

The Knowledge Now series features practical research on timely topics from the Colorado Municipal League.

SHORT-TERM RENTALS: MUNICIPAL BEST PRACTICES IN COLORADO

Short-term rentals (STRs) are residential properties that are rented to a visitor for fewer than 30 days. As the popularity of short-term rental properties continues to grow, the issues they create for municipal governments are growing as well. Municipal officials find themselves dealing with citizens' concerns about residential neighborhood integrity, unfair business competition, housing safety, and availability of affordable housing. Cities and towns are also seeking to collect sales and lodging taxes generated by this new business activity. Municipalities in Colorado and across the nation are handling STR issues in many ways. Austin, Texas, limits STRs to no more than three percent of non-primary residences in any census tract. San Francisco requires an adequate amount of insurance coverage. Portland, Oregon's ordinance states that STR operators must occupy the residence for at least nine months of the year. Santa Monica has created an enforcement department dedicated to policing STRs. A 2015 National League of Cities (NLC) study showed 13 percent of municipalities have adopted ordinances specifically regulating short-term rental properties, five percent have banned the practice, 24 percent are handling STRs through existing business regulations, and 58 percent have not addressed the issue.

Internet platforms have fueled the rapid expansion of STRs from a



service focused on renting spare rooms in private homes to the creation of local businesses which own houses that are used exclusively for short-term rentals. Rental data and analytics firm Airdna estimates that more than 22,000 homes and apartments in Colorado are listed with Airbnb — a leader in the online listing business. The top five municipalities with listings are Denver, Breckenridge, Steamboat Springs, Boulder, and Vail. More than 16,000 Colorado listings are posted on rival VRBO. Thousands more are listed on the many other Internet listing services.

There is no one-size-fits-all answer for municipalities in regulating short-term rentals. Do you limit STRs to a primary residence? Do you cap their numbers in residential zones? Do you enter into an agreement with the Internet listing company to collect and remit taxes?

How do you effectively enforce regulations? The NLC study concludes with sound advice: “As city officials prepare to modify regulations or develop new ordinances or legislation to fit the sharing economy they must balance issues of innovation, economic development, tourism, equity, access, and safety. At the same time, they must be mindful of the processes they put in place to understand these new businesses, engage the right stakeholders, share ideas for new regulations, capture and analyze new data, and develop implementation strategies.”

Cities and towns across Colorado have enacted ordinances that regulate short-term rentals in ways that meet their community's needs. This *Knowledge Now* profiles four different approaches.

SHORT-TERM RENTALS IN BOULDER

By Thomas Carr, Boulder city attorney



On Sept. 29, 2015, Boulder City Council passed ordinance 8050 legalizing and regulating short-term rentals. The ordinance was effective Jan. 4, 2016, contingent on the voters passing a ballot measure extending the city's accommodations tax to short-term rentals. The voters approved a 7.5 percent tax on short-term rentals and the ordinance went into effect.

Boulder's ordinance is based on code provisions regulating properties rented for more than 30 days, which has been in place since the 1990s. The short-term rental code requires a license for all short-term rentals. The rental property must be the owner's principal residence. The address must appear on the owner's voter registration, auto registration or as the address at which the owner's children are registered for school. The owner must be a natural person and the owner's name must appear on the deed for the property.

On Dec. 6, the city council will be considering an amendment to allow short-term rental of properties held in a living trust. The property must



have smoke and carbon monoxide detectors, but the life safety inspections required for long-term rentals are waived for all short-term rentals except those in accessory units. All advertisements must include the short-term rental license number. A property can only have one short-term rental license. If there is an accessory unit on the property, either the main

residence or the accessory unit may have a license, but not both.

Occupancy is limited to either three or four unrelated persons depending on the zoning. A group of related persons is counted as one person. Short-term rentals are not permitted in affordable housing units. Accessory units may only be rented as short-term rentals for 120 days in any calendar year.

BRECKENRIDGE: A PIONEER IN SHORT-TERM RENTALS

By Leslie Fischer, Breckenridge accounting services manager

Short-term rentals (STR) are nothing new to the Town of Breckenridge. The Town has historically embraced and thrived with the widespread practice of STRs since boarding houses in the 1850s and their revival in popularity with the opening of the ski area in 1961.

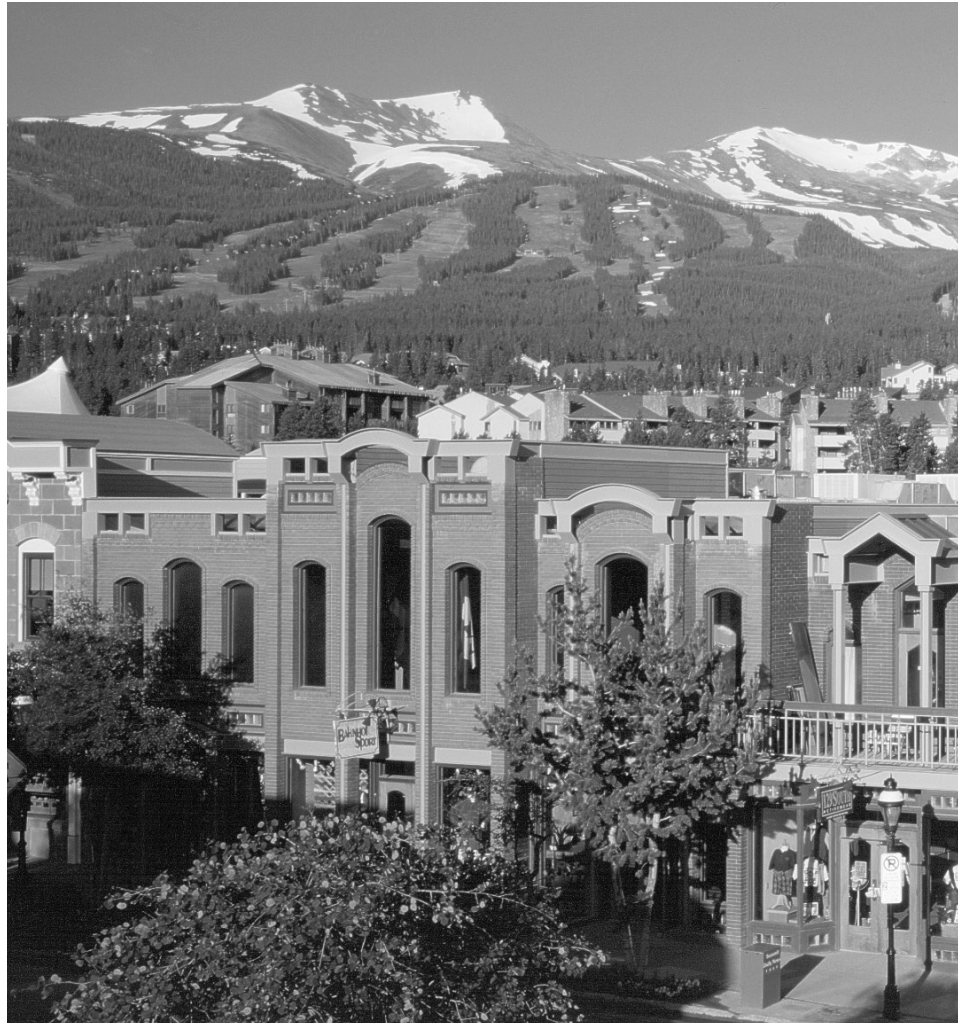
Breckenridge currently has a population close to 4,700 — yet sustains 3,345 accommodation unit licenses, six hotels, and three bed and breakfasts. Clearly STRs are vital to the economy of the Town. Combining sales, accommodations, and marijuana taxes — lodging services provide 40 percent of Town revenue. At the same time, the Town wants to ensure that long-term housing is available for the local workforce.

To that end, the Town has proposed a 2017 budget of more than \$19 million for the Affordable Housing Fund. The Town is also pursuing incentives for property owners to rent long-term. The “Housing Works” program, organized by a local nonprofit, is designed to match local families earning moderate household incomes with property owners who are either tired of dealing with the STR market or want to offer their home for long-term rental for the first time.

STR regulation in Breckenridge began in 1984 when the tax structure of collecting the town sales tax (currently 2.5 percent) and the Town accommodations tax (currently 3.4 percent) was applied to STRs. Together with state, county, and affordable housing sales taxes, the total tax on short term rentals is 11.675 percent.

The Breckenridge Municipal Code includes the following:

- Tax is collected on the purchase price of lodging, as well as any mandatory service charges required of the renter.
- Tax must be remitted directly to the Town and not be passed on



to another party such as a property manager.

- Tax charges must be listed separately on the bill presented to the consumer.
- Breckenridge recognizes that STRs are engaged in business. As a result, all property owners of STRs are required to pay an annual occupational license tax (aka Accommodation Unit License). The tax ranges from \$75 to \$175 annually, depending upon the number of bedrooms in the property. By requiring licensing (regardless of tax remittance), the Town is able to match online listings with the licensed owners.
- Breckenridge does not impose zoning restrictions on STRs, with the exception of prohibiting short

term rental of deed restricted workforce housing.

- Outside of the norm for residential properties, no additional restrictions are placed on STRs simply due to STR activity at the property (such as building inspections or additional safety regulations).
- STRs may be either a primary or non-primary residence and there is no occupancy limit imposed.

Even through these times of change, short-term rentals continue to play an important role in welcoming visitors to Breckenridge.

“ ... You better start swimming or you'll sink like a stone. For the times they are a-changing.”

— Bob Dylan

DENVER'S APPROACH TO SHORT-TERM RENTALS

By Luke Palmisano, aide to Denver Councilwoman Mary Beth Susman



Denver's approach to short-term rentals sought to craft 21st century solutions to 21st century concerns. We wanted solutions to protect the safety of guests and hosts while balancing the needs of neighbors, hosts, guests, hoteliers, and the city.

All short-term rentals (STRs) were illegal in solely residential zones prior to Denver's regulations. Actually the term "short-term rental" did not appear in our zoning code, but rental of residential units required at least a 30-day term.

The key components of Denver's regulations include a licensing requirement, an assessment of lodger's taxes (10.75 percent), measures to protect the safety of guests and hosts, and conditions that seek to ensure compliance. Denver requires hosts to obtain a short-term rental license through the Department of Excise and Licenses (EXL). The fee for the STR license is \$25 renewed annually. The tax license is \$50 renewed biennially.

STRs are an accessory use wherever residential uses are allowed; therefore the host does not need a zoning permit. The unit must be the primary residence of the host (whether owned or rented), certified by driver's license, voter registration, and other means. An



inspection is not required to obtain a license. Hosts do not need to be present while renting their dwelling.

Hosts must have a carbon monoxide detector, smoke detector, and fire extinguisher. They must also provide guests with an information packet that includes noise ordinance regulations, trash pick-up dates and rules, local contacts, and other information.

An important goal was to create a simple enough process that would induce the greatest compliance rate because licensing gives us the best route to enforcement. To further that end, Denver is the first municipality in the nation to offer a short-term rental

licenses completely online. Applicants affirm their primary residence status, presence of equipment and materials all online, under penalty of perjury.

To aid in enforcement, Denver's STR ordinance requires the licensed host to post the license number on all advertising. This provides EXL the ability to spot check STR listings on all venues/platforms for compliance. If a listing does not include a license number EXL pursues compliance.

All permitting of STRs can be prohibited by landlords and homeowners associations. Apartment complexes with "guest suites" are exempt from needing licenses.

DURANGO ADDRESSES SHORT-TERM RENTAL ISSUES

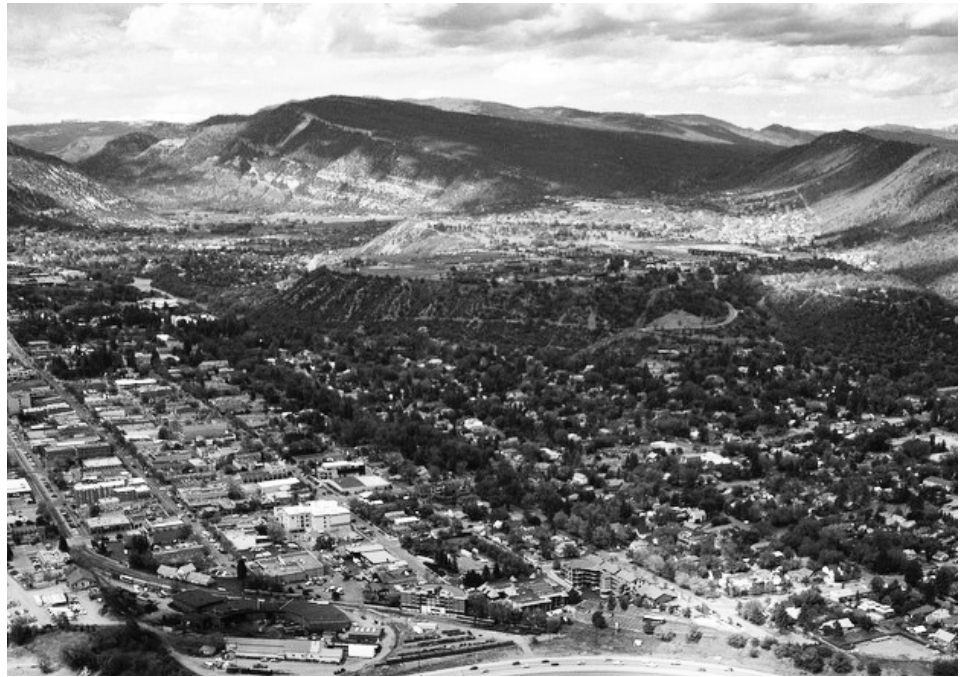
By Mary Beth Miles, Durango assistant to the city manager/sustainability coordinator

Checking in for a night's stay no longer requires going up to the welcome counter to produce your ID and credit card. With the arrival of Airbnb, VRBO, and HomeAway, lodging options have changed forever.

That is why the City of Durango recognized the need to address the impacts of short-term rentals in 2014. The policy adopted by the City Council focused on preserving residential and neighborhood character; ensuring collection of sales and lodging taxes; and requiring compliance with basic health and life safety regulations.

Durango's policy balances short-term lodging needs with the need to maintain and provide adequate housing options for full-time residents. The challenge is exacerbated by a 1.2 percent rental vacancy rate in an already strained housing market. As a tourist destination, Durango's economy benefits from visitors who contribute to the local economy. Property owners recognize the income potential of the short-term rental market. Thus, Durango developed an innovative policy solution that simultaneously balanced rental market pressures, the sharing of residential real estate, and income potential for local property owners.

The short-term rental regulations seek to maintain neighborhood character, vitality, and vibrancy by ensuring that land uses are compatible. Durango only allows short-term rentals in limited zones, employs a street segment cap



that restricts short-term rentals to only one per block face, and requires all short-term rentals to obtain a limited use permit. In addition to fulfilling the land use process requirements, short-term rentals are also required to obtain business and lodger's tax licenses. The City's regulations are intended to prohibit market saturation. Of the approximately 8,000 housing units in Durango, in the two zones where short-term rentals are permitted, there a total of 60 permits available for short-term rentals.

Additional changes to the policy are being contemplated by city council to address short-term rental agreements for a single room in a residential unit.

Under the existing regulations, this type of arrangement, common under the Airbnb model, is not permitted. A pilot program, restricted to certain areas of the city, is being developed with a separate permitting process to address these rental units.

There is no one-size-fits-all regulatory framework for municipalities in Colorado seeking to regulate short-term rentals. Durango has developed — and continues to refine — a policy governing this emerging economy that is context-sensitive and reflective of our community character.

RESOURCES

CML continues to develop STR information through the CML Sharing Economy Task Force, chaired by Denver Councilmember Mary Beth Susman. A matrix of STR ordinances as well as sample ordinances, licensing forms, and other information is available on the CML website at www.cml.org, under Issues > Sharing Economy > Ordinances.

An informative study of vacation home rentals conducted by the Colorado Association of Ski Towns may be viewed online at the CAST website (coskitowns.com/links-of-interest).



KNOWLEDGE *now*

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