



# Land Use Department

Courthouse Annex

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## BOARD OF COUNTY COMMISSIONERS

October 13, 2008 – 4:00 PM

Hearing Room, Third Floor  
Boulder County Courthouse

### PUBLIC HEARING

STAFF PLANNER: Abigail Janusz, AICP

#### **DC-07-002: LAND USE CODE AMENDMENTS TO SECTION 4-507**

Description: Proposed text amendments related to vacation rentals and other lodging uses.

#### **SUMMARY:**

The issue of short-term vacation rentals has been a challenge and an opportunity. After complaints from the public, a determination from the Land Use Director, an appeal to the Board of Adjustment, and a cease and desist letter, Land Use staff has been working with stakeholders to develop regulations that adequately and appropriately address the land use issues associated with short-term vacation rentals.

Planning Commission considered these text amendments at a Public Hearing on August 20, 2008, and has recommended the Board of County Commissioners approve the amendments. Planning Commission's recommended regulations differ from those recommended by Land Use staff. Staff had developed the moniker *lodging in a dwelling* to refer to this distinct use. Planning Commission directed staff to use a more common name for this proposed use classification and staff has suggested **short-term vacation rentals**.

#### **HISTORY:**

The Land Use Department received complaints of zoning violations concerning short-term vacation rentals in the winter of 2007. Zoning enforcement staff researched the complaints, and the Land Use Director determined that a zoning violation had occurred because this use requires Special Review approval under the Land Use Code. One of the owners who received a zoning violation appealed the Director's determination to the Board of Adjustment. The Board of Adjustment heard the appeal at a public hearing on June 6, 2007, and upheld the Director's interpretation. As part of the Board of Adjustment's discussion, they recognized that the Land Use Code does not explicitly address short-term vacation rentals and recommended staff consider amending the Code to include this use. A transcript from that Board of Adjustment meeting is included in the backup materials (**Exhibit X**).

On September 24, 2007, the Land Use Director sent a letter to property owners in the Allenspark and Eldora areas informing them of the Board of Adjustment's decision regarding vacation rentals. This letter allowed owners to continue operating until January 1, 2008, at which time Special Use approval would be required to continue renting in terms of less than 90 days (Exhibit X). Land Use staff began researching how other local governments regulate short-term rentals in their communities (Exhibit X). Staff determined that many communities to regulate this use although the specific terms of the regulations vary widely. In February 4, 2008, the stay of enforcement was extended while Land Use staff worked with stakeholders to draft regulations specific to the use (Exhibit X).

#### **REFERRALS/PUBLIC COMMENT:**

A tremendous amount of public comment has been received regarding this proposed text amendment. All of the written public comment has been attached for your information. It is in chronological order beginning with the earliest comments (Exhibit X). The first section of written comment is in response to the first letter sent by the Land Use Department on September 24, 2007. Most of the subsequent public comment is in response to either letters or emails sent by Land Use. There is correspondence received in the summer of 2008 that is in response to a zoning complaint of a vacation rental in the Paul Nor subdivision as well. Staff has maintained an email database consisting of approximately 250 email address and this list is used to notify people of upcoming meetings, to distribute staff reports, and to generally keep people apprised of the process. Staff has maintained a website with information as well. [http://www.bouldercounty.org/lu/code\\_updates/lodging\\_dwelling/index.htm](http://www.bouldercounty.org/lu/code_updates/lodging_dwelling/index.htm)

Two public meetings were held to gather input regarding the use, the impacts of this use, and the proposed regulations. The first meeting was held in the Board's Hearing Room on March 11, 2008. Approximately 35-40 people attended this meeting. This was an informal meeting to help staff understand the issues surrounding this use. This meeting helped staff create the first draft of the regulations. The second meeting was held in the community room at the Allenspark fire station on June 4, 2008. The intent of this meeting was to review the draft regulations prior to their introduction to Planning Commission. Notes from both meetings are included in the backup materials (Exhibit X and X).

Referral comments have been fairly supportive.

**Public Health** – Current regulations require sizing of onsite wastewater systems be based on occupancy of two people per bedroom. Public Health also supports the requirement that this use should only be occurring in homes with approved onsite wastewater systems, which are designed for the number of bedrooms in the dwelling.

**Building Division** – the Chief Building Official supports additional safety provisions for vacation rentals that have not been incorporated into the draft regulations. These include:

- At least one code-conforming egress window in each sleeping room
- Stairways must be equipped with code-conforming handrails
- Electrical receptacles in the kitchen area and bathrooms must be GFCI protected as provided by the Building Code
- Gas-burning appliances must be tested and listed and installed per their listing
- Exterior exits must be safe with code-conforming steps and landings
- Item #4 in the Additional Provisions should be changed to read, "Dwellings used for lodging must contain operable smoke alarms as required by the Building Code."

See Exhibit X for the email from the Chief Building Official.

**PLANNING COMMISSION:**

Staff introduced the topic of short-term vacation rentals at a Study Session on June 20, 2008. This docket was brought before Planning Commission as a public hearing on August 20, 2008. The Planning Commission’s staff recommendation contained a variety of options for the Planning Commission to consider as they looked at creating a new use classification called Short-Term Vacation Rentals. The Board is encouraged to review this document (**Exhibit X**) as well as the minutes from the August 20, 2008, public hearing (**Exhibit X**). Following extensive public comment and discussion, the Planning Commission recommended approval of text amendments to the Lodging Uses section of the Land Use Code.

Their discussion focused on where this use has historically been located and where there might be an expectation of this use occurring. They also discussed what would be an “acceptable” level for an individual to rent out a home and decided that staff’s recommended levels of intensity would be too burdensome for a homeowner.

Planning Commission’s recommendation differs from staff’s recommendation in a few respects. Staff has suggested these regulations apply to all dwellings in the unincorporated county while Planning Commission recommends this use be prohibited in certain zone districts including the traditional residential zones: Suburban Residential, Rural Residential, and Estate Residential. Planning Commission recommends short-term vacation rentals be a permitted use in the Agricultural, Forestry, Historic, Mountain Institutional, Transitional, Business and Commercial zone districts. Land Use staff supports Planning Commission’s recommendation to restrict this use to certain zone districts.

Planning Commission also recommends that homeowners be permitted to rent their properties for more nights than staff had recommended without triggering the additional requirements outlined in the draft and without noticing the County or neighbors through an application. These differences are best described in Table 1 below. Planning Commission supported the “additional provisions” in the draft regulations with minor editorial changes (which are also included below).

**TABLE 1**

<b>Level of Intensity</b>	<u>Low</u>	<u>Medium</u>	<u>High</u>
<b>Level of Review</b>	<i>No staff review, not required to meet Additional Provisions</i>	<i>No staff review, <u>required</u> to meeting Additional Provisions</i>	<i>Application, staff review, neighbor notification, LISR (can be waived)</i>
Staff recommendation	1-7 nights	8-30 nights	31-365 nights
PC recommendation	1-60 nights	61-100 nights	101-365 nights

**4-507.D.5. ADDITIONAL PROVISIONS**

- a. Dwellings used for lodging purposes must meet the following standards (if required based on the number of nights rented):
  - 1. All dwellings must have an approved onsite wastewater system for the number of bedrooms in the dwelling and meet all applicable minimum health and safety standards for residences including building, electrical and plumbing standards.
  - 2. Applicants must provide verification that the site is a legal building lot under this code and that the legal access from a public road has been obtained.
  - 3. Dwellings used for lodging must contain operable fire extinguishers in each bedroom and in the kitchen.
  - 4. Dwellings used for lodging must contain operable smoke detectors in each bedroom and additional locations where appropriate.

5. Lodgers must obey the adopted Boulder County noise ordinance for residential areas.
  6. A map clearly indicating the property boundaries and appropriate parking spaces must be provided to lodgers.
  7. Two people per bedroom with a maximum of 8 people may occupy one dwelling, unless a greater capacity can be demonstrated by parking, parcel size, the onsite wastewater system or other relevant circumstance.
- b. Historic accessory dwelling units are eligible for lodging status. Family care and agricultural accessory dwelling units are not eligible for lodging status.

**RECOMMENDATION:**

Article 16 of the Land Use Code states the conditions by which text amendments shall be adopted. Staff finds the existing text is in need of amendment as recommended by the Board of Adjustment and initiated by the Board of County Commissioners; the proposed amendment is not in contrary to the intent or purpose of the Code; and the amendment is in accordance with the Comprehensive Plan.

Land Use staff recommends the Board of County Commissioners **APPROVE DOCKET #DC-07-002** text amendments to the Land Use Code to create a use classification in the Lodging Uses section called Short-term Vacation Rentals as drafted by staff.

If the Board of County Commissioners decide to support the Planning Commission’s recommended levels of intensity, staff recommends the following three requirements for all rentals (regardless of intensity) that we feel will help notify neighbors of the use and encourage a safe and healthy rental.

- All dwellings used for short-term rentals must have an approved onsite wastewater system.
- All dwellings used for short-term rentals must be legal building lots with legal access.
- The maximum number of occupants should be two people per bedroom.
- All homeowners participating in this use should fill out a simple form provided by Land Use and this form shall be made publicly available.

**ATTACHMENTS:**

- A. Planning Commission staff recommendation – August 20, 2008
- B. Planning Commission minutes – August 20, 2008
- C. Boulder County’s Position on Illegal Cabin Rentals, letter – September 24, 2007
- D. Vacation Rentals in Boulder County, Research to Consider
- E. Short Term Rentals or Lodging in a Dwelling, Potential Changes to the Land Use Code – May 29, 2008
- F. Sec. 4-600 Special Review/Limited Impact Special Review
- G. Boulder County Noise Ordinance – Ord. No. 92-28
- H. Email from Jeff Dwight, Chief Building Official – June 3, 2008
- I. Open House Meeting Notes – March 11, 2008
- J. Public Meeting Notes – June 4, 2008
- K. Written Public Comments on the draft regulations