

RESOLUTION NO. 2022-37

**BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF SUMMIT
STATE OF COLORADO**

A RESOLUTION IMPOSING A TEMPORARY MORATORIUM ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A LICENSE OR OTHER LAND USE APPROVAL RELATED TO THE OPERATION OF A SHORT TERM RENTAL, A SHORT TERM VACATION RENTAL, OR ANY OTHER TYPE OF COMMERCIAL LODGING OPERATION IN THE STR NEIGHBORHOOD OVERLAY ZONE OF UNINCORPORATED SUMMIT COUNTY

WHEREAS, in recent years, the advent and increasing popularity of individuals and companies purchasing, advertising, and renting out residential properties as short-term lodging has resulted in almost 30% of all of unincorporated Summit County's housing stock being utilized as short-term vacation rentals; and

WHEREAS, the conversion of residential properties to short-term vacation rental units has a variety of effects on the neighborhoods in which such units are located, as well as on the community as a whole, including without limitation, issues with increased noise at all hours, parking and traffic problems, life and safety issues related to noncompliance with the building code, and trash not being kept or disposed of properly; and

WHEREAS, in order to combat such issues and pursuant to its authority to regulate land use granted by law including, without limitation, Article 20 of Title 29 and Article 28 of Title 30, Colorado Revised Statutes, in December of 2018, Summit County adopted rules and regulations regarding the operation of short-term vacation rentals in Section 3821 of the Summit County Land Use and Development Code ("Code"), including the requirement that all owners and operators of short-term vacation rentals obtain an annual permit; and

WHEREAS, in 2020, the Colorado legislature passed HB 1093, which established a new subsection in Title 30, Article 15, Section 401 of Colorado Revised Statutes, providing counties the authority to "license and regulate an owner or owner's agent who rents or advertises the owner's lodging unit for a short-term stay, and to fix the fees, terms, and manner for issuing and revoking licenses issued therefor"; and

WHEREAS, Summit County adopted Ordinance 20 on June 22, 2021 entitled "An Ordinance for Short-Term Vacation Rental Regulations" ("Ordinance"), which (a) incorporated many of the provisions from Section 3821 of the Code, (b) required short-term vacation rental owners and operators to obtain an annual license, and (c) included additional provisions regarding enforcement, appeals, and fines for violations of the Ordinance; and

WHEREAS, the Code was concurrently amended to require an annual license pursuant to Ordinance 20 in lieu of the annual land use permit in order for any property to be utilized as a short-term vacation rental; and

WHEREAS, on September 14, 2021, the Board of County Commissioners adopted Resolution 2021-66, placing a brief 90 day moratorium on the acceptance and processing of short-term vacation rental licenses in order to allow County staff time to gather additional data and work on changes to the rules and regulations for licensing short-term vacation rentals; and

WHEREAS, after public work sessions, public open houses, and public hearings, on December 16, 2021 the Board adopted an amended and revised Ordinance 20-B in an attempt to better address the impacts of short-term vacation rentals in Summit County pending the development of more refined regulations by County staff; and

WHEREAS, Ordinance 20-B and the associated amendments to the Land Use and Development Code created two zones, a Resort Overlay Zone (“Resort Zone”) and a Neighborhood Overlay Zone (“Neighborhood Zone”), for short-term vacation rentals with specific rules and requirements related to STR licenses within each zone; and

WHEREAS, since the adoption of Ordinance 20-B in 2021 and the affiliated Code rules and regulations, the number of short-term vacation rentals in the County has continued to significantly increase, most significantly within the Neighborhood Zone, causing continued conflict within neighborhoods and contributing to the continued loss of local workforce housing stock, as housing units in traditionally local areas transition from long-term to short-term occupancy; and

WHEREAS, in addition, County staff is seeing an increase in individuals seeking to operate other types of commercial lodging establishments in the Neighborhood Zone, including bed and breakfasts and hostels, in an effort to circumvent the requirements of Ordinance 20-B and such operations have a negative effect on the surrounding neighborhood similar to that of short-term vacation rentals; and

WHEREAS, the County is continuing to experience a housing crisis whereby local workers are unable to find housing and are leaving the community, resulting in local businesses being understaffed and cutting hours and services due to the lack of employees; and

WHEREAS, in order to address similar issues, including overcrowding and the limitations of existing infrastructure to support the influx of visitors, the Town of Breckenridge has imposed a cap on the number of short-term vacation rentals within the Town; and

WHEREAS, the Board of County Commissioners has serious concerns that as a result of the above-referenced impacts from short-term vacation rentals as well as the limitations on short-term vacation rentals imposed by the Town of Breckenridge, unincorporated Summit County will continue to experience substantial additional loss of housing stock to short-term vacation rentals in addition to what has already occurred; and

WHEREAS, based on information presented to the Board by the staff of the Summit County Planning Department and Housing Department, as well as the businesses and citizens of Summit County, it appears that the existing rules and regulations in the Code and Ordinance do not adequately address the impacts the County is experiencing, particularly in the Neighborhood Zone, and expects to experience in the coming months from short-term rentals, short-term vacation rentals, and other commercial lodging operations; and

WHEREAS, the imposition of a nine month moratorium on the submission, acceptance, processing, and approval of short-term vacation rental licenses and other land use approvals related to short-term vacation rentals, short term rentals, bed and breakfast operations, and any other commercial lodging operation will allow the County staff and Board to more thoroughly investigate the relevant issues and develop any additional appropriate regulations related thereto; and

WHEREAS, because the County does not have adequate current regulations pertaining to short-term rentals and other commercial lodging operations, the County will suffer irreparable harm if a moratorium on the submission, acceptance, processing, and approval of County licenses and other land use approvals related to the operation of such businesses is not imposed; and

WHEREAS, the duration of the moratorium imposed by this Resolution is reasonable in length, and is no longer than is required for the County to properly investigate, develop, and, if appropriate, adopt and implement any regulations deemed necessary with respect to short-term rentals.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO THAT:

Section 1. Upon the adoption of this Resolution a moratorium is imposed upon the submission, acceptance, processing, and approval of any application for a license related to the operation of a short-term vacation rental in the Neighborhood Zone, including any land use approvals associated with short-term vacation rentals, short term rentals, bed and breakfast lodging operations, or any other commercial lodging operation. To the extent practicable in light of limitations posed by the website and software system used to process short-term vacation rental licenses, County staff is directed to refuse to accept for filing any such applications during the moratorium period, and, regardless of whether an ineligible application is inadvertently filed or accepted for filing by the website and software system, Staff shall not process or approve any such application and shall refund any fees paid. All applicable rules and regulations will continue to apply to short-term vacation rental applications within the Resort Zone.

Section 2. The moratorium imposed by this Resolution shall commence as of the date of the adoption of this Resolution, and shall expire nine months thereafter, unless sooner repealed or thereafter extended. Applications for short-term vacation rental licenses or associated short-term vacation rental land use approvals submitted prior to the date of adoption of this Resolution shall be processed per existing rules and requirements. If an application has been made for a CUP for a Type III STR prior to the date of adoption of this Resolution and approved during the

moratorium, such applicant will be eligible to apply for and receive a Type III STR License. Additional limited exceptions may be made per the terms of Exhibit A, attached hereto. Applicants not meeting the criteria set forth in Exhibit A but alleging a deprivation of vested property rights may proceed with an appeal as set forth in Section 13300 of the Land Use and Development Code.

Section 3. Before the expiration of the moratorium imposed by this Resolution the County staff, working with the County Attorney, shall carefully review the existing rules and regulations regarding short-term vacation rentals and commercial lodging operations and promptly and with due diligence present potential changes to said rules and regulations to the Board as may be necessary to address the concerns of the Board.

Section 4. The Board hereby finds, determines, and declares that this Resolution is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the County of Summit and the inhabitants thereof.

Section 5. The Board of County Commissioners hereby finds, determines, and declares that an emergency exists and that this Resolution is necessary for the immediate preservation of the public health, welfare, peace or safety. The adoption of this Resolution on an emergency basis is necessary in order to prevent a person from filing an application for a County license to operate a short-term vacation rental until the County has had a reasonable opportunity to determine: (a) where the existing rules and regulations are failing to address the impacts created by short-term vacation rentals and other commercial lodging operations; and (b) what additional regulations, if any, should be imposed by the County upon such businesses. Failure to immediately impose the moratorium provided for in this Resolution will potentially allow a person to submit an application for a license from the County, and possibly acquire certain rights with respect to the processing of such applications before the County has the reasonable opportunity to evaluate the immediate and ongoing community impacts that associated with the continual growth of short-term vacation rentals and other commercial lodging operations in residential neighborhoods. Further delay would lead to additional adverse impacts on the subject neighborhoods and community as a whole. Such adverse community impacts includes but are certainly not limited to the loss of long-term housing in the County, and the consequent loss of local workers, so that businesses, residents, and visitors alike would be significantly negatively impacted. In addition, the County being forced to continue to accept and process short-term vacation rental licenses or other types of land use applications related to commercial lodging operations could cause irreparable negative impacts to the quality of life of existing Summit County residents and negatively affect the cultural, environmental, and neighborhood areas of the County. The Board further determines that the adoption of this Resolution as an emergency Resolution is in the best interests of the citizens of the County of Summit.

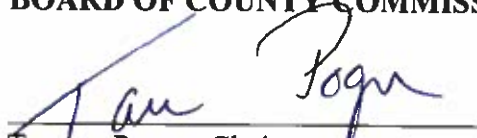
Section 6. Should any one or more sections or provisions of this Resolution be judicially determined to be invalid or unenforceable, such determination shall not affect, impair or invalidate the remaining sections or provisions of this Resolution, it being the intent of the Board that such invalid or unenforceable provisions are severable.

Section 7. This Resolution shall take effect immediately upon adoption.

APPROVED THIS 24th DAY OF MAY, 2022.



COUNTY OF SUMMIT
STATE OF COLORADO
BY AND THROUGH ITS
BOARD OF COUNTY COMMISSIONERS



Tamara Pogue, Chair

ATTEST:



Kathleen Neel, Clerk & Recorder

EXHIBIT A

1. Special Exception Petition. One goal of the Moratorium is to allow for reasonable and fair exceptions while preserving the Moratorium's purpose and intent, which is to limit the issuance of short-term vacation rental (STR) approvals as much as possible. To that end, the Board finds that establishing a special exception petition process for certain discrete situations is in the best interests of the entire community, including property owners who will benefit from having a clear understanding of whether and when they might be eligible to apply for an STR license.
2. Applicant. Any developer, person, or entity that either (a) is under contract to purchase a dwelling unit prior to the date on which this Resolution took effect, or (b) has received a building permit prior to the date on which this Resolution took effect and achieved substantial construction of a dwelling unit (which shall be defined as having passed the foundation inspection by the Building Department) within 30 days after the Resolution took effect, is authorized to submit a special exception petition for such property with the Planning Department.
3. Timing of Filing. The applicant shall file a complete special exception petition for a review of a STR license application with the Planning Department no later than 30 calendar days following the adoption of this Resolution. The applicant shall provide all the information necessary for the review to be completed pursuant to this section.
4. Required Information. Such petition shall include the following information:
 - a. Name and business address of the applicant and contractual interest or property interest in the subject property.
 - b. Name and business address of the current owner of the property, form of ownership, whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture or other, and if owned by a corporation, partnership or joint venture, name and address of all principal shareholders or partners.
 - c. For applicants in Category 1(a) above, a copy of the contract to buy and sell real estate, including the price to be paid and other terms of the sale.
 - d. For applicants in Category 1(b) above, evidence of issuance of a building permit by Summit County Building Department issued prior to the date the Resolution took effect as well as results of a successful foundation inspection conducted within the first 30 days of the Moratorium. If necessary due to timing, applicants may submit evidence showing that their foundation inspection is scheduled to occur within the first 30 days of the Moratorium. The applicant must submit the results of the inspection to the Planning

Department within 48 hours after the inspection is completed in order to have their application considered.

e. The nature of the potentially protected interest claimed to be affected, such as, but not limited to, fee simple ownership or leasehold interest.

f. A signed affidavit by the applicant stating that the information and statements in the petition are true and accurate.

g. The Planning Director or his/her designee may request additional information when it is determined to be reasonably necessary to arrive at a conclusion regarding the petition.

5. Petition Review. The Planning Director or his/her designee shall review a completed petition within 10 business days after submission of such petition and may conduct any additional investigations or request any additional information as deemed necessary.
6. Standard for Special Exception. For purposes of this Resolution only, a special exception is the right to proceed with the submission and consideration of a short-term vacation rental license application under existing land use regulations or pursuant to an approved permit or site specific development plan where applicant can demonstrate it detrimentally changed position in good faith, justifiable reliance on a land use decision or other representation made by Summit County. The finding of qualification as a special exception hereunder shall allow the applicant the right to submission and processing of a short-term vacation rental license only; any such license application shall be subject to all applicable laws, rules, regulations and ordinances and may be denied, approved, or conditionally approved.
7. Burden of Proof, Decision. The applicant shall have the burden of proving by a preponderance of the evidence their eligibility for a special exception as provided herein.
8. Criteria for Decision. The Planning Director or his/her designee shall, on the basis of the evidence and information available and in light of all relevant circumstances, make the determination as to whether the applicant has met the criteria set forth herein.
9. Appeal of Petition Decision. An applicant shall be provided notice of the decision regarding the petition within three business days of such decision. The applicant may appeal any such decision to the Board of Adjustment within seven days of the receipt of such decision as provided in Section 13200 of the Summit County Land Use and Development Code.