

Date: Thursday, January 19, 2023

Time: 3:30 PM

Location: Virtual, Zoom Link: https://larimer-org.zoom.us/webinar/register/WN_08yBSfJCThuGUSmm01Qt1Q

ESTES VALLEY PLANNING ADVISORY COMMITTEE ADDENDUM MINUTES

The Larimer County Estes Valley Planning Advisory Committee met on Thursday, January 19, 2023, at 3:30 p.m. virtual video only.

Committee members present included: Rex Poggenpohl, David Converse, Mike Kennedy, Linda Moak, Drew Webb, and Scott Stewart.

Commissioner Jody Shadduck-McNally attended.

Staff present included: Lesli Ellis, Matt Lafferty, Tawn Hillenbrand, Amy White, Shalana Lysaght, Frank Haug, Alan Kee, Justin Currie, Laura Culleton, and Christina Scrutchins.

Public present included: 10 members, Ellen Doiron, Frank Theis, M. Howard, Patty Bartlett, Rich Chiappe, Sonya Howard, Suzy Blackhurst, Tari Vickery, Vicki Drake, and William Brown.

AGENDA

- A. CALL TO ORDER
- B. ROLL CALL
- C. ADOPTION OF AGENDA
- D. APPROVAL OF MINUTES FROM JUNE
- E. COMMUNICATION ITEMS
- F. PUBLIC COMMENT
- G. ACTION ITEMS
- H. DISCUSSION
- I. ADJOURN

Member Poggenpohl suggested to include recusal to the Communication Item No. 3. Reminders: Open Meetings and subcommittee activity.

Member Converse made a motion to include recusal to the Communication Item No. 3. Reminders: Open Meetings and subcommittee activity on the agenda.

Member Kennedy seconded.

Motion passed. (6-0)

ADOPTION OF AGENDA

Member Moak made a motion to approve the agenda.

Member Kennedy seconded.

Motion passed. (6-0)

APPROVAL OF MINUTES FROM THE DECEMBER 15, 2022, ESTES VALLEY PLANNING ADVISORY COMMITTEE MEETING

Member Poggenpohl made the following changes to the minutes:

- ADJOURN – Change “hearing” to “meeting”.
 - o With there being no further business, the meeting adjourned at 5:00 p.m.

Member Converse made a motion to approve the minutes.

Member Webb seconded the motion.

Motion passed (6-0).

COMMUNICATION ITEMS

Commissioner Shadduck-McNally joined for the early part of the meeting and signed off at 3:41 p.m. She thanked the Committee for their service and attentiveness throughout the year and informed the Committee that she is the new chair for the Board of County Commission.

Staff introduced the newest staff member of the Planning Department: Justin Currie and Laura Culleton. Frank Theis, Estes valley Planning Advisory Committee Chair, has resigned from the Estes valley Planning Advisory Committee and the Vice Chair, Rex Poggenpohl, will immediately take over as Chair and a new Vice Chair will need to be elected. Staff also reminded the Committee members of their terms and the members that need to complete the reappointing process. Commissioner Shadduck-McNally informed the Committee that in the spring of 2023, everyone on the Committee will need to complete an application whether their term is ending or not. Staff gave a brief reminder of the Open Meetings, subcommittee activity, and recusal.

PUBLIC COMMENT REGARDING OTHER RELEVANT LAND USE MATTERS NOT ON THE AGENDA OR FUTURE PROPOSAL

None.

ACTION ITEMS

ITEM NO. 1 - ELECTION OF THE VICE CHAIR

MOTION FOR VICE CHAIR

MOTION by member Kennedy to nominate member Converse.

Member Webb seconded the motion.

This received unanimous voice approval.

Motion passed 6-0

MOTION FOR SECRETARY

MOTION by member Converse to nominate member Webb.

Member Kennedy seconded the motion.

This received unanimous voice approval.

Motion passed 6-0

ITEM NO. 2 – POSTING OF MEETINGS

MOTION by member Converse that the Larimer County Estes Valley Planning Advisory Committee designate www.Larimer.org as the place for posting notice of public meetings, and if exigent or emergency circumstances prevent the online posting at such location, public notice shall be physically posted at the bulletin boards located at the north and south entrances to the Larimer County Courthouse Offices Building at 200 West Oak, Fort Collins, Colorado, in accordance with Colorado's open meetings laws.

Member Webb seconded the motion.

This received unanimous voice approval.

Motion passed 6-0

ITEM NO. 3 - STAFF PRESENTATION AND REVIEW AND RECOMMENDATION ON PUBLIC DRAFT NO. 2 OF SHORT-TERM RENTAL REGULATIONS

ITEM NO. 4 - STAFF PRESENTATION AND REVIEW AND RECOMMENDATION ON ORDINANCE FOR IMPLEMENTATION AND ENFORCEMENT OF SHORT-TERM RENTAL'S

STAFF PRESENTATION

Staff gave a brief presentation regarding the intent to provide an updated timeline of the Short-Term Rental Regulations update project, Present the Public Review Draft #2 of suggested revisions to the regulations and Enforcement Ordinance, and Gather feedback and specific suggestions from Estes Valley Planning Advisory Committee. The Public Review Draft #2 and Enforcement Ordinance are available online for public review and comment, January 13th through January 30th. Engagement remainder of January includes Gather community feedback or input: January 25th - Estes Valley Open House (in-person, weather permitting), January 26th - Countywide (outside the Estes Valley) Webinar, January 30th - Public comment on the draft documents DUE, and January 30th - Board of County Commissioners work session. The intended timeline for the Development of Public Hearing Drafts is the following: February 3rd - Final Public Hearing Drafts available, February 8th - Planning Commission and Board of County Commissioners work session, UPDATED March 15th - Planning Commission public hearing on proposed Short-Term Rental regulations, and tentative March 27th - Board of County Commission public hearing on proposed Short-Term Rental regulations. The Public Draft #2 includes all the current Land Use Code standards for short-term rentals (STRs) as referenced throughout the Land Use Code. The potential changes to both documents reflect analysis and public input received on the Initial Public Discussion Draft from October 27th to November 7th. Public Comment Includes: 180 written comments, 3 groups or organizations comment, and approximately 220 webinar attendees in November. A summary of public comments can be found on the project webpage. Context and reasoning for the proposed revisions was provided in a staff memo organized to follow the draft regulations and changes that have been proposed. New regulations would apply only to short-term rentals applied for and approved following the adoption of the regulations in March 2023. There are two versions of the short-term rental regulations, a clean version and a redline version. The redline version includes notes or points of clarification are noted in cream-colored boxes and proposed changes are indicated in blue font, with strikeout for changes or removal and new additions underlined.

A walk through was given of the key components that had been changed. On page 3 is where the new and revised definitions begin, and some modifications have been made to short term rentals. Large hosted short-term rentals and bed and breakfast ends and proposed a maximum number of guests for each use. A bed and breakfast, shall be limited to 20 or fewer guests and the definitions for short-term rentals would be a maximum number of 10 occupants, hosted would have two sizes, small and large. Small would be one to 10 occupants and Large would be 11 to 16 occupants. Limited occupancy was removed due to a number of negative feedback that many felt that it was not necessary. Draft #2 does not change where the short-term rentals are allowed and not allowed, but it does propose to change the review procedures that would be required for short-term rental applications. Within the EV-A and EV-A1 accommodation zoning district, based upon feedback, it was suggested the approval process be faster. Staff reorganized the list of standards for readability purposes, providing subcategories. Clarification was included regarding hosted short-term rentals as well as short-term rentals for one additional sleeping area and the minimum separation between short-term rentals and residential areas. Language that was carried over from the October 2022 draft included requirements for motor vehicles, event, space, water, and public open space standards, and the ordinance for implementation and enforcement and short-term rentals. Small changes were made regarding safety standards included the required property manager travel time be reduced from one hour to 30 minutes. Based among conversations with the building department, it was decided it was beneficial to eliminate allowing solid fuel or burning appliances be used at a short-term rental in all parts of the County. Modifications have been made to not allow short-term rental and hosted short-term rental structures or primary access in the flood plain, including floodway and flood fringe. Simplified standards have been made to the local roadway and access standards. All licensed short-term rentals will be required to renew the license every two years and every four years the short-term rental is required to include a building revision reinspection but during the year an inspection is not required the property owner or operator would self-certified that the short-term rental remains in compliance with the regulations. the structures or primary access in the flood plain, so that it is, including floodway and flood fringe. Transferability will be allowed for existing short-term rentals but does not apply to new short-term rentals or the EV-A or EV-A1 zoning districts. This draft does not include changes to exempt certain neighborhoods after the staff team explored the legality and equitable ways to address request from Windcliff the best option for those communities with Hos. That support and encourage short-term rentals would be to request to rezone to accommodations zoning districts.

Within the Ordinance staff wanted to clarify the purpose and intent to require a short-term rental license. Prior to the new draft regulations, Larimer County would revoke the approval rather than the license. With the new draft regulations short-term rentals will be required to complete the planning approval process as well as receive a certificate of occupancy. If there is a reason for revocation, the County will revoke the license rather the approval. Clarification regarding the county's limited liability, strengthen the language around cease-and-desist letters, and strengthened the advertising where the license number was located. The amount of response time from the property manager to address a complaint was reduced and provisions providing the County with a copy of narrative from the property manager of actions taken to address the complaint. Language of who is responsible to complaints regarding noise, disorderly conduct, trespassing, and speeding was also included. Short-term rentals will now be required to complete a life safety inspection by the Building Department and be in compliance with the LUC safety standards. Vehicles and other structures are not permitted to stay overnight when the short-term rental is occupied by a renter. If there was an egregious or severe life safety

violations, Larimer County may immediately revoke the short-term rentals application/license. Staff closed the presentation with additional comments, and clarification listed/changed to the Ordinance.

ESTES VALLEY PLANNING ADVISORY COMMITTEE COMMENTS

Members discussed the following:

- Some members have concerns regarding no means of enforcement and feel that it is important that the property managers be responsible for addressing and documenting complaints. Having a third-party reviewer is not sufficient and they only provide assurance is a short-term rental is licensed or not.
- Some members would like for Larimer County to consider Estes Valley establishing a short-term rental monitoring process.
- Clarification regarding the number of unlicensed short-term rentals is within Estes Valley and how they are addressed operating with a license.
- Some members suggested the County penalize unlicensed short-term rentals with large fine.
- Wanting clarification regarding how an unlicensed short-term rental is allowed to apply for a license.
- Wanting clarification that if a complaint happens at night who will substantiate it.
- Some members wanted to know if the County can require the short-term rental contracts have clauses to hold the renters responsible.
- Some members wanted to know if there could be a nuisance deposit required for the short-term rentals to charge their renters and if there was a complaint then the renter would forfeit the nuisance deposit.
- Some members would like to see the number of strikes for complaints be reduced from three to two within a 2-year period and if they meet the two strikes then the short-term rental license is revoked.
- Some members would like to have an area range for the property manager rather than a 30 min time limit.
- Some members would like to have the County reach out to the sheriff's office and have them review/report any incidents that have occurred with short-term rentals.
- Some members would like to have the short-term rentals to have a list of rules posted up in the home that include the following: this is a residential neighborhood and quiet hours are between times, instead of it being in a manual that rentals may not read.
- Wanting clarification regarding the difference criteria between hosted short-term rental and short-term rentals.
- Wanting clarification regarding when non-conforming short-term rentals must meet the new codes.
- Some members would like to have the language regarding primary residence be more defined on which structure is the primary residence.
- Some members wanted staff to speak about exemptions to short-term rental regulations in residential zoning districts for Homeowner Association's that support short-term rentals, such as Windcliff.
- Some members would like for the county to urge Windcliff to apply for a short-term rental prior to the new regulations being adopted and to also find a way to help Windcliff to get the zoning district changed.
- Some members would like to have section 8.C. – other requirements would like for the contact information to all neighbors be within 1,000-feet of the short-term rental rather than 500-feet.
- Wanting clarification that if a short-term rental license is listed under a trust, then the license is transferable from generation to generation.
- Wanting clarification for the public regarding Appendix G standards.
- Wanting staff to explain more in detail of how the reducing the cap by 10-20% was determined and how does it relate to the 500-feet requirement.
- Wanted clarification if transfers are restricted only to new applications after March, or they restricted to the existing.
- Some members feel that hosted short-term rental are less likely to cause disturbances and agree that they should have different restrictions than a non-hosted short-term rental.
- Members wanted confirmation that public notice is completed with all short-term rental cases.
- Members wanted confirmation that Bed and Breakfast will no longer be allowed in residential zoning districts.
- Members wanted clarification if short-term rentals allow addition occupants.

Staff stated the following:

- Staff does not have an exact number of unlicensed short-term rentals but have documentation of sending 37 cease and desist letters. If a short-term rental does not respond, then the County works with the County Attorney's office to file the complaint and a summons.

- Larimer County has legal limitations due to statutory and having to follow the advice from the County Attorney's regarding fines. The County could establish set fee schedules that allows for fines to be collected based on the number of violations or the level of violation.
- For an unlicensed short-term rental to apply for a license, they are placed at the end of a waiting list and are required to not rent the property until a license is approved or rent the property for less than 30 days.
- If a complaint is needing to be made, they can call the hot line and the property manager will be contact immediately to address the complaint.
- The owner's manual should have language stating what the renter can and cannot do but if the renter is in violation, the short-term rental owner would still be responsible for addressing the violation and Larimer County would still record documentation against the short-term rental owner.
- Staff would need to look more in detail of short-term rental owners charging a nuisance deposit if the Estes Valley Planning Advisory Committee is wanting to make it a recommendation.
- Staff has reached out to the Sheriff's department to see how many disturbances they responded within the past year and 6 out of 27 had been short-term rentals or vacation homes. When a complaint is received due to a disturbance of noise, the sheriff will address the complaint verbally and if the disturbance of noise happens after the first time, then a ticket will be issued.
- Based on the feedback received by the public, Planning Commission, and Board of County Commission the criteria for the hosted short-term rentals, being that the property owner is located onsite, disturbance is less likely to occur.
- When a vacation home is coming up to their 4th year the home will need to be in compliance with the safety standards of the new code.
- After the staff team explored the legality and equitable ways to address requests from Windcliff. The best option for those communities with Homeowner Association's that support or encourage short-term rentals that would be to request to rezone to an Accommodations zoning district. Regardless of the zoning district, property owners would still be required to seek County approval and meet all required standards prior to operating a short-term rental.
- Staff confirmed that if a short-term rental license is listed under a trust, then the license is transferable from generation to generation.
- The Appendix G standards are only applicable to new applications and previously approved short-term rentals, or vacation homes would not be required to come into compliance with Appendix G as well as residence with properties on road built prior to 1999.
- With the cap and separation, if there is concern regarding density within a neighborhood, over time it may help reduce the number of short-term rentals. In addition, if you, rather than eliminating short-term rentals from residential zone districts altogether, another approach would be to reduce the cap over time and see fewer short-term rentals within residential zone districts.
- Short-term rentals approved prior to the adoption of the new regulations would be transferable and new short-term rentals approved after the adoption of the new regulations would not be transferable. If a current existing short-term rental is wanting to transfer the new owners would have a 60-day timeframe to notify the County before the short-term license expires.
- Staff confirmed that all short-term rental cases send notifications to surrounding neighbors no less than 500-feet from the proposed short-term rentals property line.
- Staff confirmed that the intent of a hosted short-term rental will replace Bed and Breakfasts allowed within residential neighborhoods. Traditional Bed and Breakfast that serves a meal and have shared spaces for their guests are considered as a commercial operation and will not be allowed in residential neighborhood.
- Staff clarified that a short-term rental is allowed one additional sleeping area, such as the loft or living room as long as it meets building code requirements for a bedroom. Tents or RV's are not an appropriate an additional sleeping area and will not be allowed to be used with the short-term rental.

PUBLIC COMMENT

Rich Chiappe

Comments

- Glad to see the option of short-term rentals allowed an additional sleeping area.
- When the 1st house was completed in 1970 the developer sold the lots, and it allowed the owners to rent out the homes when not in use as vacation homes.

- Windcliff property owners purchased their home with the understanding that it was the tradition, and it was a permissible right in the bundle of rights and property ownership in Windcliff that, if you want to rent your house and you're not using it, you may.
- Some residents of Windcliff feel they have lost their property rights when Larimer County placed a cap of the number of short-term rentals within the Windcliff area and are no longer allowing the option to transfer a short-term license.
- Some residents don't want to be rezoned or want the rights as a commercial accommodation zone district.

ESTES VALLEY PLANNING ADVISORY COMMITTEE DISCUSSION

Members discussed the following:

- Members would like to consider recommending that the Windcliff area is considered separately the new regulations.

CLOSING COMMENTS

Staff gave a reminder that the public review draft #2 is available online on the project website including the revisions to the Enforcement ordinance and a questionnaire. If members of the public would rather write a comment the email address is LUC2020@larimer.org. Larimer County is open for public comment and review until January 30, 2023. Staff also mentioned dates for the open houses and webinars that can also be found at <https://www.larimer.gov/planning/short-term-rentals-regulation-updates>.

ADJOURN

With there being no further business, the hearing adjourned at 6:03 p.m.