

COPY

RESOLUTION 2008-138

A RESOLUTION APPROVING BOULDER COUNTY LAND USE DOCKET #DC-07-002: PROPOSED TEXT AMENDMENTS TO SECTION 4-507 OF THE BOULDER COUNTY LAND USE CODE TO ADD A NEW LODGING USE ENTITLED "SHORT-TERM DWELLING RENTALS"

WHEREAS, pursuant to C.R.S. Sections 30-28-112 and -116, as amended, the Board of County Commissioners of Boulder County ("the Board") is authorized to amend the text of County's Zoning Regulations in accordance with the procedures set forth in those provisions and the applicable County regulations; and

WHEREAS, pursuant to C.R.S. Section 30-28-133, as amended, the Board is authorized to amend the text of the County's Subdivision Regulations in accordance with the procedures set forth in those provisions and the applicable County regulations; and

WHEREAS, pursuant to other statutory authority, the Board is empowered to adopt additional regulations which are related to the control of land use, including but not limited to Article 65.1 of Title 24 (Areas and Activities of State Interest); Articles 67 and 68 of Title 24 (Planned Unit Developments and Vested Rights, respectively); Article 20 of Title 29 (Local Land Use Enabling Act); Articles 11 and 15 of Title 30 (County Powers and Police Power, respectively); Article 1 of Title 32 (Special District Control); and Article 2 of Title 43 (County Highways), C.R.S.; and

WHEREAS, pursuant to the above-referenced authority, by Resolution 94-185 adopted October 18, 1994, effective October 19, 1994, the Board approved a unified Boulder County Land Use Code ("the Land Use Code"), which the Board first amended by Resolution 95-27 effective March 9, 1995, and has amended on subsequent occasions thereafter; and

WHEREAS, in Docket #DC-07-002 ("the Docket"), the Boulder County Land Use Department proposed certain additional text amendments, this time to add to Section 4-507 of the Land Use Code a new lodging use, with accompanying regulations, entitled "Short-term Dwelling Rentals" ("the Proposed Amendments"), all as set forth in the memorandum and recommendation of the County Land Use Department to the Board dated October 13, 2008, with its attachments ("the Staff Recommendation"); and

WHEREAS, following a public study session held on June 18, 2008, the Boulder County Planning Commission ("the Planning Commission") held a duly-noticed public hearing on the Proposed Amendments on August 20, 2008, and recommended approval of the Proposed Amendments and certified the Docket for action to the Board; and

WHEREAS, on October 13, 2008, the Board held a duly noticed public hearing on the Docket as certified to it by the Planning Commission ("the Public Hearing"), at which time the Board considered the Staff Recommendation and the testimony presented by the County Land Use Department staff, with numerous members of the public being present to speak to the Docket, all as reflected on the official record of the Public Hearing; and

WHEREAS, at the conclusion of the Public Hearing, the Board continued its discussion and decision on the Docket to a public meeting held on October 30, 2008; and

WHEREAS, based on the Public Hearing, and on the Board's continued public meeting for discussion/decision on the Proposed Amendments on October 30, 2008, the Board finds that the Proposed Amendments, specifically in the form set forth in Exhibit A hereto, meet the criteria for text amendments contained in Article 16 of the Land Use Code, in that the existing text is in need of amendment; the Proposed Amendments are not contrary to the intent and purpose of the Land Use Code; and the Proposed Amendments are in accordance with the Boulder County Comprehensive Plan, all as set forth in and supported by the record of the Public Hearing; and

WHEREAS, the Board determines that its specified changes to the Proposed Amendments from the text which the Planning Commission certified for action to the Board, do not constitute a substantial change in the Proposed Amendments indicating the need for a re-referral of the Docket to the Planning Commission under C.R.S. §30-28-112 to the extent that section may apply to the processing of the Proposed Amendments, and the Board thus may proceed to approve and adopt the Proposed Amendments into the Land Use Code at this time; and

WHEREAS, therefore, the Board concludes that the Proposed Amendments, as set forth in Exhibit A hereto, should be approved for incorporation into the Land Use Code, effective on the date of adoption of this Resolution, as set forth below.

NOW, THEREFORE, BE IT RESOLVED that the Proposed Amendments, specifically in the form of Exhibit A attached hereto and incorporated herein by this reference, are hereby approved for incorporation into the Land Use Code, to be effective beginning on the date of adoption of this Resolution, as set forth below.

BE IT FURTHER RESOLVED that, pursuant to C.R.S. Section 30-28-125, the Board authorizes the Clerk to the Board to arrange for the immediate transmittal of this Resolution, with its Exhibit A, to the County Clerk and Recorder, for filing and appropriate indexing with that official, so that the Clerk and Recorder may make this Resolution, with its Exhibit A, accessible to the public. This transmittal should state recording Reference **No. 2735571**, the

recording of the Boulder County Land Use Code on November 4, 2005, which this transmittal supplements and amends.

A motion to approve the Proposed Amendments, as set forth above, was made at the Public Hearing by Commissioner Toor, seconded by Commissioner Domenico, and passed by a 3-0 vote.

ADOPTED AND EFEFCTIVE on this 6th day of November, 2008.



**BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:**

Ben Pearlman
Ben Pearlman, Chair

Will Toor
Will Toor, Vice Chair

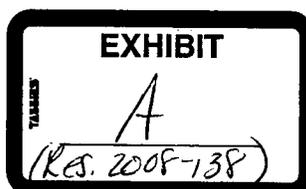
Cindy Domenico
Cindy Domenico, Commissioner

ATTEST:
Wife Ryder
Clerk to the Board

4-507 Lodging Uses

E. Short-term Dwelling Rentals

1. Definition: A dwelling that is rented in durations of less than 30 days. This includes dwellings rented out by individual owners and dwellings rented out on behalf of an owner by a property management group. Dwellings rented on a month-to-month or longer basis shall not be considered as part of this use but rather part of the otherwise applicable dwelling use.
2. Districts Permitted:
 - a. By right in all districts if rented between one and 14 nights per year, with no additional use restrictions under this Article 4-507.D.
 - b. By right in A, F, H, MI, T, B, C, and ED if rented between 15 and 45 nights per year, provided the Additional Provisions (Article 4-507 D.6.) are met.
 - c. By Limited Impact Special Review in RR, ER, SR, MF, MH, LI, and GI if rented 15 or more nights per year, provided the Additional Provisions (Article 4-507 D.6.) and the special use criteria in Article 4-601 of this Code are met.
 - d. By Limited Impact Special Review in A, F, H, MI, T, B, and C if rented 46 or more nights per year, provided the Additional Provisions (Article 4-507 D.6.) and the special use criteria in Article 4-601 of this Code are met.
3. Parking Requirements: One space per bedroom
4. Loading Requirements: None
5. Additional Provisions For All Short-Term Dwelling Rentals:
 - a. Historic accessory dwelling units are eligible for short-term dwelling rental use. Family care and agricultural accessory dwelling units are not eligible for this use.
6. Additional Provisions For Rentals of 15 Nights or More Per Year:
 - a. Short-term dwelling rentals subject to these Additional Provisions as specified above, must meet the following standards:
 - i. Owners must complete a short-term dwelling rental registration form and submit it to the Land Use Department where the registration form shall be available for public review. The registration form will include the address of the rental unit, the number of bedrooms in the house, the owner's name, address, and phone number, and the name and phone number of a property manager, if applicable.
 - ii. Dwellings must have an onsite wastewater system recognized and approved by Boulder County Public Health according to their applicable regulations. Existing systems do not need to be repaired or replaced unless required by Public Health.
 - iii. Dwellings must have been constructed under a valid building permit and received final inspection approval and meet applicable Building Code requirements, as required when the dwelling was constructed or when upgrades to the structure subject to a building permit were made. Structures built before building permit requirements were imposed shall be structurally sound, with any plumbing, electrical, and heating and cooling systems in a good state of repair.
 - iv. The parcel on which the dwelling is located must be a legal building lot under this Code, and legal access from a public road to the subject parcel must be demonstrated.
 - v. Dwellings must contain operable fire extinguishers in each bedroom and in the kitchen.
 - vi. Dwellings must contain operable smoke detectors in each bedroom and additional locations where appropriate.
 - vii. Dwellings must contain an operable carbon monoxide detector in the dwelling installed as per the manufacturer's instructions.
 - viii. This use must comply with the adopted Boulder County noise ordinance as applicable.



APPROVED REGULATIONS

October 30, 2008

- ix. A map clearly indicating the subject parcel boundaries and appropriate parking spaces must be provided to renters.
 - x. For dwellings rented out 45 nights or less per year, two adults per bedroom with a maximum of eight people may occupy one dwelling, unless the Director approves a greater capacity, which can be demonstrated based on parking, parcel size, the onsite wastewater system, or other relevant circumstance.
 - xi. For dwellings rented 46 nights per year or more, the maximum occupancy of the dwelling shall be two adults per bedroom with a maximum of eight people or a lower number of people based on the size of the permitted and approved onsite wastewater system, unless the Director approves a greater capacity, which can be demonstrated based on parking, parcel size, the onsite wastewater system, or other relevant circumstance.
- b. For rental intensities that require Limited Impact Special Review:
- i. The requirement for Limited Impact Special Review may be waived if the Director determines the short-term dwelling rental will not have the potential for significant conflict with the criteria listed in Article 4-601 of this Code. The Director may impose written terms and conditions on the short-term dwelling rental use as may be reasonably necessary to avoid conflict with the review criteria in Art 4-601. Any short-term dwelling unit for which the Director waives limited impact special review shall still be subject to the Additional Provisions of Article 4-507.D.6.
 - ii. Notice of the waiver application being reviewed shall be sent to referral agencies and adjacent property owners.
 - iii. If the Director grants a waiver, the owner shall submit an annual report to the Department which shall be made available for public review. The report shall indicate the number of nights the dwelling was rented in the previous year, the number of bedrooms, contact information for the owner and property manager (if applicable) of the dwelling, and additional items as required by the Director related to the administration of this Article 4-507.D.
- c. Compliance with these additional provisions shall be the responsibility of the owner. The County reserves the right to enforce these provisions in accordance with applicable zoning and building enforcement procedures.