

25-03-08 DRAFT

§ 153.204 RESIDENTIAL SHORT-TERM RENTALS.

Section 1 PURPOSE

The purpose of this Ordinance is to establish regulations for the use of privately owned dwelling units as short-term rentals to protect residents' quality of life, building safety for the occupants, ensure proper collection and remittance of taxes, and to address nuisances, parking, trespassing, and other potential negative impacts relating to short-term rentals.

Section 2 DEFINITIONS :

1. LOCAL CONTACT PERSON. The person designated by the Owner or the manager, for the purpose of

- 1) responding to complaints regarding the condition, operation or conduct of occupants of the Residential Short-Term Rental; and
- 2) taking remedial action to resolve any such complaints.

2. MANAGER. The owner or the designated agent or representative of the owner who is responsible for compliance with this Ordinance.

3. OWNER. The person(s) or entity(ies) that hold(s) legal and/or equitable title to the real property being operated, legally or not, as a Residential Short -Term Rental.

4. RESIDENTIAL SHORT -TERM RENTAL (RSTR). A dwelling unit, or any portion thereof, being used for transient accommodation purposes, including but not limited to, single-family dwellings, multiple family dwellings, accessory dwelling units (ADU's), or any other dwelling unit for a period typically less than thirty (30) consecutive days.

Additionally, any dwelling unit that is listed on any accommodation website including but not limited to Airbnb, Vrbo, HomeAway, Trip Advisor, etc.; is hereby considered a Residential Short -Term Rental and shall be subject to the regulations set forth in this Ordinance, even if the RSTR is rented out for a period longer than thirty (30) days.

5. TRANSIENT. Occupancy of a dwelling unit for not more than thirty (30) days.

Limitation on number and type of RSTRs allowed in Boulder.

Residential Short-Term Rentals (RSTRs) are limited and regulated by applying for an RSTR Conditional Use Permit (CUP). If approved yearly RSTR business license (110.__) regulations will confirm the requirement of the RSTR CUP on record.

~~RSTRs are limited to a maximum of 15% of the total number of dwellings occupied by permanent residents. Calculations are determined separately in 3 areas. Upper Boulder, Middle Boulder and Lower Boulder. In calculating the number of CUPs available in each of the three areas, a fractional remainder of one-half or more shall be rounded up to the next whole number.~~

~~Yearly calculations happen in January of each year.~~ **By review of the Recorder's Office yearly updates on parcels**

- A. *The RSTR CUP applicant must be a primary resident of Boulder and show proof via property tax records and a Utah drivers license with the address of the property.*
- B. *If the property is owned by an entity a or b and c will apply:*
 - a. **Wh**ere the owner is an entity, be it a corporation, partnership, LLC, trust, conservatorship or otherwise, the individual who holds the majority interest in said entity must be part of the application as a resident, or
 - b. **notar**ized written consent for a person representing the entity to obtain an RSTR CUP for the property who is a primary resident of the property. And the person given consent must include personal proof of residency on the property.
 - c. The entity will be considered the owner and be limited to one RSTR in the town of Boulder.
- C. **Dwelli**ngs eligible for RSTR status fall into two separate classifications, which are mutually exclusive and only one shall qualify for a CUP as follows:
 - a. **The** primary dwelling or an ADU on the lot comprising the domicile and residence of the applicant. The said lot containing the subject dwelling(s) is not be occupied by RSTR guests in excess of 182 days per year; or
 - b. A separate lot of record in the town which contains a dwelling separate and apart from the domicile of a resident-applicant.
- D. *In no event shall more than one of the qualified dwellings on a lot (primary dwelling or an IADU or ADU) be occupied by RSTR guests on any given day or at any given time.*
- E. *Three geographical areas are used to limit the number of RSTR's allowed.*
 - a. 5 RSTRs in Upper Boulder, beginning at the **north** boundary of Boulder and extending east-west to the boundaries of the town limits and south through to the south property line of the Boulder Cemetery. ~~then encompassing and including all property within the town limits situated to the north of aforesaid east-west line;~~

- b. 5 RSTRs in Middle Boulder, all property within the town limits situated between the south line of Upper Boulder as described in (a) above, extending south to the Town limits, west to the Town limits and east to the west boundary of properties accessed from Lower Boulder Road. north of Burr Train HWY 12. 5 RSTRs in Lower Boulder for all properties with access from Lower Boulder Road
- ~~c. Southside of Burr Trail and HWY 12. All residents directly accessing the Burr Trail and HWY 12.~~
- ~~d. Lower Boulder, beginning at a point where the Burr Trail intersects the east boundary of the town limits, then proceeding westerly along the centerline of the Burr Trail to its junction with State Highway 12, and then continuing westerly along the centerline of said Highway 12 to a point where it intersects the west boundary of the town limits, said described line comprising the north boundary of this Lower Boulder area, and then encompassing and including all property within the town limits situated to the south of the aforesaid Burr Trail and Highway 12 centerline; and~~
- e. The RSTR CUPs in each area shall be available on a first come basis. When an area's quota is reached, applications can sign up on a waiting list.
- f. Waiting lists applicants are established by filling out a waiting list application for RSTRs..
- ~~g. ; in no event shall more than one booking of an RSTR guest or group occupy a subject dwelling in any given time frame.~~

RSTR CUP Approval Process and Conditional Use Requirements:

- a. An Initial application process to be approved by the Zoning Administrator that the applicant is eligible for a RSTR CUP.
- b. Complete full application as outlined in this ordinance.
- c. A public hearing is posted and the hearing is held by the Planning Commission.
- d. The public comments, standards and requirements for the RSTR CUP are reviewed by the PC
- e. The PC will vote to either: approve, approve with conditions or deny the application. The PC will ask the town clerk for a temporary business license for the approved CUP in accordance with the Garfield County Inspection process to be completed
- f. Approved RSTR CUPs including an approved inspection from the Garfield County inspector can apply for a business license as defined in Ordinance 101.--. It is the responsibility of the owner of the RSTR CUP to follow the

rules for renewal by filling out the renewal form each January as part of renewing a RSTR business license.

- g. Any RSTR business license that is allowed to lapse may be placed at the back of the wait list. The next applicant in line, if any, will then have priority to apply.
- h. Any CUP that is revoked or not renewed for cause by violating the conditions of the CUP shall not automatically be allowed on the wait list or entitled to apply for a new CUP, except as determined by request from the applicant to the Town Council to consider all the circumstances of said revocation or non-renewal.

RSTR CUP Application Requirements:

1. RSTR Requirements for initial CUP approval by the Zoning Administrator:
 - a. Name of the owner, the property manager (if different from the owner) and the address of the lot and contact information.
 - i. Proof of ownership as a primary resident via tax assessment or written consent from the entity that owns the property to someone who is a permanent resident on the property.
 - ii. Driver's license or id proving permanent residence in Boulder.
 - b. location address and parcel number.

2. Complete RSTR Application for approval by the Planning Commission:
 - a. Proof of a culinary water source and wastewater facilities compliant with current residential building codes.
 - b. Inspection report by the Boulder Fire authority for fire protection and prevention:
 - i. Access is adequate for fire trucks including turn-arounds.
 - ii. Outdoor fire-pit, barbeque or similar device available on the property, said devices are safely sited, constructed and clear of weeds, debris and other flammables.

 - c. Directional Signage approved. at the driveway clearly identifying the name and address of the subject dwelling or other demarcation to inform guests

that they are at the correct location. (limits to size in 153.202 SIGNS ordinance: no more than two square feet in area)

- d. Owner and/or manager contact information for distribution to all adjacent neighbors upon approval of the CUP, by the applicant.
3. Written rules and regulations shared with guests need to include and will be verified by the *Garfield County inspection using the checklist for compliance requirements*.
- a. A copy of the temporary Short-Term Rental Business License.
 - b. Contact numbers for manager (and owner if different)
 - c. The location of all fire extinguishers, *as specified by the County Building inspector, and*
 - i. one must be prominently hung on the wall in the kitchen within 20 feet of the stove;
 - d. What the maximum occupancy of the dwelling unit. *Sleeping rooms must meet current International Residential Code (IRC) requirements for egress IRC R3111*
 - e. Short-Term Rental unit(s) with more than five (5) sleeping rooms, or the ability to sleep more than ten (10) occupants, shall receive written approval from the Garfield County Building Inspector prior to occupancy of the Short-Term Rental unit.
 - f. the maximum number of vehicles allowed. The inspector requires one parking space for two guest rooms.
 - g. One operable smoke detector in each bedroom, in the major living areas, and on each floor (the major living area can count for the detector on that floor) IRC 314.
 - h. An operable carbon monoxide detector on each floor installed per the manufacture's specifications, when gas appliances are utilized in the structure
 - i. Gripable hand railing (1 ¼ inches to 2 inches) on all staircases IRC 311.7.8.
 - j. GFCI plugs are required within 6 feet of all sinks/baths/toilets and all exterior outlets IRC E3902.
 - k.
 - l. Trash rules and regulations pertaining to leaving or storing trash on the exterior of the property. Will be taken to the dumpsters by the manager or owner of the RSTR in a timely manner.
 - m. 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
 - n. Specified quiet time from 10:00 p.m. to 7:00 a.m.;
 - o. Acknowledgment of the town'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.

- p. Guests with pets are required to control their animals, ~~if any,~~ not leave them unattended, prevent them from roaming, barking, chasing other animals or otherwise creating a nuisance (ordinance 90.01)
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- 4. Maps including the name of the owner and the address of the lot showing:
 - a. A site plan all dwelling(s) on the lot. (Consider using Google Earth maps.)
 - b. Including property lines: with a description of surrounding private property restricted as no trespassing.
 - c. Location of RSTR accommodation.
 - d. Authorized parking spaces(s) designated for guest vehicles;
 - i. One parking space for every two bedrooms, in addition to those spaces reserved for the owner;
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- 5. Map of the dwelling used for RSTR guests including:
 - a. Smoke detectors; *See Garfield County inspection checklist for compliance requirements.*
 - b. Exits *See Garfield County inspection checklist for compliance requirements.*
 - c. Fire extinguishers; *See Garfield County inspection checklist for compliance requirements.*

RESPONSIBILITY, VIOLATIONS and ENFORCEMENT PROVISIONS

- 1. **Responsibility for Guest's Conduct.** The manager and/or local contact person shall use reasonably prudent business practices to ensure that the occupants of the short-term rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the short-term rental.
- 2. **Response to Complaint.** The manager and/or local contact person shall, upon notification that any occupant of the short-term rental has created unreasonable noise or disturbances, engaged in disorderly conduct, or committed violations of any applicable law, rule or regulation pertaining to the use and occupancy of the short-term rental, respond within 1 hour to halt or prevent recurrence of such conduct.

3. **Failure to Respond.** Upon failure of the manager or local contact person to respond to calls or complaints in 1 hour regarding the condition, operation or conduct of occupants of the residential short-term rental, the manager shall receive written notice from the ~~County Attorney~~ Boulder Town Lawyer. If the owner, manager, or local contact person fail to respond to the complaints and or written notification from the Town, the ~~County Commission~~ Town Council may consider revocation of the conditional use permit and/or business license in a public meeting.
4. When the County determines a short-term rental may be operating without first obtaining the requirements set forth in this Ordinance, the Planning Department shall send a certified letter to the owner of real property describing the requirements of this Ordinance along with a formal request to come into compliance;
5. If the owner of real property fails to respond to, or act upon, the first notice within 30 days of certified delivery, a 2nd notice shall be sent from the County Attorney informing the owner of the fines and penalties that shall be imposed if operation of the short-term rental continues without County authorization;
6. Upon failure to respond to the 2nd notice within 14 days of certified delivery, the owner shall be guilty of a Class C Misdemeanor and shall be subject to a separate fine of \$100.00 per day until all applicable documentation is submitted and fees are paid in full to the County. A lien will be recorded on the real property for any outstanding penalties;
7. Any owner or manager of a short-term rental located within the unincorporated areas of Garfield County who, having first obtained the required approvals of this Ordinance thereafter operates or permits operation of said short-term rental in violation of the terms and provisions of this Ordinance may be guilty of an Infraction, and may be punished by a fine of up to \$750 for each such violation.

~~—(1) Violation of this chapter, 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.~~

~~—(2) Violation of this chapter or the conditions of the CUP shall be grounds for termination and/or non-renewal of the CUP.~~

Section 5 ~~CONDITIONAL USE PERMIT AND BUSINESS LICENSE REQUIRED~~

~~1. Short-term rentals shall be a permitted use in Commercial and Resort Recreation zoning~~

~~districts a conditional use in the following zoning districts:~~

- ~~a. Agricultural;~~
- ~~b. Forest Recreation;~~
- ~~c. Residential; and~~
- ~~d. Residential Estates.~~

~~2. Short-term rentals shall be limited to 1 per parcel and may be approved as the main dwelling unit or the accessory dwelling unit, but not both.~~

~~3. No dwelling in any zoning district shall be occupied or used as a short-term rental until the~~

~~owner has obtained an approved:~~

- ~~a. Short-term rental inspection from the County Building Official;~~
- ~~b. Conditional Use Permit from the Planning Commission, if applicable; and~~
- ~~c. Business License from the County Commission.~~

~~4. Any short-term rental shall have its own unique transient room and sales and use tax numbers from the State of Utah. The owner or manager of any short-term rental shall collect and remit all transient room and sales and use taxes by the end of the year.~~

~~Appropriate documentation shall be provided from the accommodation platform (Airbnb, Vrbo, etc.) certifying that the correct sales and use and transient room taxes have been collected and remitted on behalf of the owner of the short-term rental. The County shall suspend all permits and licenses for short-term rentals more than 1 year past due on applicable taxes until the owner has paid all applicable taxes.~~

(Ord. 2019-2, passed 5-2-2019)

Attachment should be included, to comply with the County Building Inspector requirements for inspecting the RSTRs in Boulder. He said we needed to adopt the county ordinance because he was not going to try and figure out the differences of our ordinances from what he does for the county, I assume that if our ordinances required what he does in the inspections he will be fine with ours. That is why I have the initial application so that the Zoning administrator can confirm that the applicant is a primary resident and qualifies for applying for a RSTR. before the rest of the requirements are required.

GARFIELD COUNTY STR INSPECTION CHECKLIST

The following list includes the most common violations on STR Inspections. Other life safety violations discovered by the Building Inspector will be presented to the applicant in the STR Inspection Report.

1. One operable smoke detector in each bedroom, in the major living areas, and on each floor (the major living area can count for the detector on that floor) IRC 314.

2. An operable carbon monoxide detector on each floor installed per the manufacture's specifications, when gas appliances are utilized in the structure IRC 314.
3. Gripable hand railing (1 ¼ inches to 2 inches) on all staircases IRC 311.7.8.
4. GFCI plugs are required within 6 feet of all sinks/baths/toilets and all exterior outlets IRC E3902.
5. Sleeping rooms must meet current International Residential Code (IRC) requirements for egress IRC R3111.
6. Each Short-Term Rental unit shall have at least one operable fire extinguisher.
7. Trash shall not be left stored within public view, except in proper containers for the purpose of collection
8. by an authorized waste hauler on scheduled trash collection days.
9. Short-Term Rental unit(s) with more than five (5) sleeping rooms, or the ability to sleep more than ten (10) occupants, shall receive written approval from the Garfield County Building Inspector prior to occupancy of the Short-Term Rental unit.
10. Required Posting in the Short-Term Rental Unit
 - a. A copy of the Short-Term Rental Business License.
 - b. The name and phone number of the Owner, Local Contact Person or Manager and local emergency contact information.
 - c. The location of all fire extinguishers and emergency exits.
 - d. A list of all rules applicable for the specific Short-Term Rental.
 - e. The maximum occupancy of the dwelling unit and the maximum number of vehicles allowed.
 - f. Trash rules and regulations pertaining to leaving or storing trash on the exterior of the property.
 - g. A map showing property boundaries and parking spaces.