

ORDINANCE NO. _____

RESIDENTIAL SHORT-TERM RENTALS (RSTR)

AN ORDINANCE AMENDING THE BOULDER ZONING ORDINANCE FOR THE PURPOSE OF REGULATING THE USE OF PROPERTY IN RESIDENTIAL ZONES FOR SHORT-TERM RENTALS

WHEREAS, the Boulder Town Council is concerned with insuring that the growth of tourism and the need for local accommodations is accomplished in a manner consistent with the General Plan and in a manner that does not have an adverse impact on the health, safety, and general welfare of the public and the residents of the Town of Boulder; and

WHEREAS said Council deems it desirable to protect the rights of property owners to neighborhood preservation, the quiet use and enjoyment of their property, the preservation of open space and the agricultural character of the Town; and

WHEREAS said Council also deems it desirable to allow RSTR in recognition of the rights of property owners to use their property to generate income, and to create jobs associated with the RSTR activity; and

WHEREAS said Council recognizes the influx of RSTR units owned and operated by absentee landlords throughout the region and deems it desirable to reserve this opportunity for resident homeowners. **WHEREAS** the Boulder Town Planning Commission has reviewed and recommended the changes and amendments herein; and

WHEREAS, the Boulder Town Council finds good cause to strike a balance between each of the foregoing recited rights, duties and interests and to establish reasonable regulations, controls and permitting requirements for RSTR in single-family zones.

NOW, THEREFORE, BE IT ORDAINED by the Boulder Town Council as follows:

1. Chapter 10 is hereby amended and Section 1020 is added thereto as follows:

1. Residential Short Term Rentals (RSTR) Defined: Occupancy of a dwelling on a single-family legal Lot of record by a transient Guest(s) renting the entirety of the dwelling, or any portion thereof, for any period between 1 to 29 consecutive ~~days~~nights pursuant to a Conditional Use Permit (CUP).
2. Allowed Zones: RSTRs are allowed in the HDR zone, the MDR zone, the LDR zone and the GMU zone.

3. Limitation on number of RSTRs allowed: For purposes of this ordinance, the Town limits are divided into Upper Boulder, Middle Boulder and Lower Boulder.
 - a. Each of these three (3) areas shall be allowed a ~~total maximum number of CUPs under this ordinance. That maximum number shall not exceed of fifteen percent (15%) of the total residences in each area for use as RSTRs. four (4) RSTRs.~~ The CUPs in each area shall be issued on a first come basis, with a ~~When an area's quota is reached, a waiting list shall be established, also on a first come basis. thereafter.~~ A CUP within each of the three (3) geographical areas, will be issued, renewed, or revoked as follows:
 - i. Once granted, any RSTR must maintain its a CUP in good standing through strict compliance with the terms of this ordinance; and
 - ii. Any CUP that is revoked, or allowed to lapse, shall be placed at the back of the wait list, if any, and the next applicant in line, if any, will then have priority.
 - iii. Any Lot that has been in use as an RSTR over the previous twelve (12) months, and can prove such RSTR usage by providing proof of payment of sales and use tax to the Utah State Tax Commission, together with a current sales tax license therefrom, shall not be counted in the quota and shall be entitled to continue said use, so long as the Owner of the Lot obtains a CUP and complies with this ordinance.
 - b. The three geographical areas are as shown on the plat attached, marked as Exhibit A, incorporated herein and defined as follows:
 - i. Upper Boulder – from the north, east and west town limits to an east west line defined by the south boundary of the Boulder Cemetery, and within said area all property from the east to the west town limits;
 - ii. Middle Boulder – from the east-west line at the south boundary of the Boulder Cemetery, to a south line described as the Burr Trail beginning at the east town limit and proceeding west to Highway 12, then along Highway 12 to a point 200 feet from where it crosses Boulder Creek and proceeding due east to the west town limit, and within said area all property from the east to the west town limits;
 - iii. Lower Boulder - from a north line described as the Burr Trail beginning at the east town limit and proceeding west to Highway 12, then along Highway 12 to a point 200 feet past where it crosses Boulder Creek and due west to the west town limit, and within said area all property from the east town limit to the west town limit.
4. Ownership and Occupancy: To qualify under this ordinance, an Owner must comply with the following:

- a. Be the Owner of the Lot; and
 - i. Prove the Lot is the primary residence of the Owner as defined by the Garfield County Assessor, and that the Owner is not registered to vote in any other jurisdiction; and
 - ii. Occupy the Lot for a minimum of one hundred and eighty-two (182) days per year; and
 - iii. Not use the Lot as an RSTR in excess of one hundred and eighty-three (183) days per year.
- b. No Owner shall own more than one (1) RSTR or be entitled to more than one (1) CUP therefore within the Boulder Town limits and said RSTR must be their primary residence;
 - i. Owner and ownership is defined as any individual or entity as shown on the property tax roles of Garfield County; and
 - 1. Where owner is an entity, be it a corporation, partnership, LLC, trust, conservatorship or otherwise, the individual who holds the majority interest shall be the Owner for all applications and other requirements, including occupancy, in this ordinance; and
 - ii. Only the Owner as defined above can apply for a CUP.
- c. The Owner is responsible for any nuisance created by the Guests, which can constitute grounds for revocation and/or nonrenewal of the CUP.
- e.d. In the event that the property sells to a disinterested third party or entity, the new Owner of the Lot shall not be entitled to a CUP, or the continued use of the Lot for RSTR purposes, unless the new Owner of the Lot meets the terms of this Section 4.

5. Conditional Use Permit Required: The Boulder Town Planning Commission will consider all applications for said conditional use permits and issue the same where all the criteria set forth in this ordinance are met. A conditional use permit issued under this section is valid for one (1) calendar year, and can only be granted or renewed as specified herein. The application for the CUP shall contain the following licenses, information and exhibits properly verified and sworn to by the Owner:
- a. Name of the Owner, the property manager (if different from the Owner) and the address of the Lot; and
 - b. How the Dwelling on the lot will be used and occupied to host Guests;
 - i. All of the dwelling, or part of the dwelling; and
 - ii. Where two dwellings exist, a statement of how owner occupancy and RSTR occupancy will be apportioned; in no event shall two (2) dwellings on Lot be occupied by RSTR guests simultaneously; and
 - iii. A site plan showing the property, dwelling(s) and rooms; and
 - iv. In no event shall more than one (1) RSTR guest or group occupy the Lot ~~at~~ in any given time frame, and each guest or group occupying any portion of a Lot shall have reserved the

property together and shall have paid for their stay together through a single transaction; and

- c. A copy of the property tax notice from Garfield County and proof of ownership by the applicant; and
 - d. A copy of the Guest instructions specified in Section 6 that will be posted on the premises for Guests; and
 - e. A business license and a sales tax number issued as follows:
 - i. For an initial CUP application, within 30 days of applying and receiving preliminary approval for a CUP hereunder, the Owner shall provide a copy of a sales tax/transient room tax license and number from the Utah State Tax Commission and a Boulder Town business license before the CUP is finalized; and
 - ii. For a renewal CUP application, the Owner shall provide a copy of the quarterly sales tax returns filed with the Utah State Tax Commission, together with proof of payment, and a summary of the dates that the Lot was occupied by RSTR Guests during the previous 12 month period; and
 - f. One (1) parking space for every 2 bedrooms, in addition to those spaces reserved for the Owner; and
 - g. A sign at the head of the driveway clearly identifying the address and name of the premises or other demarcation to let the guests know they have arrived at the correct location; and
 - h. Location and number of the following:
 - i. Smoke detectors;
 - ii. Exits;
 - iii. Fire extinguishers;
 1. One must be prominently hung on the wall in the kitchen within twenty (20) feet of the stove;
 - i. A culinary water source and wastewater facilities compliant with current residential building codes.
6. Property management: The person designated as the property manager in the CUP, the Owner or a 3rd party ("Manager") shall:
- a. Make arrangements for the availability of the keys or codes to the Guests and provide twenty-four (24) hour contact information for said Manager, who will be available to respond to the Guests by telephone within one (1) hour, and in person within three (3) hours;
 - b. The Manager shall provide the guests with the set of written instructions -- posted visibly within and governing the use of the property -- which shall include:
 - i. A description and a map of the property boundaries specifying public roads and public trails as the only areas where walking/hiking or access to public lands is permitted; and
 - ii. A description and a map of surrounding private property where intrusion is trespass and must be avoided; and

- iii. Guest's duty to control their dogs and other animals, not leave them unattended, and prevent them from roaming, barking or otherwise creating a nuisance; and
- iv. Location and use of garbage containers and proper disposal;
- v. Location of fire extinguishers and exits, and
- vi. If an outdoor fire-pit, barbeque or similar device is available on the property, any fire restrictions for the area clearly posted, ~~;~~ and ~~the any~~ fire-pit, barbeque or similar device shall be safely sited, constructed and clear of weeds and debris to the satisfaction of the local fire marshal; and
- vii. Authorized parking place(s) designated for guest vehicles; and
- viii. Specified quiet time from 10 pm to 7 am; and
- ix. Acknowledgement of Boulder's dark sky aspirations in the General Plan and requesting that guests turn off all outside lighting when not needed and avoid light pollution through windows after retiring for the evening; ~~Upon the guest's retirement to bed for the evening, all exterior lighting must be turned off and light pollution through bay windows must be minimized;~~ and
- x. Contact numbers for Manager (and owner if different) and all available emergency services.

7. Violation of this ordinance, including providing false information on an application for the CUP, is a Class C Misdemeanor punishable by a fine and/or civil penalties as authorized by UCA 10-9a-803.