

TITLE:

Amendments to the Short-term Rental regulations contained in Article 3, *Use Regulations*, Article 4, *Development Standards*, Article 12, *Floodplain*, Article 13, *Supplemental Regulations for the Estes Valley*, and Article 20, *Rules of Interpretation and Definitions* of the Larimer County Land Use Code.

REQUEST:

Amend the Larimer County Land Use Code by:

1. Add new and revised definitions and use descriptions for Short-term Rentals, Hosted Short-term Rentals, Resort Lodge/Cottages, and Bed and Breakfast Inn found in Article 3 (Use Regulations), Article 13 (Supplemental Regulations for the Estes Valley), and Article 20 (Rules of Interpretation and Definitions);
2. Revise the use tables found in Article 3 (Use Regulations) and Article 13 (Supplemental Regulations for the Estes Valley), which includes zoning districts and process requirements;
3. Update the Use-Specific Standards found in Article 3 (Use Regulations) and Article 13 (Supplemental Regulations for the Estes Valley), including the standards that apply to all short-term rentals and lodging facilities; and
4. Amend Article 4 (Development Standards) and Article 12 (Floodplain) to address parking and floodplain standards associated with short-term rentals and lodging facilities.

APPLICANT:

Larimer County Community Development Department

STAFF CONTACTS:

Tawn Hillenbrand, Senior Planner
Lesli Ellis, Community Development Dir

FILE #:

File #23-CODE0271

PLANNING COMMISSION HEARING:

March 15, 2023

NOTICE GIVEN:

Newspaper publication 14 days prior to the hearing in two newspapers of general circulation.

BACKGROUND:

This report provides information about the project to amend the Larimer County Land Use Code to address Short-term Rentals and other related lodging types. This section provides background on the project and the existing regulations.

STR Standards Countywide

Larimer County's short-term rental (STR) regulations in the Land Use and Building codes went into effect on September 1, 2019. The county had a compliance grace period until December 31 of 2021, so operators had time to apply for and obtain planning approvals and building permits. In November of 2021, the county adopted an ordinance for implementation and enforcement of short-term rental regulations that took effect on January 2, 2022. In January 2022, the county sent notifications to unpermitted owner/operators – properties identified by Lodging Revs, requiring them to stop advertising and renting short-term until they completed their approvals and permitting.

STR Standards for the Estes Valley

The Estes Valley unincorporated area regulations for vacation homes pre-date the countywide STR standards, as they were adopted in 2017. At the time, a cap on total number of STRs in residential areas was established for the entire Estes Valley, and a waitlist was established in 2018. At that time, the Town of Estes Park was doing development review for the unincorporated area, and the regulations were in the Estes Valley Development Code.

When the county began development review for the Estes Valley in March 2020, the Estes Valley Development Code regulations continued to apply to the existing approved Vacation Homes in the Estes Valley, while STR regulations from the Larimer County Land Use Code applied to new applications. The cap on 266 units for vacation home/short-term rentals for the Estes Valley in unincorporated area residential zoning districts also carried into the Larimer County Land Use Code, now Article 13. The cap does not apply to STRs or vacation home in the non-residential districts. In 2021, the county adopted small changes in Article 13 of the Land Use Code to allow certain pre-existing lodging facilities (PERFs) to obtain by right approvals in the Estes Valley Accommodation zoning districts.

The Town of Estes Park administers a similar set of regulations for the vacation homes in the town and has recently undertaken changes to its program related to a moratorium on the waitlist, transferability, linkage fees, and increased compliance measures.

STR Issues and Reason for the Project

Larimer County's Land Use Code at the time this project began were viewed as being fairly good regulations, with this project being an opportunity to refine some of the issues around safety and impacts in neighborhoods in particular. The standards included allowances for STRs in certain zoning districts with an administrative review process, requirements for life-safety inspections, and STR permit renewal every other year.

In Larimer County and communities with high numbers of visitors such as Estes Park, short-term rentals lead to advantages and challenges. As the demand for second homes and STRs continues to

grow, many jurisdictions are working on programs and regulations to manage STRs and achieve positive outcomes. While STRs provide increased revenues and options for visitors and owners, as seen through the work recently done by Visit Estes Park, communities including Larimer County are seeing increasing levels of complaints from neighbors about traffic and noise and are hearing concerns about commercial uses in residential neighborhoods. Also, Larimer County had been hearing more about safety issues from fire districts and neighbors, such as limited access and egress for properties during emergencies and higher levels of fire-related calls in STRs.

Additionally, after administering the STR regulations for several years, the county has found that different types of lodging uses may need clarification in the Code because of nuanced requests, different management approaches, and potential impacts to surrounding areas. For example, bed and breakfast (B&B) units and Resort Lodge/Cabins needed distinguishing from STRs.

Finally, the demand for STRs and conversion of long-term rentals and housing to STRs appear to correlate with loss of rental units and homeownership opportunities. Communities have been taking action to put incentives, standards, and fees in place to offset impacts and support long-term workforce housing.

Short-term Rental Regulations Update Project Timeline and Public Input

In early May 2022, the County began the process to revisit and update the current STR regulations in the Land Use Code to better align with the changes and expansions in the home sharing and rental industry and to address community concern about impacts and compatibility. Over that time, the county has put out a community questionnaire and prepared two public review drafts prior to this Public Hearing Draft – one in October 2022 and one in January 2023. Additionally, staff have been updating the Ordinance for Implementation and Enforcement. Also, since July 2022, the county has hosted the following activities to obtain input on the suggested changes from the public, advisory committees, boards, and commissions:

May 11, 2022:	BCC-PC Work Session – Project Introduction and Discussion Meeting
May 19:	Estes Valley Planning Advisory Committee (EVPAC) - Project Introduction and Discussion Meeting
May 26:	Red Feather Lakes Planning Advisory Committee (RFLPAC) - Project Introduction and Discussion Meeting
July 6 – August 28:	Online Community Questionnaire
August 8:	BCC Work Session to provide brief update on preliminary questionnaire results and public input
August 9:	Countywide Virtual Open House – Project Introduction and Discussion (34 attendees)
August 15:	Estes Valley Open House at Community Center - Project Introduction and Discussion (43 attendees)
August 18:	EVPAC – Project Update to discuss preliminary questionnaire results and public input
August 25:	RFLPAC – Project Update to discuss preliminary questionnaire results and public input
September 14:	BCC-PC Work Session to discuss questionnaire results and options for revision to the regulations
September 19:	BCC Work Session to further discuss results and options
October 11:	EVPAC – Discuss questionnaire results and options for revisions to the regulations

October 18:	LaPorte Area Planning Advisory Committee (LAPAC) – Provide brief project update
October 27 – December 14:	Initial Public Discussion Draft – Posted for Public Review and Comment
November 1:	Estes Valley Virtual Open House (141 attendees)
November 7:	Countywide Virtual Open House (82 attendees)
November 9:	BCC-PC Work Session to discuss initial draft
November 17 & 21:	EVPAC – Discuss and receive feedback on the Initial Public Discussion Draft
December 8:	RFLPAC – Brief update on the initial draft
December 15:	EVPAC – Additional discussion on the Initial Public Discussion Draft
January 13 – January 30, 2023:	Public Review Draft #2 and Amended Enforcement Ordinance – Posted for Public Review and Comment, including online questionnaire
January 19:	EVPAC – Discuss and receive feedback on Public Review Draft #2 and Amended Enforcement Ordinance
January 25:	Estes Valley Open House at Community Center (52 attendees)
January 26:	Countywide Virtual Open House (70 attendees)
January 30:	BCC Work Session to discuss feedback received at open houses
February 8:	BCC-PC Work Session to discuss proposed revisions to the draft
February 15 – March 9:	Public Hearing Draft and Draft #2 Amended Enforcement Ordinance – Posted for Public Review and Comment
February 16:	EVPAC – Recommendation on Public Hearing Draft and Draft #2 Amended Enforcement Ordinance

Feedback collected through the activities and meetings listed above, as well as from written email comments received from the public, industry, special interest groups, Boards and Commissions, and others, county staff have developed proposed amendments to the existing short-term rental regulations that we believe respond to comments received. Each of the drafts noted above along with summaries of feedback collected through the activities listed above are posted on the project webpage.

OVERVIEW OF PROPOSED REGULATIONS:

The current Public Hearing Draft of proposed Short-term Rental (STR) Regulations are attached in **Attachment A** of the packet with a tracked changes and clean version. Included in the draft is Article 3, *Use Regulations*, Article 4, *Development Standards*, Article 12, *Floodplain*, Article 13, *Supplemental Regulations for the Estes Valley*, and Article 20, *Rules of Interpretation and Definitions* of the Larimer County Land Use Code (LUC).

The following is a summary of the highlights of the proposed amendments. The sections below are organized to follow the draft regulations and changes that have been proposed. The STR regulations are organized based on sections of the Land Use Code, first presenting definitions, then defining where STRs are allowed based on different zoning districts, then noting review procedures that apply, and then addressing the standards.

Definitions (p. 3-5 of the draft)

Applicable Code Sections: Article 13 (Section 13.8.2.C.1 and Section 13.8.2.C.2)
Article 20 (Section 20.2.4.C.1; Section 20.2.4.C.4; Section 20.2.4.C.5;
and Section 20.3)

STRs, Large Hosted STRs, and Bed and Breakfast Inns

The Public Hearing Draft proposes three types: STR, STR Hosted (formerly B&B), and a new Bed and Breakfast Inn definition, as referenced in the definitions and use tables for countywide and the Estes Valley. Includes clarification of total maximum occupancy for each lodging type. Other minor edits are proposed in the definitions.

'Large' STRs

The Public Hearing Draft proposes limiting the size of STRs to no more than 10 total guests. The 'Large' STR (more than 10 guests) option has been removed from the countywide definitions and zoning tables, including the Estes Valley.

Zoning (p. 5-8 of the draft)

Applicable Code Sections: Article 3 (Section 3.2.6, Table 3-1 and Section 3.2.7, Table 3-2)
Article 13 (Section 13.4.1, Table 13-1 and Section 13.5.1, Table 13-4)

Where STRs are Allowed

The Public Hearing Draft does not change where STRs are allowed and not allowed countywide (see Tables 3-1 and 3-4, Tables 13-1 and 13-4); however, the draft does propose changes to the review procedures that would be required for STR applications. In the Estes Valley, changes are proposed to allow Hosted STRs and Bed and Breakfast Inns in the EV CO zoning district.

Review Procedures (p. 5-8 of the draft)

Applicable Code Sections: Article 3 (Section 3.2.6, Table 3-1 and Section 3.2.7, Table 3-2)
Article 13 (Section 13.4.1, Table 13-1 and Section 13.5.1, Table 13-4)

STRs in Accommodation Zoning Districts in the Estes Valley

The Public Hearing Draft sets forth a Site Plan process for STRs in the Accommodations Zoning Districts in the Estes Valley (Table 13-4), with public notice required but without a required public hearing.

Resort Lodge/Cottages – Countywide, not including Estes Valley

The Public Hearing Draft proposes a Special Review process for Resort Lodge/Cottage use in NR – Natural Resources, FO – Forestry, A – Agriculture, and RR-1 Rural Residential zoning districts which is consistent with how the reviews occurred prior to the Land Use Code change in 2020. The 2020 change made Resort Lodge/Cottages subject to an Administrative Special Review and created some unintentional complications and difficulties because of the impact of the use.

Use Standards (p. 8-15 of the draft)

Applicable Code Sections: Article 3 (Section 3.3.5.A and Section 3.3.5.B)
Article 13 (Section 13.6.1.C)

Hosted STRs – Total Occupancy

The Public Hearing Draft includes clarification that the full-time resident or owner living on-site is included in the total occupancy limit.

Modifications to Standards for Short-term Rentals (some proposed changes include Hosted STRs)

Reorganization of Section 3.3.5.B

To improve readability and organization, the Public Hearing Draft reorganizes the standards found in Section 3.3.5.B grouped under subcategories as follows:

- General Standards
- Ordinance for Implementation and Enforcement of Short-term Rentals
- Safety Standards
- Floodplain Overlay District Standards
- Local Roadway and Access Standards
- Life-Safety Inspection and License Renewal
- Transfer of Short-term Rental License

Total Occupancy

In addition to the language in the current regulations that states: “for purposes of determining the potential total number of occupants, the number of bedrooms is multiplied by two,” the draft clarifies that each STR may be allowed one additional sleeping area per residence thereby allowing two additional occupants or guests. This reflects current practice. Proposed changes are made to Hosted STRs as well.

Minimum Separation Between STRs in Residential Areas

The Public Hearing Draft proposes a minimum separation between STRs of 500-feet. At the BCC-PC work session on February 8th, there was discussion about the separation and board members suggested different approaches but did not agree on a certain measurement; therefore, staff left the proposed 500-foot separation in the draft. The EVPAC recommended a larger separation when they reviewed the draft.

Motor Vehicles, Event Space, Water Available for Firefighting, and Public Open Space

The Public Hearing Draft recommends new standards to address these topics.

Non-Conforming STRs Countywide including the Estes Valley

The Public Hearing Draft includes language providing clarification that “a short-term rental with a valid approval under the previous Land Use Code from April 1, 2020, until May 31, 2023, may continue to operate as defined under the previous code.”

Ordinance for Implementation and Enforcement of Short-term Rentals

The Public Hearing Draft cross references the Ordinance for Implementation and Enforcement of Short-term Rentals.

Signage for STRs Countywide including Estes Valley

The Public Hearing Draft proposes removal of the requirement to post the property manager information outside the front door of the rental while maintaining the current requirement that property managers are required to be located within one-hour of the STR. STRs located in the Estes Valley are subject to a different property manager location requirement which is addressed later.

Internal Signage

The Public Hearing Draft provides clarification that a sign containing specific safety or emergency information, as noted in the draft regulations, shall be located at each interior entrance and exit of the STR.

Fire Safety and Emergency Communication

The Public Hearing Draft includes proposed language to restrict solid fuel burning exterior appliances for all STRs, not just in the identified wildfire hazard areas, and to require reliable on-site emergency telephone service for guests.

Floodplain Overlay District Standards

The Public Hearing Draft includes revisions to the floodplain standards to not allow STRs (including Hosted STRs) structures, any portion of the primary parking, and 100-feet of the existing driveway abutting the primary parking within the Floodplain Overlay District AE (Floodway), Floodplain Overlay District AE (Flood Fringe), Floodplain Overlay District Zone A, Floodplain Overlay District Zone AH, or Floodplain Overlay District Zone AO. The draft also includes language requiring the posting of flood hazard warning signs should any portion of the property be within a floodplain. New requirements for the Operations Manual and posting of information in the home addressing flood risk is included.

Local Roadway and Access Standards

The Public Hearing Draft proposes standards for safe and adequate access provided by the County Engineering team.

Life-Safety Inspection and License Renewal

The Public Hearing Draft clarifies that a life-safety inspection is required and requires license renewal every other year, when registration is currently required, with a Building Division reinspection every fourth year at the same time as the license renewal.

Transfer of Short-term Rental License

The Public Hearing Draft proposes language that allows transferability of license for all STRs approved before June 1, 2023 (or another date certain). New approvals on or after June 1, 2023, would not be able to transfer licenses. Staff continues to explore the feasibility of creating a time limit to license transfer for existing STRs or a one-time transfer option as recommended by EVPAC and will discuss at the hearing.

Non-Conforming Vacation Homes in the Estes Valley

The Public Hearing Draft incorporates a requirement, as stated in the Ordinance for Implementation and Enforcement of Short-term Rentals, requiring that at the time of reinspection (every 4 years) a non-conforming vacation home shall be required to be in compliance with the Land Use Code safety standards for STRs contained in Section 3.3.5.B.2.m through u.

Required Property Manager Travel Time in the Estes Valley

The Public Hearing Draft proposes new language requiring Estes Valley STR property managers to be located within the Estes Valley Recreation and Park District boundary and affirmatively respond to complaints within one hour. As mentioned previously, it is proposed that the one-hour distance requirement remains applicable for the rest of the County outside the Estes Valley.

Additional Modifications to Other Articles or Sections of the LUC

To ensure consistency throughout the code, minor modifications were made to the following Articles or Sections:

- Article 4: Section 4.6.4, Table 4-4 – Minimum Vehicle Parking Required
 Section 4.6.7 – Design, Use, and Location of Vehicle Parking
- Article 12: Section 12.1.5, Table 12-1 – Floodplain Overlay District
- Article 13: Section 13.6.1.D – Preexisting Lodging Facility
 Section 13.6.1.R – Resort Lodge/Cottages
 Section 13.6.2.B – Accessory Uses
 Section 13.7.6.B – Exterior Lighting

New Zoning District Option for Estes Valley

Although not included in the proposed STR regulations referenced above, the Public Hearing Draft includes an option at the end on page 17 to address unique circumstances for HOAs that support STRs, such as Windcliff Estates in the Estes Valley. This option would require the creation of a new zoning district in Article 13 (EV E-1S) that is based on the EV E-1 – Estes Valley Estate zoning district with all the same standards except for allowing STRs to be exempt from the cap and from the separation requirements.

If Windcliff or another subdivision wanted to rezone to this district, a legislative rezoning process for the subdivision would need to occur once the new STR regulations are put in place. It is also recommended that a change to reduce the cap by the number of STRs in the subdivision (i.e., 57 for Windcliff) for other residential zoning areas.

ESTES VALLEY PLANNING ADVISORY COMMITTEE (EVPAC) RECOMMENDATION ON FEBRUARY 16, 2023:

On February 16, after many months of reviewing drafts and providing input, the Estes Valley Planning Advisory Committee (EVPAC) unanimously (4-0) recommended in favor of the Short-term Rental regulations, public hearing draft, with the following exceptions or changes:

1. Consider a minimum 1,000-foot separation requirement rather than a 500-foot requirement. (3-1 vote)
2. Support the Estes Valley Recreation and Park District boundary change for property management location but would request that the response time be 30-minutes instead of 1-hour. (4-0 vote)
3. Consider including the language on the last page of the public hearing draft regarding the creation of a new EV E-1S zoning district that Windcliff and other similar neighborhoods or HOAs could apply to rezone to. (3-1 vote)
4. Consider adding a sunset requirement for transferability or a one-time transfer allowance for existing legal STRs. New licenses would continue to not have the ability to transfer. (4-0) Additionally, consider adding a family transfer allowance (3-1).

The committee members also discussed but did not vote on or propose specific changes related to:

- Floodplain language – supported the new language,
- A possible moratorium on the waiting list,
- Definitions of Hosted STRs vs. Bed and Breakfast Inns,
- The June 1, 2023, effective date for the regulations and ordinance,

- Including a notation in the ads about wildfire and flood zones,
 - A penalty with a higher cost than \$500/day and coordinating with the Town which may have a penalty of \$1,000/day,
 - Reconsidering the enforcement ordinance in two-years, and
 - What to do about unused licenses and a process to eliminate them as a priority.
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REVIEW CRITERIA:

To approve a change in the land use code text, the Planning Commission in their review and recommendation, and the Board of County Commissioners in their review and decision, shall consider the following review criteria in Section 6.6.2.D and find that each criterion has been met or has been determined to be inapplicable:

A. The proposed change is consistent with the Comprehensive Plan and the intent and purpose of this Code; and/or

Plan Themes - #1: Inclusive Opportunities - promoting a sustainable, resilient, and diverse economy to support a range of housing and employment opportunities and a high quality of life for all. (p. 17)

Plan Themes - #3: Health Guides Decision Making - upholding and advancing the community's health, safety, and well-being. (p. 18)

Plan Themes - #6: People are Our Strength - promote inclusivity to accommodate the diversifying population and ensure Larimer County remains an accessible and welcoming community for all. (p. 19)

Chapter 3, Policy Framework – Community:

#C6 – Rural Development: Larimer County balances growth and preservation of community character through flexible and predictable land use strategies, processes, and development standards in unincorporated areas.

The policy statements found in Chapter 3 of the Comprehensive Plan under Community, indicate that the objectives of the County are to ensure new development or uses within the County adequately mitigate land use impacts, conflicting community values, natural resource protection, and economic growth.

The proposed amendments to the Short-term Rental regulations contained in the Land Use Code are consistent with the principles and policies of the Comprehensive Plan, listed above, and intent and purpose of the Land Use Code, as the proposed regulations provide for both public process and development standards that identify, avoid, and mitigate the impacts associated with STRs.

STAFF FINDINGS:

The proposed amendments to the short-term rental regulations contained in Article 3, *Use Regulations*, Article 4, *Development Standards*, Article 12, *Floodplain*, Article 13, *Supplemental Regulations for the Estes Valley*, and Article 20, *Rules of Interpretation and Definitions* of the Larimer County Land Use Code are consistent with the Larimer County Comprehensive Plan and the intent and purpose of the Larimer County Land Use Code.

The project team finds the proposed regulations are reasonable and necessary to regulate the impacts of short-term rental operations in a responsible manner, while ensuring the avoidance and mitigation of impacts to public health, safety, and welfare.

DEVELOPMENT SERVICES TEAM RECOMMENDATION:

County staff recommend that the Larimer County Planning Commission recommend to the Board of County Commissioners approval of the Land Use Code amendments by:

1. Add new and revised definitions and use descriptions for Short-term Rentals, Hosted Short-term Rentals, Resort Lodge/Cottages, and Bed and Breakfast Inn found in Article 3 (Use Regulations), Article 13 (Supplemental Regulations for the Estes Valley), and Article 20 (Rules of Interpretation and Definitions);
2. Revise the use tables found in Article 3 (Use Regulations) and Article 13 (Supplemental Regulations for the Estes Valley), which includes zoning districts and process requirements;
3. Update the Use-Specific Standards found in Article 3 (Use Regulations) and Article 13 (Supplemental Regulations for the Estes Valley), including the standards that apply to all short-term rentals and lodging facilities, and
4. Amend Article 4 (Development Standards) and Article 12 (Floodplain) to address parking and floodplain standards associated with short-term rentals and lodging facilities,

as found in File #23-CODE0271 - Short-term Rental Regulations Code Amendments, subject to the following:

1. The effective date of the regulations will be June 1, 2023.
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SUGGESTED MOTION:

I move that the Larimer County Planning Commission recommend to the Board of County Commissioners approval of the Land Use Code amendments regarding short-term rental operation, as found in File #23-CODE0271 - Short-term Rental Regulations Code Amendments, subject to the following:

1. The effective date of the regulations will be June 1, 2023.
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ATTACHMENTS:

Attachment A:

- Public Hearing Draft of proposed Short-term Rental Regulations (tracked changes version)

- Public Hearing Draft of proposed Short-term Rental Regulations (clean version)

Attachment B:

- Public Comment Received from January 15 through February 24, 2023 on the Public Hearing Draft (raw data)

Available on the Project Webpage as Background Information:

- Public Review Draft #2 of proposed Short-term Rental Regulations (tracked changes version)
- Public Review Draft #2 of proposed Short-term Rental Regulations (clean version)
- Public Review Draft #2 – Summary of Public Comment and Questionnaire Responses
- Public Review Draft #2 – Final Combined Email Comments (raw data)
- Public Review Draft #2 – Final Combined Questionnaire Responses (raw data)
- Public Review Draft #2 – Summary of Estes Valley Open House and Public Comment
- Public Review Draft #2 – Summary of Countywide Webinar and Public Comment

- Initial Public Discussion Draft of proposed Short-term Rental Regulations (redline version)
- Initial Public Discussion Draft of proposed Short-term Rental Regulations (clean version)
- Initial Public Discussion Draft – Summary of Public Comment
- Initial Public Discussion Draft – Final Combined Email Comments (raw data)
- Initial Public Discussion Draft – Final Combined Outside Organization Comments (raw data)
- Initial Public Discussion Draft - Summary of Estes Valley Webinar and Public Comment
- Initial Public Discussion Draft - Summary of Countywide Webinar and Public Comment

- Project Introduction and Discussion – Summary of Estes Valley Open House
- Project Introduction and Discussion – Summary of Countywide Webinar