisions for

the new STR regulations are contained in both documents. It is the intent to avoid unnecessary duplication but also to have a clear place of reference for STR operators, and since many of the modifications proposed impact the overall licensing process, many of these modifications are contained in both documents. For instance, the addition of STR overlay zones and licensing types are proposed for amendment in both documents. Details about compliance are included in only the Ordinance, whereas standards for review for a Conditional Use Permit related to an STR are contained primarily in the Code. In order to present the scope of the modifications in a comprehensive manner, a discussion of the overall modifications is included in this report and it is noted in which document the modifications lie.

### **Proposed Amendment:**

#### Overlay Zones (Code and Ordinance):

The framework for the proposed regulations includes a recognition that there is a distinction in Summit County between Resort areas and Neighborhood areas. Resort area STRs were developed to accommodate vacationing tourists, with the appropriate amenities and infrastructure, and have historically exhibited considerable positive effects. In Resort areas, locals are rarely displaced by STRs and there is less tension between STRs and long-term residential uses. However, outside of resorts, the externalities of STRs are mixed. While STRs do contribute to Summit County's tourist economy, there are signs of incompatibilities within neighborhoods such as high incidence of complaints as well as the loss of local workforce housing, specifically long-term rentals. In acknowledgment of this most basic distinction in Summit County, two overlay zones are proposed which would encompass all of the unincorporated county – a Resort overlay zone, and a Neighborhood overlay zone. In the Resort overlay zone, the current regulations would remain essentially unchanged. However, in the Neighborhood overlay zone the regulations would be modified with the goal of addressing the impacts associated with STRs, while still affording property owners the ability to short term rent their property to some extent.

- **Resort Overlay Zone:** Most of the STRs in Summit County (65% or ~3,000) are in the Resort areas as identified in Attachment A. The Resort overlay zone would encompass Keystone, Copper, the unincorporated areas at the Base of Peak 8 in Breckenridge and Tiger Run Resort. The defining feature of the Resort zone is that these areas have historically been used as and, to some extent, intended for short-term vacation rental occupancy in a resort context. These areas have amenities to support tourists and intense STR use. Complaints are relatively low, making up just 14% of all complaints to the STR Hotline despite accounting for 65% of all STRs. Additionally, local ownership in these zones is relatively low; approximately 10% of the owners of the units in the Resort zone have a mailing address in Summit County. Overall, STRs account for approximately 41% of all housing units in the Resort overlay zone.
- **Neighborhood Overlay Zone:** The Neighborhood overlay zone would encompass all other properties in unincorporated Summit County. The underlying characteristic of this zone is that these neighborhoods were not developed as resort neighborhoods. While some individual homes may have been designed or purchased with an intent towards STR use, the neighborhoods themselves were not developed to support intense, hotel-

like STR use with tourist amenities. Additionally, incidences of complaints are relatively high when compared to the Resort zone, demonstrating tension between traditional neighborhood uses and STRs. Local ownership in these zones is higher than the historic County –wide average of approximately 33%, as 42% of the owners of the units in the proposed Neighborhood zone have mailing addresses within Summit County. Overall, STRs account for approximately 14% of all housing units in the Neighborhood overlay zone.

#### License Types (Code and Ordinance):

The second feature of the proposal is the creation of license types applicable in each overlay zone. In the Resort zone there would simply be a Resort license. In the Neighborhood zone, there would be three license types ranging in intensity of STR use. The proposed license types are discussed in more detail below:

- **Resort Zone, Resort License:**  
This license will be the only license available to property owners in the Resort zone. The regulations as they currently exist will be applicable to the Resort License. There will be no limits on number of nights a unit with a Resort license can be rented and the current occupancy limits will remain as they are currently, which is generally the greater of 1 person per 200 square feet of floor area or 2 guests per bedroom plus 4.
- **Neighborhood Zone, License Type I:**  
This license type may only be obtained by a property owner who uses the property as their primary residence. A Type I License is for a property owner who rents a bedroom in the home throughout the year or rents their home as an entire unit when they go on vacation. When the property owner is present and offering a bedroom for rent, there will be no limit on the number of nights that the bedroom may be rented annually. When the property owner is not present and chooses to rent the entire home, 60 nights per year will be permitted. Some of the negative externalities of STRs are mitigated by the home being a person's primary residence (e.g., parking, noise, trash violations and displacement of local housing); additionally this type of STR helps locals offset the cost of housing. Current occupancy standards are proposed for reevaluation, which are discussed later in this report.
- **Neighborhood Zone, License Type II:**  
This license type is targeted toward second-homeowners; however a local who wishes to rent their entire unit in excess of 60 nights could apply for this license type. It is anticipated that the vast majority of STRs in the Neighborhood Zone would fall under this license type. The maximum number of nights that a property owner who obtains this license type may rent their unit annually is 120 nights, or roughly 1/3 of the year. The proposal does not currently contain a limit on the total number of licenses that can be issued under this license type.

A limit on nights rented and more restrictive occupancy standards will help to mitigate some of the concerns related to neighborhood incompatibilities and complaints such as noise, parking, and trash violations. Additionally, it is anticipated that some STR owners

will opt to long term rent for a portion of the year when faced with a limit on the number of nights they can STR. This is not to imply that all STRs would make appropriate long-term rentals, simply that some STR owners may choose to long term rent in recognition of the new limitation on the number of nights they can short term rent in a given year.

- Neighborhood Zone, License Type III

This license type will be most appropriate for investment property STRs; those homes that are rarely, if ever, used by the property owner and are more akin to commercial lodging businesses and are typically rented in excess of 120 nights per year. This license type has been created to accommodate properties that may, under certain unique circumstances, be determined to be appropriate to have unlimited rental nights as well as occupancies higher than the typical 2 per bedroom plus 2, when reviewed and approved through a heightened level of review and if certain baseline standards are met. The proposed standards associated with a Type III license are differentiated by building type as follows:

- Single-Family;

- Minimum Standards to Request CUP Review for Type III License. One of the two points as bulleted below shall be present on the property in order to meet the minimum standards to request a CUP for a Type III license:

- Separation from occupied spaces: 100' foot separation, as measured between closest points, between all indoor/outdoor occupied spaces. Occupied spaces includes fire pits, hot tub, residences, but will not include sheds or detached garages.

- Accessory Apartment or ADU on the property in compliance with the current standards in the Code, i.e. occupied by someone, as their primary residence, working an average of 30 hours a week or more in Summit County. The unit may not be left vacant. It is encouraged that the occupant provide caretaking / monitoring services related to the STR in order to reduce impacts in the neighborhood, however it is not required.

- Occupancy: The baseline for maximum occupancy will be 2 guests per bedroom + 2; however, an applicant may request increased occupancy if their lot is in excess of 40,000 square feet.

- Review process:

- Class 2 CUP if the lot is in excess of 40,000 square feet;

- Class 4 CUP if the lot is less than 40,000 square feet.

- Class 4 CUP if applicant requests occupancy in excess of 2 guests per bedroom (only permitted on lots in excess of 40,000 square feet).

- Multi-Family Resort Style Development (duplex, townhouse, condominium):

- Minimum Standards to request CUP for Type III License, all three of the standards below shall be present:

- Direct shuttle to ski area(s) or transit stop within 100' from property; and

- Substantial Recreation-Based Shared Amenities, 3 of the following: Pool, hot tub, sauna, tennis / pickle ball courts, game room, or other substantial amenity as approved by the Review Authority; and
- A minimum of 100 units in the HOA
- Occupancy: maximum 2 guests per bedroom + 2
- Review Process: Class 2 if the applicant is able to provide a letter from the HOA verifying amenities and indicating that they are in support of the application; Class 4 if the applicant is not able to provide said letter from the HOA.

Occupancy Standards (Code and Ordinance):

The current occupancy standards for STRs in unincorporated Summit County allow the greater of 1 guest per 200 square feet of floor area, or 2 guests per bedroom plus 4. Lofts are treated as bedrooms for the purpose of calculating occupancy. A Class 2 Conditional Use Permit (CUP) is required for applications where occupancy is proposed in excess of 19 guests.

A review of the STR regulations of similar jurisdictions throughout the state and nation reveals that Summit County's occupancy standards are some of the least restrictive. The current occupancy standards allow 6 guests in a studio, 8 guests in a 1-bedroom with a loft, or 19 guests in a 3,800-square-foot home. Staff believes that the current occupancy standards are appropriate in the Resort zone; however, in the Neighborhood zone, occupancy is proposed to be reduced in order to lessen some of the incompatibilities between STRs and traditional neighborhood uses.

Staff is proposing to remove the provision that allows occupancy to increase based on the floor area of a home and simply use the standard of 2 guests per bedroom plus 2, instead of "plus 4". This will permit 4 guests in a studio or 1-bedroom, and 12 guests in a 4-bedroom unit with a loft. The goal of the reduction in occupancy is to mitigate complaints related to parking, trash, and noise in the Neighborhood Zone.

Fees (Set via Fee Schedule, included herein for context):

Staff is currently reevaluating the fees charged for STR licenses. The County is currently not covering the cost of running the program with the current fee structure, and will be proposing adjustments accordingly. Staff is currently in the process of analyzing costs related to the operation of the STR program.

Compliance with the new Regulations/Ordinance Provisions (Ordinance):

Considerable discussion and consideration has occurred regarding the best way to achieve compliance with the new STR regulations. Below is a summary of how compliance is proposed to be achieved:

**New Licenses:**

Once the new regulations are adopted, all new STR applications will be reviewed and approved in accordance with the new regulations. Additionally, Since STR licenses are not transferrable, upon the sale of a dwelling unit that had an STR license a new STR license must be applied for

if the new owner wishes to short term rent the unit. The new STR application will be required to comply with the new regulations.

#### Existing Licenses:

There are approximately 4,500 existing STR licenses in Summit County. These regulations will not affect the majority of the existing license-holders, since 65% or 3,000 licenses are in the Resort zone. During the 2022 renewal period, these STR operators will obtain a Resort Zone STR license and will continue to operate under the current regulations.

With regard to the approximately 1,500 existing STR licenses holders in the Neighborhood Zone the BOCC considered a number of options to achieve compliance with the new regulations while at the same time respecting existing booking commitments and other timing considerations. The CWPC recommended compliance by September 2024. However, the BOCC has indicated that a reasonable and fair time line would be to allow existing STR license holders to defer compliance until the September 2026 renewal deadline.

#### Rental to One Booking Party at Time (Code and Ordinance):

In addition to the above-described code revisions staff is proposing that the regulations be amended / clarified to only allow short-term rental to one booking party at a time. This standard would be applicable to all STR licenses in the unincorporated County. The need for this clarification arose to address a property operating as a hostel where the owner was renting different bedrooms as well as beds within rooms. This type of use is most akin to a hotel / motel and is clearly not compatible with surrounding properties in residential areas.

Additionally, since the proposed Type I license allows a property owner who lives on-site as their primary residence to rent bedrooms within their home for an unlimited number of nights, it is necessary to clarify this regulation. For instance, someone renting 4 different bedrooms to 4 different parties at any one time would not be within the intent of the regulations.

#### Primary Residence Certification (Ordinance):

It will be necessary to require verification of primary residence for a Type I license. Staff reviewed other jurisdictions' requirements and other sources and proposes that an applicant for a Type I STR License provide the following:

- Evidence that the mailing address of the owner of the STR is within Summit County.
- A copy of a driver's license or identification card issued by the State of Colorado reflecting a Summit County mailing address as well as the physical address of the STR.
- Two of the following, showing the same physical address as the STR:
  - Voter registration
  - Tax returns, W2s, 1041s
  - Motor vehicle registration

The proposed language addressing this requirement would also reserve the right for staff to request any additional documentation necessary to determine an applicant's primary residence, in the event it is unclear from the documents listed above, or outside information indicates otherwise. In addition, applications from corporations would not be accepted for a Type I license.

**Next Steps:**

An Ordinance requires two readings, if the BOCC chooses to move forward, the second reading can be scheduled for public hearing at a special meeting of the BOCC on December 16, 2021. Staff recommends that the BOCC introduce, read, and order published in the Summit Journal the proposed revisions to Ordinance 20, an Ordinance for Short-Term Vacation Rental Regulations, and further that the BOCC set a public hearing in accordance with C.R.S. §30-15-406 to consider approving the Ordinance. The Code amendment is currently scheduled for a public hearing before the BOCC on December 16, 2021.

**Attachments:**

The proposed ordinance and amendments to the Land Use Code are attached. For the Code Amendment, additions are shown in red, with deletions in blue strikethrough. A substantial portion of the Code was copied into the ordinance. That language was left almost entirely unchanged in the Ordinance with the exception of the revisions detailed in the staff report and swapping of “permit” to “license”.

- A: Proposed STR Resort Overlay Zone
- B Proposed Short Term Vacation Rental Ordinance
- C: Proposed changes to Chapter 3 of the Code
- D: Proposed changes to Chapter 4 of the Code