

AGENDA  
OURAY CITY COUNCIL  
**320 6<sup>th</sup> Avenue – Community Center MASSARD ROOM**  
**February 25, 2019**  
**Work Session 4:00PM and Regular Meeting 6:00PM**

- Electronic copies of the Council Packet are available on the City website at [www.cityofouray.com](http://www.cityofouray.com). A hard copy of the Packet is also available at the Administrative Office for interested citizens.
- Action may be taken on any agenda item
- Notice is hereby given that a majority or quorum of the Planning Commission, Community Development Committee, Beautification Committee, and/or Parks and Recreation Committee may be present at the above noticed City Council meeting to discuss any or all of the matters on the agenda below for Council consideration

**4PM - Work Session**

Short Term Rental Regulations    [Page 2](#)

**6PM - Regular Meeting**

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. CITIZENS' COMMUNICATION
5. CITY COUNCIL REPORTS/INFORMATION  
    Glenn Boyd, Dawn Glanc, Bette Maurer, Dee Hilton, and Pam Larson
6. DEPARTMENT REPORTS
  - a. Interim City Administrator    [Page 77](#)
  - b. Finance & Administration Director
7. CONSENT AGENDA    [Page 80](#)  
    Liquor License Renewal – TABJ Company dba Silver Eagle Saloon    [Page 81](#)
8. ACTION ITEMS    [Page 82](#)
  - a. Special Events Permit Application – BPOE #492, Mardi Gras, March 2<sup>nd</sup>    [Page 85](#)
  - b. Huckstering Permit Application – Campbell's Cajun Cuisine, summer mobile food cart    [Page 86](#)
  - c. April Pool Closure and Future Closures for Chemical Cleaning    [Page 87](#)
  - d. Give Direction to Staff Regarding Short Term Rental Regulations
  - e. SGM Geothermal Resources Phase 3 Funding    [Page 89](#)
  - f. Lease Agreement for Pool Concessions    [Page 93](#)
9. DISCUSSION    [Page 106](#)
  - a. Schedule for Twin Peaks Preliminary PUD Public Hearing
  - b. LOT Discount Discussion
  - c. Future Agenda Items
13. ADJOURNMENT

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**TO:** Ouray City Council, Ouray Planning Commission and Short-term Rental Committee  
**FROM:** Chris Hawkins, Community Development Coordinator  
**DATE:** October 11, 2018  
**SUBJECT:** **Short-term Rental Regulations Work Session**

**Attachments:**

Exhibit A: Short-term Rental Committee Ordinance  
Exhibit B: Draft Short-term Rental Regulations  
Exhibit C: Current Short-term Rental Unit List from the Tax Report  
Exhibit D: Public Comments on Proposed Regulations

**BACKGROUND**

The City Council formed the Short-term Rental Committee ("**Committee**") in the fall of 2017 to evaluate the impacts of short-term rentals and draft initial Short-term Rental Regulations ("**STR Regulations**"). The Committee members include Sharon Wild, Michael Underwood, Bill Leo, Erin Eddy, Craig Hinkson, Dolgio Nergui, Bill Hall, Taryn Lee, Bruce Gulde and Tom Elliston, with Bette Maurer as the Council liaison. The Committee provided the initial draft of the STR Regulations to the Community Development Department in February of 2018 for Planning Commission and City Council consideration (Exhibit A).

The Planning Commission began its deliberations of the Short-term Rental Regulations in May of 2018. During the review of the Committee's STR Regulations the Planning Commission directed staff to redraft the regulations based on the Committee's work, comparable community regulations, and to create succinct and clear regulations. The end result of the Planning Commission's direction is shown in the draft Short-term Rental Regulations as set forth in Exhibit B. The Planning Commission unanimously passed a motion at its October 10, 2018 meeting recommending the City Council adopt the Short-term Rental Regulations.

The Planning Commission's main concern on short-term rental of dwelling units is that they are "hallowing out" residential neighborhoods and the community, with some blocks having exceptionally high numbers of short-term rental properties. The Planning Commission was also concerned that short-term rental unit demand will continue to grow and the city will gain additional unoccupied housing units, with short-term rental caps in the Town of Ridgway (maximum cap of 50 units) and Ouray County (maximum cap of 100 units) driving more investors to seek short-term rental properties in the City of Ouray.

This City of Ouray has an exceptionally high percentage of vacant, unoccupied properties with 42.4% percent of the housing stock unoccupied in 2017 as shown in Table 1. This data shows that the percent of vacant housing units has been creeping up over time from approximately 37% in 1980 to 42% in 2017 (Approximately 5% increase). The number of vacant housing units has increased from approximately 164 units in 1980 to 348 units today which is an increase of 184 units in 17 years. The number of occupied housing units has increased from approximately 280 units in 1980 to 473 units in 2017 which is an increase of 193 units. Thus, the number of vacant versus occupied housing units added since 1980 is close (184 vacant units to 193 occupied units).

It is important to note that some of the vacant housing units are simply second homes and not short term rentals. The 112 short-term rentals shown in Exhibit C represents 32% of the total vacant housing units in 2017. However, the 112 short-term rentals represents approximately 61% of the vacant unit increase seen since 1980 (184 units).

**Table 1. Population, Housing and Occupancy**

<b>Year</b>	<b>Total Population</b>	<b>Total Housing Units</b>	<b>Occupied Housing Units</b>	<b>Vacant Housing Units</b>	<b>Vacancy Percent</b>
1980	684	444	280	164	36.9%
1990	644	480	292	188	35.8
2000	813	583	374	209	35.8%
2010	1,003	802	458	344	42.9%
2015	1,003	809	458	351	43.3%
2017	1,034	821	473	348	42.4%

Source: Colorado State Demography Office

The City Council conducted a work session on the STR Regulations at the November 5, 2018. The City Council conducted a discussion on the STR Regulations at the December 3, 2018 meeting and directed staff to set up this work session with the Committee and Planning Commission.

Both the Committee and the Planning Commission discussed if the STR Regulations should include a cap on the number of short-term rental units in the city. The Committee did not have any cap in its draft regulations. The Planning Commission felt that a cap was needed in order to assure that additional short-term rental units would not contribute to the city's housing issues or the hallowing out of neighborhoods and the community.

The Planning Commission recommended the City Council adopt a cap on the number of short-term rental units at the current number on the Lodging and Occupancy Tax Report ("**Tax Report**") plus 15 units to allow for some wiggle room in the number of units shown on the Tax Report. The current number of short-term rental units shown on the current Tax Report is 112 units, so the cap recommended by the Planning Commission would be 127 units. The current short-term rental units are shown in Exhibit C. Table 2 breaks down the location of the current short-term rental units by zone district.

**Table 2. Short-term Rentals By Zone District**

<b>Zone District</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>Total Short-Term Units</b>
<b>Total Units</b>	6	68	31	7	112

It is important to note that Exhibit C does not include lodging businesses as defined by the Ouray Land Use Code ("**OLUC**")

**“Lodging Business** means a lodging unit, or hotel, motel, lodge, inn, bed breakfast, or other building or group of buildings, including on and off site lodging units, containing lodging units for temporary occupancy for sleeping purposes that are rented on a short-term basis of less than thirty (30) days.”

The short-term units in the R-1 Zone District are a legal non-conforming use since the units existing prior to the City prohibiting short-term rentals in the R-1 Zone District. The short-term units in the C-1 Zone District are mostly second floor apartments over commercial space.

The following sections briefly discuss the key issues and considerations that have been discussed by the Committee, Planning Commission and City Council.

#### To Cap or Not to Cap the Number of Short-term Dwelling Units

The Committee did not recommend a cap. The Planning Commission recommended a cap as discussed above. The provision of a cap in the STR Regulations is the main issue that should be discussed at the February 25<sup>th</sup> work session.

#### STR Regulations and Takings

The City Attorney has reviewed and edited the draft Short-term Rental Regulations, and confirmed that adding a cap on the number of short-term rental units would not constitute a regulatory takings of private property rights. The City Attorney indicated that the City must, however, give priority licensing to the current short-term rental units shown on the Tax Report. No detailed studies are needed to justify a cap in the STR Regulations.

#### Signs

The Planning Commission recommended that short-term rentals not be allowed to have signs to ensure the character of the city is not impacted. The main issue with signs is that any amendment to the City’s Sign Regulations must be content neutral and have such apply to all development in a given zone district. So any sign allowance for a short-term rental would also apply to residential or commercial development and could have the impact of sign proliferation in the community, such as allowing signs in residential areas or excessive signs in commercially zoned areas. Staff therefore continues to recommend that signs be prohibited for short-term rentals since addresses are required be posted per the proposed STR Regulations.

#### Trash

The STR Regulations required that the commercial trash rate be applied to short-term rentals due to the commercial nature of the rentals and what can be excessive trash and recycling due to unit turnover and the number of people in a unit. There is no City commercial rate. Staff has amended the STR Regulations to allow for the residential rate for short-term rentals that allows the City to either require additional residential service (2 or more residential rates at the same address) or the use of a commercial hauler if trash cannot be accommodated through the residential rate.

#### Short-term Rentals for Local Housing

A few local property owners have requested an exemption to any cap on short-term rental units if new units are used to help pay for a local to purchase a home in the community. This type of exemption should require a deed restriction that runs with the property to ensure the owner is a

local employee, the home is a primary residence, and the short-term rental meets the proposed STR Regulations. Staff would note that long-term rental of bedrooms and legal accessory dwelling units have also provided a means for locals to buy housing. The allowance for short-term rentals for housing may be more lucrative, but the provision of long-term housing may also provide for needed financial incentives for a local to afford housing. Other considerations include administering and enforcing a deed restriction; lifting the allowance for short-term rentals and deed restriction when a property is sold; and equal treatment for all property owners.

#### Property Tax on Short-term Rentals

A question arose on how short-term rentals are taxed. The County Assessor indicated that current State law requires dwelling units to be taxed on residential use whether a unit is rented long-term or short-term. There is no different or higher tax if a dwelling unit is used for a short-term versus a long-term rental. This law may change at the State level but is outside the scope of the STR Regulations and City oversight.

#### Non-conforming Short-term Rentals

There are some short-term rental units listed in Exhibit C that do not meet all of the proposed criteria set forth in the proposed STR Regulations, such as the unit rented out by Dolgio Nergui and her husband. The City will still issue a permit to Dolgio and treat it as a non-conforming unit and only require compliance with standards that do not impact the as-built design of the unit. For example, the City would not require the provision of a kitchen in Dolgio's unit but would require fire extinguishers, addressing, off-site parking if practical, and other standards that can be met. The evaluation of property specific nonconformance will have to be completed on a case-by-case basis, with life safety requirements non-negotiable (smoke alarms, carbon monoxide alarms, egress, etc.).

#### Inclusion of C-1 and C-2 Zoned Property

A few property owners have requested that the City not include the C-1 or C-2 zone districts due to the commercial nature of the zoning. There are numerous properties in the C-1 Zone District that have residential dwelling units over main level commercial space. These dwelling units provide housing to the community along with year round activity and vitality in the downtown core. The C-1 and C-2 Zone District also have the potential for a large number of dwelling units via development of the North Corridor and infill development of the downtown core. The STR Regulations should be equitably applied to the rental of all dwelling units that are not a lodging business. Any cap in the STR Regulations would also prevent new short-term rentals through conversion or new development.

#### **RECOMMENDATION**

The City Council, Committee and Planning Commission should review the draft of the STR Regulations and develop a list of any questions, issues, concerns, or desired changes. The City Council should also discuss if an ordinance should be prepared to adopt the STR Regulations. If the consensus is to move forward with an ordinance at this time, the Council should direct staff to prepare the ordinance, and to make any changes that represent the Council consensus of the work session.

## CITY OF OURAY SHORT TERM VACATION RENTAL COMMITTEE

January 31, 2018

City of Ouray  
Land Use Department  
Planning Commission  
POB 468  
320 6<sup>th</sup> Avenue  
Ouray, CO 81427

Re: Short Term Rental Vacation Ordinance (STVR) v1.31.18

To Whom It May Concern:

Enclosed, please find the final STVR Ordinance that our volunteer advisory committee has worked diligently on since November of 2017. The ordinance was modeled after the Town of Silverton's Vacation Rental Ordinance No. 2017-09. The suggested ordinance supports Short Term Vacation Rental use in the C1, C2 and R2 zoning districts within the City of Ouray while also recognizing the need for the monitoring of STRs in regards to life safety issues and compliance with all City of Ouray municipal codes. Please keep in mind, these volunteers are not versed in the proper, legal verbiage and definitions, and as such, some may not be worded properly, however we hope our intent and spirit of this draft is clear.

Of greatest concern to our committee in these discussions was the significant underlying problem within the City of Ouray of the lack of municipal code enforcement. **The STVR advisory board hereby strongly suggests to the City of Ouray that their municipal codes be followed by citizens and effectively enforced by the City. The City of Ouray may also want to consider updating the current Land Use Code with a modern and less ambiguous code.**

During our meetings over the past several months, the STVR advisory board discussed numerous topics which included but were not limited to: Impacts of STRs on the community in regards to the diminishing availability of long term rentals, employee housing, code enforcement, ~~disproportionate property taxation rates in the C1, C2 and R2 zoning districts~~, sales tax and LOT tax collection, life safety issues, parking, occupancy levels, zoning, and STVR application and renewal fees.

Striking a balance between the regulation and acceptance of STVR Units within the community of Ouray and the consideration of private property ownership rights was also discussed at length and of primary importance.

The scope of our advisory board's work, as it relates to STVR regulation, was to encourage the City of Ouray to adopt an ordinance that helps effectively regulate this rapidly emerging sector of Ouray's economy while building off knowledge of what has worked for similar communities and which

makes logical sense in regards to our unique circumstance and currently existing municipal codes. We have provided such an ordinance for your consideration and are confident the ordinance covers all relevant points of possible concern.

In regards to easing the city's burden of code regulation, the STVR advisory board collectively agrees that a Code Enforcement Officer position be created and partially funded by the charging of STVR Application and Renewal fees. Currently, there are an estimated 120 plus STRs in the City of Ouray. If these owner's were required to obtain a STVR permit and the proposed charged annual application/renewal fees ranging from \$250 to \$400 were levied, an estimated \$30,000 to \$48,000 dollars annually could be collected to help fund a Code Enforcement officer position, whose partial duties would be to enforce the STVR ordinances within the City of Ouray.

It was noted by our committee that numerous issues within the City of Ouray municipal codes must be addressed by Planning and Zoning and the City of Ouray as soon as possible. These concerns, listed below, directly relate to the city's ability to establish and effectively enforce this STVR Ordinance and to ensure it be followed by property owners operating these types of businesses. The STVR committee believes some definitions are ambiguous and/or conflicting and recommend the following be addressed by Planning and Zoning and the City of Ouray prior to moving forward.

To wit, Planning and Zoning must clearly and legally define and if appropriate, establish municipal codes for:

1. Bed and Breakfasts, Hostels, Hotels, Motels, RVs spaces, cabins, Lodges and STVR units. As it relates to STVR, verbiage within the municipal code needs to reflect that STVR Units are for one renter or one related party, per dwelling, only. Simply put, a residential home may not be used as a hotel or hostel with multiple unrelated parties renting separate rooms in one residence.
2. On street and off-street parking as it relates to all lodging types. In particular, Planning and Zoning should pay special attention to the lack of parking requirements for lodging establishments located within the R2 zone.
3. Conditional Uses and Uses by Right definitions, especially as they relate to STVR establishments in the C1, C2 and R2 zoning districts.
4. Information a STVR occupant (renter) is legally required to provide STVR property owner or property manager in order to rent said property.

The STVR Advisory board will be available to all members of the Planning and Zoning board via phone, email or at your monthly meetings, if requested, to provide clarification of language in the proposed ordinance or address any concerns your board may have.

Respectfully,

The Appointed Short Term Vacation Rental Committee

Erin Eddy: Chair

Craig Hinkson: Vice Chair

Thomas Elliston

Sharon Wild

Dolgio Negui

Taryn Lee

Bruce Gulde

Bill Leo

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## 7-2 Definitions

**Lodging Business** means a lodging unit, ~~or~~ hotel, motel, lodge, inn, bed breakfast, hostel or condominium-hotel, or other building or group of buildings, including on and off site lodging units, containing lodging units that are used for temporary occupancy for sleeping purposes, that are rented on a short-term basis of less than thirty (30) days, and excludes short-term rental as defined herein. the short-term rental of single family, duplex, or multi-family dwellings that meet the Short-term Rental Regulations in Section 7-5-J-10.

**Short-term Rentals** means any rental or lease of a single-family, duplex, or multi-family property, lodging unit, dwelling unit, or part thereof, for less than thirty days. Short-Term Rentals are subject to the Lodging and Occupation Tax imposed by the City in Chapter 3 of the Municipal Code, and. Short-term rental of single family, duplex, or multi-family dwellings, or portions thereof, shall meet the Short-term Rental Regulations in Section 7-5-J-10.

## New Ouray Land Use Code Section 7-5-J-10 Short-term Rental Regulations

### 10. Short-term Rental Regulations

- a. **Purpose.** The Short-term Rental Regulations are intended to protect the public health, safety, and welfare; preserve the character and ambience of neighborhoods within the City; prevent adverse impacts attributable to short-term rentals; and to ensure compatibility with surrounding land uses.
- b. **Applicability.** The Short-term Rental Regulations are applicable to the short-term rental of any single-family, duplex, or multi-family dwelling located in the R-2, C-1, and C-2 Zone Districts.
  - i. Short-term rental of dwelling units in the R-1 Zone District are prohibited.
  - ii. Short-term rental of accessory dwelling units is prohibited.
  - iii. Lodging businesses are not subject to these regulations.
  - iv. The short-term rental or property shall be subject to the City of Ouray Lodging and Occupation Tax.
  - v. These regulations shall not apply to condominium-hotels that may be operated as a lodging business provided the condominium is created in accordance with the requirements of the OLUC.
- c. **Registration and Licensing.** A separate short-term rental license is required for each short-term rental.
  - i. Applicants for a short-term rental license, or renewal of a license, shall submit a short-term rental application and other City required application materials along with the application fee as set by the City in a fee resolution.
  - ii. The applicant/licensee shall reimburse the City for all out-of-pocket costs incurred during review of the application or license by outside consultants, including but not limited to legal fees and engineering fees. The City shall bill the applicant/licensee upon completion of the application or review process and completion of any conditions thereof. No application or license shall be finally approved until the bill is paid.
  - iii. Community Development staff will review and act on short-term rental licenses.
  - iv. As a condition of the issuance of an initial license, the City shall conduct a site inspection to ensure the standards set forth in this Section will be met, including

but not limited to parking, carbon monoxide detectors, smoke detectors, street addressing, and lighting.

- a) License renewals shall not require an additional inspection unless Community Development staff determine a new inspection is required due to changes since the last application, past complaints, or other issues that arise from the license review.
  - v. A short-term rental license shall be granted solely to the owner of record of the property for which the license is issued and shall not be transferable to any other person.
    - a) The short-term rental license may list a responsible party to ensure the requirements of this Section are met; however, the property owner shall remain responsible for compliance.
  - vi. The Community Development Department may impose reasonable license conditions to ensure the requirements of this Section will be met.
  - vii. Short-term rental licenses shall be issued for a period of two (2) years and subject to biannual renewal.
  - viii. All existing short-term rentals shall apply for a short-term rental license within three (3) months of the effective date of this ordinance. Thereafter, short-term rentals without a license shall be considered illegal and the City may pursue enforcement action.
- d. **Short-term Rental Cap.** The number of short-term rental licenses in the City of Ouray shall be limited to 139 dwelling units at any one time.
- i. Short-term rentals that are included in the City Monthly Lodging and Occupancy Tax Report as of October 1, 2018 (“**Current Short-term Rentals**”) shall be given priority for issuance of a short-term rental license prior to the issuance of any new license by the City.
    - a) Current Short-term Rentals shall submit an application for a short-term rental license by March 29, 2019; if such an application is not submitted by such date, the Current Short-term Rental shall lose its priority status and be treated as any other eligible property in the City.
    - b) Current Short-term Rentals that submit an application for a property that does not meet the requirements of the Short-term Rental Regulations shall be denied the issuance of a short-term rental license.
  - ii. Only complete applications will be considered, with licenses issued by the City on first complete application - first considered basis, with Current Short-term Rentals given priority for issuance of a short-term rental license within the cap and application deadlines established by this section.
- e. **Standards.**
- i. A short-term rental shall not change the residential character of the property, either by use of colors, materials, lighting, advertising, excessive site improvements, or other actions that change the residential character.
  - ii. A short-term rental shall not cause a public nuisance through adverse impacts such as lighting, parking, signage, noise, glare, vibrations, or odors.
  - iii. Signs are prohibited for short-term rental. .
    - a) Short-term rentals that currently have a sign shall remove all signage as a part of obtaining a license.

- iv. All short-term rentals shall clearly post the correct address in accordance with City addressing and street numbering requirements.
- v. The maximum number of persons per short-term rental shall be two (2) per bedroom, plus two additional persons provided a sofa bed, Murphy bed, or similar temporary bed is provided in the short-term rental.
- vi. In addition to Ouray Municipal Code Section 10-2-Y, short-term rentals shall be subject to quiet hours between 11:00 PM and 7:00 AM.
- vii. One parking space per two (2) bedrooms shall be provided.
  - a) All parking for the short-term rental shall be provided on site, or on-street fronting the short-term rental where on-street parking is allowed by the City.
  - b) The on-street parking shall not be reserved for the short-term rental and will be available to the general public on a first come, first served basis.
  - c) No parking shall occur on sidewalks, lawns, or other landscaped improvements.
  - d) Trailer parking on City streets shall comply with the Ouray Municipal Code.
  - e) Parking shall be constructed and provided on-site if physically possible based on standard engineering practices.
- viii. The short-term rental license shall designate a responsible party who is located within a forty-five (45) minute drive of the City and available for immediate response to issues or emergencies that arise from the short-term rental.
- ix. A short-term rental shall only be leased or rented out to one party that occupies the entire dwelling. Individual rooms within a single-family dwelling short-term rental shall not be rented out separately unless the dwelling unit has a separate, attached, or detached dwelling unit that complies with the applicable Municipal Code requirements (Building Code, OLUC, etc.).
  - a) Multi-family buildings may have more than one short-term rental provided a license is obtained for each dwelling unit and no more than twenty percent (20%) of the units are short-term rentals. Condominium-hotels shall be exempt from this limitation.
- x. The owner or responsible party shall collect and pay all applicable local, state, and federal taxes, including the City's Lodging and Occupancy Tax.
- xi. The short-term rental shall meet all applicable local, state, and federal regulations, such as the Colorado requirement for carbon monoxide detectors (CRS 38-45-101 et seq.), the Building Code requirement for smoke detectors, and life-safety Building Code requirements, such as egress from sleeping areas.
- xii. One (1) fire extinguisher shall be kept and maintained within the short-term rental kitchen area.
- xiii. The short-term rental property shall be kept free from litter and junk as required by Ouray Municipal Code Section 10-2-Z.
- xiv. Trash or recycling shall not be stored in a location that is visible from the public street or sidewalk. The short-term rental shall comply with Ouray Municipal Code Section 12-1, with arrangements for proper disposal of garbage, refuse and trash collection.
  - a) Short-term rentals shall be charged the residential rate to manage trash. The City may require a short-term rental property to provide for two or

more residential trash services at the same address to manage trash (paying for two residences), or to provide for a commercial trash pickup of trash if residential service and pickup cannot manage trash in accordance with the Municipal Code and these regulations.

- b) Trash shall be properly managed and not visible or overflowing so as to cause a nuisance.
    - c) Animal resistant trash containers shall be provided as required by the Ouray Municipal Code.
  - xv. Short-term rentals shall replace any exterior open light fixtures with dark sky compliant lighting.
  - xvi. The following information shall be posted in readily visible location within the short-term rental:
    - a) The Short-term Rental License issued by the City;
    - b) Contact information for the owner and, or, responsible party;
    - c) Maximum number of guests;
    - d) Location of fire extinguishers;
    - e) Quiet hours of 11 PM to 7AM;
    - f) Trash disposal information;
    - g) Other information???
  - xvii. All online or published advertising for the short-term rental shall display the City of Ouray Short-term Rental License number.
- f. **Violations, Revocation and Penalties.**
- i. The Community Development Coordinator, or other such authorized person as designated by the City Administrator, may revoke or suspend a short-term rental license for a violation of the Short-term Rental Regulations or a violation of the Ouray Municipal Code.
  - ii. The administration and enforcement of the Short-term Rental Regulations shall be as provided for in OLC Section 7-3-A.
  - iii. In addition to the foregoing serious or repeat violations of the Short-term Rental Regulations may warrant administrative revocation of a short-term rental license for a period of up to two (2) years.
- g. **Appeals.**
- i. Appeals of administrative decisions under this Section shall be made pursuant to OLC Section 7-5-H.

	A	B	C	D	E	F	G	H	I	J
1	2019 SHORT-TERM RENTALS FROM TAX REPORT									
2										
3	Property Name	Address	UNITS	TYPE	Owner	Manager	R1 Zone 1992 GF	R2 Zone	C1 Zone	C2 Zone
4	1889 Victorian Miners	301 2nd St.	1	HTC	Mark & April Orgren	April Orgren		1		
5	1983 Lodge	1983 Main St	1	HTC	Roxanne Kirschler	Roxanne Kirschler				1
6	1971 Lodge	1971 Main St	1	HTC		Jill Schoenebaum				1
7										
8	A Getaway In Ouray LLC	445 Main Street	1		Travis & Paige Sackman				1	
9	Alpenglow Condo	215 5th Avenue	1	HTC	Jennifer Greenholt			1		
10	Alpenglow Properties					Ryan Hein				
11		215 5 <sup>th</sup> Avenue, #6	1	HTC	BCE Inc			1		
12		215 5 <sup>th</sup> Avenue, #7	1		BCE Inc			1		
13		215 5 <sup>th</sup> Avenue, #8	1		Fountainhead Properties			1		
14		215 5th Avenue, #9	1		Fountainhead Properties			1		
15		215 5th Avenue #15	1		Fountainhead Properties			1		
16		215 5th Avenue #16	1		Fountainhead Properties			1		
17		215 5th Avenue #18	1		Fountainhead Properties			1		
18		104 8th Avenue	1		Jeromy Taylor			1		
19		804 2nd Street	1		Robert Kaukol			1		
20		102 8th Avenue	1		Prospect & Hafer			1		
21	Alpine House	200 6th Avenue	1	HTC	Larry & Alice Leeper	Alice Leeper		1		
22	Bailey, Billy & Carole	107 Fedel Court	1	HTC	Carole Bailey			1		
23	Billy Goat on Main	400 Main Street	5	HTC	John & Marcy Wood	Marcy Wood		5		
24	Brodbeck, Lance & Sandra	812 2nd Street	1	HTC	Lance & Sandra Brodbeck	Sandra Brodbeck		1		
25	Cartier Victorian House	757 4 <sup>th</sup> Street	1	HTC	John Cartier	Leo Lloyd	1			
26	Casa de Springs	210 9th Ave	1	HTC	Marta Gradowski			1		
27	Cascade Luxury Condos	949 Main St	1	HTC	Barbara Hoekendorf	Rhonda Follman			1	
28		958 Main St	1		Tim & Lezah Saunders				1	
29		1586 Oak St	1		Sandra Myers			1		
30	Cozy Cabin	124 Fedel Court	1	HTC	Joe & Christine Kersen	Christine Kersen		1		
31	Haggar Penthouse	535B Main St	1	HTC	Nancy Haggar	Nancy Haggar			1	
32	Lane's Victorian House	311 4 <sup>th</sup> Street	2	HTC	Richard Lane	Richard Lane	2			
33										
34	LaPorte Real Estate Partners	531 N. Pinecrest	1	HTC	LaPorte Real Estate Partners LP	Steve Lankenau	1			
35	MacArthur Apartments	1822 Main St	2	HTC						2
36	Mountain Queen	226 3rd Avenue	1	HTC	Daniel Hughes & Dolgio Nergui	Dolgio Nergui			1	
37	Oak Street Retreat	1538 Oak St	1	HTC	Rosemary Hill	Jamie Walker		1		
38		Ouray, CO 81427								
39	Ouray County Properties	1512 Oak St.	1	HTC	Derek Engdahl	Carl Cockle		1		
40		343 2nd St	1	HTC	Kate Falk			1		
41		745 Main Street	1	HTC	Patricia Caldwell				1	
42	Ouray Hotsprings Condo	960 Main St	2	HTC	Gary Keffer	Gary Keffer			2	
43	Ouray Manor	317 2nd Street	6	HTC	Amber Cunningham	Amber Cunningham		6		
44		1919 Main Street	1	HTC	Janet McKay					1
45		708 Main St, #6	1	HTC	Lynne McGrew				1	



	A	B	C	D	E	F	G	H	I	J
1	<b>2019 SHORT-TERM RENTALS FROM TAX REPORT</b>									
2										
3	<b>Property Name</b>	<b>Address</b>	<b>UNITS</b>	<b>TYPE</b>	<b>Owner</b>	<b>Manager</b>	<b>R1 Zone 1992 GF</b>	<b>R2 Zone</b>	<b>C1 Zone</b>	<b>C2 Zone</b>
46	Ouray Premier					Brad Fuhrman				
47	Vacation Rentals 0	96 4th Ave, Unit 1	1	HTC	Steven & Ruth Wood			1		
48	0	103 Fedel Court	1	HTC	Edward & Laura Smith			1		
49	0	115 7th Ave	1	HTC	Rick Hanson			1		
50	0	117 7th Ave	1	HTC	Rick Hanson			1		
51	0	119 7th Ave	1	HTC	Rick Hanson			1		
52	0	148 Loretta Ct	1	HTC	Barbara Woolverton			1		
53	0	169 Fedel Court	1	HTC	Bill Brucker			1		
54	0	209 10th Ave, Unit B2	1	HTC	Beverly Martin			1		
55	0	215 5th Ave, Unit #2	1	HTC	Brent Evans			1		
56	0	215 5th Ave Unit #3	1	HTC	Russell Metzger			1		
57	0	215 5th Ave, Unit #4	1	HTC	David Haugstad			1		
58	0	215 5th Ave, Unit #5	1	HTC	Russell Metzger			1		
59		215 5th Ave, Unit #11	1	HTC	Michael Hicks			1		
60		310 6th Ave	1	HTC	Roger Hirst				1	
61	0	320 8th Ave	1	HTC	Mollie & Nathan Wertman			1		
62	0	329 Main Street	1	HTC	William Colaw				1	
63	0	414 Main Street	1	HTC	Heidi Albritton				1	
64	0	520 2nd St	1	HTC	Chad & Jennifer Leaver			1		
65	0	650 Oak Street	1	HTC	Kathleen Cook		1			
66	0	704 Oak Street	1	HTC	Heather Clark					1
67	0	708 Main St,, Unit 4	1	HTC	Steve & Gayle Brand				1	
68	0	736 Main Street	1	HTC	Mike James				1	
69	0	820 2nd Street	1	HTC	William Holman			1		
70	0	837 Main Street, East	1	HTC	Mark & Cathy Hartman				1	
71	0	837 Main Street, West	1	HTC	Mark & Cathy Hartman				1	
72	0	837 Main St, Gallery	1	HTC	Mark & Cathy Hartman				1	
73	0	952 Main Street	1	HTC	Mike & Joan Gibbs				1	
74	0	961 Main Street	1	HTC	Todd & Marilyn Mayfield				1	
75	0	1239 Park Road	1	HTC	Lincoln Earhart				1	
76	0	1241 Main Street	1	HTC	Rusell Metzger				1	
77	0	1242 Champ Ln	1	HTC	Bill Lewis				1	
78	0	1244 Champ Lane	1	HTC	Wayne Sponcil				1	
79	0	1245 Park Road	1	HTC	Mark Serra				1	
80	0	1251 Main St	1	HTC	David Tollen				1	
81	0	1252 Champ Lane	1	HTC	David McHenry				1	
82	0	1256 Champ Lane	1	HTC	Al Champ				1	
83	0	1342 Oak St	1	HTC	James Clay			1		
84	0	1482 Oak St	1	HTC	Jeff Hopfer			1		
85	0	1490 Oak St	1	HTC	Mary White			1		
86	0	1494 Oak St	1	HTC	Katherine Johnson			1		
87	0	1496 Oak St	1	HTC	Michael & Raven Kantor			1		
88	0	1518A Oak St	1	HTC	Alan Senter & Vicki Lane			1		
89	0	1523 Oak St	1	HTC	Chris Bettin			1		
90		1542 Hinkson Terr	1	HTC	Elias Andrew-Martos			1		

	A	B	C	D	E	F	G	H	I	J
1	2019 SHORT-TERM RENTALS FROM TAX REPORT									
2										
3	Property Name	Address	UNITS	TYPE	Owner	Manager	R1 Zone 1992 GF	R2 Zone	C1 Zone	C2 Zone
91		1570 Oak St	1	HTC	Jens Lange			1		
92	0	1925 Elkhorn Drive	1	HTC	Anthony Disser			1		
93	0	1951 Main Street	1	HTC	Henry Barrett					1
94	Pricco House	941 Main St	1	HTC	Vickie Cramp	Robert & Vickie Cramp		1		
95	San Juan Chalet	115 6 <sup>th</sup> Avenue	3	?	Ryan Cook	Ryan Cook		3		
96	Silverhsield Chalet	1554 N. Oak Street	1	HTC	Michael Castagliola	Nicole Skoloda		1		
97	Simba Suites	732 Main Street	2	HTC	Bill Leo	Bill Leo			2	
98	Spangler House	520 2nd Street	1	HTC	Chad & Jennifer Leaver	Chad & Jennifer Leaver		1		
99	Tyler, Tom & Linda	736 1/2 4th St	1	HTC	Tom & Linda Tyler	Linda Tyler		1		
100	Vander Ploeg, Hans & Ingrid	180 5th Ave	1	HTC	Hans & Ingrid Vander Ploeg	Ingrid VanderPloeg		1		
101	Wiesbaden Hot Springs Spa				Linda Wright –Minter	Delinda Austin				
102		540 6 <sup>th</sup> Avenue	1	HTC			1			
103		531 6 <sup>th</sup> Avenue*	1	HTC				1		
104		539 Main Street	2						2	
105	Wolfe's Grandview	1480 Oak St	1	HTC	Ted & Betty Wolfe	Ted & Betty Wolfe		1		
106		TOTAL	112				6	68	31	7
107			UNITS				R1 Zone 1992 GF	R2 Zone	C1 Zone	C2 Zone
108	NOTE: LIST DOES NOT CONTAIN BED AND BREAKFAST OPERATIONS, INNS, HOTELS, MOTELS AND RV PARKS AS WELL AS STR CABINS WITHIN RV PARKS									
109										
110										

**From:** [Stone Wood](#)  
**To:** [Pam Larson](#); [Katie Sickles](#); [K. J. Wood Distillers](#)  
**Subject:** Corrected Cap and Trade Proposal  
**Date:** Thursday, October 18, 2018 8:58:21 AM  
**Attachments:** [Corrected Short Term Rental Cap and Trade \(1\).pdf](#)

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Please see attached corrected PDF corrected for 1 STR License /Titled Property. I have also included some ideas/tweaks I think are more in-keeping with a STR mindset.

I would appreciate your consideration:

- Strike sec b.v. : condominium-hotel under lodging business. (The Front Desk is under an operating management co, this could be considered operating without a real estate license, legally it is allowed in the State of Colorado but is inherently no different than a Property Management Co. working under a real estate license, this operating management co would be the Responsible Party.) Definition: A condo hotel, also known as a Condotel, hotel-condo or a Contel, is a building, which is legally a condominium but which is operated as a hotel, offering **short term rentals**, and which maintains a Front Desk.

- Suggest adding something to the effect:  
Fee resolution will be reviewed on a five (5) year cycle.

- Community Development Staff will review and act on applications within a reasonable amount of time not to exceed a three (3) month time period.

- Sec c.v. should read: not be transferable to any other **location**. not Person

- Suggested clarification to c.vii: STR licenses shall be issued for a period of two (2) years and subject to renewal application at the conclusion of the two (2) year licensing period. (or maybe 3 months prior to the conclusion of the 2 year...)

- Beautification:  
Signs for example could be

Signs for STR must be approved by the CCD and be in keeping with the residential character of the property.

- a) No larger than... x" by x" and shall not include phone numbers
- b) Signs cannot be located higher than the first story of the dwelling
- c) Signs shall be flatly adhered to the dwelling and cannot extend more than 1 inch in profile.
- d) Signs must be natural in color or in keeping with the accent color of the dwelling.

e) Signs may be down lighted by a single bulb and shall comply with dark sky compliance. Lighting shall not disturb the peaceful enjoyment of neighboring properties. Lighting may only use direct wiring, the use of extension cords are strictly prohibited.

f) Yard signs, semi-detached, hanging or dangling signs shall not be allowed.

Trash could include:

A natural screening or fencing in-kind of landscape design for the dwelling unit is an acceptable alternative to visible public or sidewalk facing storage but is subject to approval by the CCD.

Bedrooms Occupancy

No more than 4 person occupancy in a bedroom except for 1 temporary crib

No temporary bedding (rollaways or cots) allowed

No bedding furniture, when fully extended may block ingress/egress

No living space may sleep more than 2 people and must have safety, and cannot block, ingress/egress

No more than 4 unrelated persons may reside in the unit at any one time. (Boulder precedence).

Parking:

Sec e.vii. Strike "Fronting", this potentially eliminates certain dwellings from being eligible. Parking on-street is free to all parking uses and making this type of requirement is taking away the Owners use potential. The City can always start a parking permit program for R2 by which you could require a buy-in with STR.

I am happy to meet and discuss and/or attend the next meeting and present.

Sincerely,

Marcy Wood

Property Executive

Stonewood Property Management, LLC

326 6th Avenue, Box 1017

Ouray, CO 81427-1017

<https://www.rentbuffs.com>

Nov 17,2018

Thoughts for City Council on direction CC seems to be encouraging:

I do not think property that has been purchased as C1/C2 should be limited at this stage. My understanding has been that the property I purchased would be used as commercial eventually which included in its use as possible short term rentals . My investment and others is predicated on that assumption. To change direction at this stage is to put an undue burden on current property owners to attempt to move the town in a direction that certain people seem to want the town to follow. I do not think the investment ( at least in my case) in commercial real estate can be justified by a long term rental or a combination of LTR and STR nor am I interested in some of the issues acquired when committed to do so. It is also clear to me that a STR allows residents to continue to live here by providing needed income to supplement current job and/or retirement income.

If the city council or whomever is wanting to limit STR then they should first see if the populace of the town is wanting to go in that direction . If the town feels that is important (I personally have not heard an abundance of complaints that we have too many STR) to limit STR then perhaps a bond issue could be floated to pay for properties as they become available for the express purpose of guiding the direction of those properties. This would take the responsibility of financing this changed direction on all those concerned rather than on a few individuals.

It also seems to me that the idea of adding more regulations on and then hiring someone for the express purpose of regulating these regulations is not the direction that should be taken. The code compliance and safety issues can be enforced by our current building department w/o having to add another job to the city payroll.

Lastly it would seem to me that by and large the hotel accommodations and short term non-hotel accommodations fill a difference niche and therefore do not often compete with ea other . I know at least some of the Hotels are full in the summer months so having more STR might benefit Ouray business (in the summer at least ) and am not in favor of imposing a two day minimum stay on the owners of STR.

Thanks for your consideration, Barry Maclennan

Notes For STR Work Session

- \* The committee's task was to make a recommendation or draft language for an Ordinance concerning STR's, not fix housing issues in the City.
- \* Near unanimous agreement that a Cap on STR's would be going to far.
- \* Number 1 reason the committee felt an Ordinance was needed was because the City has continually failed to enforce it's Code. It was thought that a Permit/ fee could generate enough revenue to pay a STR oversight person to "Help" STR Owners with compliance issues such as Tax reporting and collecting, complaint management, safety concerns contained in the Ordinance, and conflict avoidance. We did not envision this position being the Building Inspector or Land Use Coordinator.
- \* Lot of time spent (13 Mtgs) We made a very comprehensive recommendation for an Ordinance that pointed out to PC where further direction/discussion was needed. We were not contacted for any further input by PC. It appears that the PC only had opportunity to discuss this issue for a few hours before coming up with their Draft Ordinance? If this is the case there was not enough time spent for the Commissioners to get a deep enough understanding of the issues.

Points about Cap

- \* A Cap could adversely affect new home construction in Ouray by eliminating a newcomers ability to build and rent their home until such time as they could relocating (financial burden).
- \* STR's make it possible for part time residents to live in Ouray by helping them pay for their home. Otherwise their home would sit empty. The new version of a snow bird- someone who comes periodically through all seasons for a short time. STR restrictions could cause some part time residents to have to sell.
- \* Most STR houses are too big and expensive for the average renter in Ouray to Afford, so STR's don't have a major effect on the housing debate. This does not mean that attainable housing is not a significant problem in Ouray, just that there are other factors to consider in finding a solution.
- \* STR's generate jobs by employing people to clean, book and maintain them. STR's collect, sales and lodging tax, People who rent STR's create more commerce in town by patronizing local businesses.
- \* STR's keep houses from sitting empty and encourage owners to keep their grounds attractive. In some cases there has been some adverse

Craig, good morning. I finally had time to review the suggested ordinance our group put forward in comparison to the draft Chris is presenting to Council. Here are the areas in which I feel our committee's suggestions may have been ignored. I may ask Council to pay particular attention to these items unless Chris is planning on putting them into the City's application for a STVR.

1. Section (3) F: Signage.
2. Section (4) B: Project Description.
3. Section (4) C: Mapping.
4. Section (4) E: Insurance.
5. Section (5) C: Transferability.
6. Section (5) E: Insurance.
7. Section (5) G: Registration.
8. Section (5) H: Management Enforcement.
9. Section (6) B: Guest Information.
10. Section (8): Short Term Rental Units.

My comments to Council tonight may include the following:

1. That the proposed ordinance is not a new concept. In the US many communities have already recognized that STVR are an issue. Many communities in this state and in the nation have adopted far more restrictive statutes to address this situation. Copies of STVR ordinances from Durango, Silverton, Ridgway and Ouray County were provided to all committee members. Silverton Colorado's ordinance was used as our template. Silverton's ordinance (due to the comparable size in population and regional closeness of that community to Ouray) was redlined to develop a far less restrictive suggested ordinance for Ouray.
2. Condo-Hotels were discussed in our boards meeting but not at length. It was never suggested by our committee that this type of use be included in the definition of a established lodging businesses.
3. The persons that comprised the STVR committee were selected from numerous sectors of the community (retail business owners, citizens, STVR owners, second home owners, restauranteurs, realtors and even climbers).Through 13 meetings by these 11 committee members over 250 "Thought Hours" were utilized. The process was fair and objective and all committee members thoughts and opinions on the subject were considered.
4. The public was allowed to participate in all meetings. The public's thoughts and opinions were considered and discussed. At several meetings, in order to maintain forward progress, the public's comments were dismissed due to the fact that the STVR committee had already thoroughly discussed these items as a group.
5. The STVR committee members were available to P/Z via email or phone if they had questions about the ordinance our group put forth.
6. As Chair and Co-Chair of the STVR committee Erin and Craig feel that P/Z may have not included our committee's suggestions (see above notes) in the proposed STVR ordinance that council



## Katie Sickles

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**From:** Dolgio Nergui <dolgio@gmx.com>  
**Sent:** Monday, November 19, 2018 5:00 PM  
**To:** Katie Sickles  
**Subject:** STR Regulations Comments  
**Attachments:** STR Regulations.pdf

Hi, Katie.  
Sorry for last minute, can you please forward my letter and the attachment to the Council?  
Thanks!  
Dolgio

Dolgio Nergui  
226 Third Avenue  
PO Box 251  
Ouray, CO 81427

November 19, 2018

City of Ouray  
Ouray, CO 81427

### Re: Short Term Rental Regulations

Dear distinguished members of the City Council and Mayor:

I would like to further my comments I gave at the November 5 Work Session meeting re: Short Term Rental Regulations.

As I stated in my address to the Council on November 5, my husband and I own a home in Ouray that is our primary and only residence. Renting the part of the house long-term or short-term was the only way we could afford owning a home in Ouray. According to Zillow, median home prices in Ouray are at least \$100,000 above neighboring Montrose (where a lot of people who work in Ouray County reside) and the majority of housing stock is over 100 years old and in need of major repairs. This makes owning a home in Ouray for a working family like ours very difficult without some sort of supplemental income.

We are concerned and disappointed that the proposed STR Regulations prohibit us from renting part of our house unless we have a separate Certificate of Occupancy for the unit (we rent out one level of our house that has a separate entry, full bath and bedrooms and just a coffee maker and microwave – no full kitchen). The proposed requirement for a full kitchen contradicts concerns of the restaurant owners about short-term rentals taking away their share of business by offering full kitchens and discouraging visitors from dining out. Having a full kitchen also offers a direct competition to the conventional hotels and motels and also increases use of water, sewage and trash disposal.

I would encourage the City of Ouray to promote home ownership by year-around residents and business owners in Ouray and introduce some exemptions such as C.O. to STRs that are also primary residences and perhaps an exemption from an annual cap of STRs. From the past meetings, a lot of people seem to be alarmed about the proposed quota – I think a good balance could be achieved by decreasing the cap to say 100 (round number), but waive the cap for folks with primary residency address in City of Ouray (could be a home or business owner, or could be a renter)?

Lastly, having helped draft first draft of the STR Regulations, I'm in favor of some sort of registration process if anything for the purposes of collecting data.

I'm also attaching some minor remarks in the attached document to (highlighted with my comments).



## 7-2 Definitions

**Lodging Business** means a lodging unit, ~~or hotel, motel, lodge, inn, bed breakfast, hostel or condominium-hotel, or other building or group of buildings, including on and off-site lodging units, containing lodging units that are used~~ for temporary occupancy for sleeping purposes, ~~that are rented on a short-term basis of less than thirty (30) days, and excludes short-term rental as defined herein. the short-term rental of single-family, duplex, or multi-family dwellings that meet the Short-term Rental Regulations in Section 7-5-J-10.~~

**Short-term Rentals** means any rental or lease of a single-family, duplex, or multi-family property, lodging unit, dwelling unit, or part thereof, for less than thirty days. Short-Term Rentals are subject to the Lodging and Occupation Tax imposed by the City in Chapter 3 of the Municipal Code, and, Short-term rental of single-family, duplex, or multi-family dwellings, or portions thereof, shall meet the Short-term Rental Regulations in Section 7-5-J-10.

## New Ouray Land Use Code Section 7-5-J-10 Short-term Rental Regulations

### 10. Short-term Rental Regulations

- a. **Purpose.** The Short-term Rental Regulations are intended to protect the public health, safety, and welfare; preserve the character and ambience of neighborhoods within the City; **prevent adverse impacts attributable to short-term rentals;** and to ensure compatibility with surrounding land uses.
- b. **Applicability.** The Short-term Rental Regulations are applicable to the short-term rental of any single-family, duplex, or multi-family dwelling located in the R-2, C-1, and C-2 Zone Districts.
  - i. Short-term rental of dwelling units in the R-1 Zone District are prohibited.
  - ii. Short-term rental of accessory dwelling units is prohibited.
  - iii. Lodging businesses are not subject to these regulations.
  - iv. The short-term rental **or property** shall be subject to the City of Ouray Lodging and Occupation Tax.
  - v. These regulations shall not apply to condominium-hotels that may be operated as a lodging business provided the condominium is created in accordance with the requirements of the OLUC.
- c. **Registration and Licensing.** A separate short-term rental license is required for each short-term rental.
  - i. Applicants for a short-term rental license, or renewal of a license, shall submit a short-term rental application and other City required application materials along with the application fee as set by the City in a fee resolution.
  - ii. The applicant/licensee shall reimburse the City for all out-of-pocket costs incurred during review of the application or license by outside consultants, including but not limited to legal fees and engineering fees. The City shall bill the applicant/licensee upon completion of the application or review process and completion of any conditions thereof. No application or license shall be finally approved until the bill is paid.
  - iii. Community Development staff will review and act on short-term rental licenses.
  - iv. As a condition of the issuance of an initial license, the City shall conduct a site inspection to ensure the standards set forth in this Section will be met, including

but not limited to parking, carbon monoxide detectors, smoke detectors, street addressing, and lighting.

- a) License renewals shall not require an additional inspection unless Community Development staff determine a new inspection is required due to changes since the last application, past complaints, or other issues that arise from the license review.
- v. A short-term rental license shall be granted solely to the owner of record of the property for which the license is issued and shall not be transferable to any other ~~person~~.
- a) The short-term rental license may list a responsible party to ensure the requirements of this Section are met; however, the property owner shall remain responsible for compliance.
- vi. The Community Development Department may impose reasonable license conditions to ensure the requirements of this Section will be met.
- vii. Short-term rental licenses shall be issued for a period of two (2) years and subject to biannual renewal.
- viii. All existing short-term rentals shall apply for a short-term rental license within three (3) months of the effective date of this ordinance. Thereafter, short-term rentals without a license shall be considered illegal and the City may pursue enforcement action.
- d. **Short-term Rental Cap.** The number of short-term rental licenses in the City of Ouray shall be limited to 139 dwelling units at any one time.
  - i. Short-term rentals that are included in the City Monthly Lodging and Occupancy Tax Report as of October 1, 2018 ("**Current Short-term Rentals**") shall be given priority for issuance of a short-term rental license prior to the issuance of any new license by the City.
    - a) Current Short-term Rentals shall submit an application for a short-term rental license by March 29, 2019; if such an application is not submitted by such date, the Current Short-term Rental shall lose its priority status and be treated as any other eligible property in the City.
    - b) Current Short-term Rentals that submit an application for a property that does not meet the requirements of the Short-term Rental Regulations shall be denied the issuance of a short-term rental license.
  - ii. Only complete applications will be considered, with licenses issued by the City on first complete application - first considered basis, with Current Short-term Rentals given priority for issuance of a short-term rental license within the cap and application deadlines established by this section.
- e. **Standards.**
  - i. A short-term rental shall not change the residential character of the property, either by use of colors, materials, lighting, advertising, excessive site improvements, or other actions that change the residential character.
  - ii. A short-term rental shall not cause a public nuisance through adverse impacts such as lighting, parking, signage, noise, glare, vibrations, or odors.
  - iii. Signs are prohibited for short-term rental.
    - a) Short-term rentals that currently have a sign shall remove all signage as a part of obtaining a license.

- iv. All short-term rentals shall clearly post the correct address in accordance with City addressing and street numbering requirements.
- v. The maximum number of persons per short-term rental shall be two (2) per bedroom, plus two additional persons **provided a sofa bed, Murphy bed, or similar temporary bed is provided in the short-term rental.**
- vi. In addition to Ouray Municipal Code Section 10-2-Y, short-term rentals shall be subject to quiet hours between 11:00 PM and 7:00 AM.
- vii. One parking space per two (2) bedrooms shall be provided.
  - a) All parking for the short-term rental shall be provided on site, or on-street fronting the short-term rental where on-street parking is allowed by the City.
  - b) The on-street parking shall not be reserved for the short-term rental and will be available to the general public on a first come, first served basis.
  - c) No parking shall occur on sidewalks, lawns, or other landscaped improvements.
  - d) Trailer parking on City streets shall comply with the Ouray Municipal Code.
  - e) Parking shall be constructed and provided on-site if physically possible based on standard engineering practices.
- viii. The short-term rental license shall designate a responsible party who is located within a forty-five (45) minute drive of the City and available for immediate response to issues or emergencies that arise from the short-term rental.
- ix. A short-term rental shall only be leased or rented out to one party that occupies the entire dwelling. Individual rooms within a single-family dwelling short-term rental shall not be rented out separately unless the dwelling unit has a separate, attached, or detached dwelling unit that complies with the applicable Municipal Code requirements (Building Code, OLUC, etc.) .
  - a) Multi-family buildings may have more than one short-term rental provided a license is obtained for each dwelling unit and no more than twenty percent (20%) of the units are short-term rentals. Condominium-hotels shall be exempt from this limitation.
- x. The owner or responsible party shall collect and pay all applicable local, state, and federal taxes, including the City's Lodging and Occupancy Tax.
- xi. The short-term rental shall meet all applicable local, state, and federal regulations, such as the Colorado requirement for carbon monoxide detectors (CRS 38-45-101 et seq.), the Building Code requirement for smoke detectors, and life-safety Building Code requirements, such as egress from sleeping areas.
- xii. One (1) fire extinguisher shall be kept and maintained within the short-term rental kitchen area.
- xiii. The short-term rental property shall be kept free from litter and junk as required by Ouray Municipal Code Section 10-2-Z.
- xiv. Trash or recycling shall not be stored in a location that is visible from the public street or sidewalk. The short-term rental shall comply with Ouray Municipal Code Section 12-1, with arrangements for proper disposal of garbage, refuse and trash collection.
  - a) Short-term rentals shall be charged the commercial rate.

- b) Trash shall be properly managed and not visible or overflowing so as to cause a nuisance.
    - c) Animal resistant trash containers shall be provided as required by the Ouray Municipal Code.
  - xv. Short-term rentals shall replace any exterior open light fixtures with dark sky compliant lighting.
  - xvi. The following information shall be posted in readily visible location within the short-term rental:
    - a) The Short-term Rental License issued by the City;
    - b) Contact information for the owner and, or, responsible party;
    - c) Maximum number of guests;
    - d) Location of fire extinguishers;
    - e) Quiet hours of 11 PM to 7AM;
    - f) Trash disposal information;
    - g) Other information???
  - xvii. All online or published advertising for the short-term rental shall display the City of Ouray Short-term Rental License number.
- f. **Violations, Revocation and Penalties.**
  - i. The Community Development Coordinator, or other such authorized person as designated by the City Administrator, may revoke or suspend a short-term rental license for a violation of the Short-term Rental Regulations or a violation of the Ouray Municipal Code.
  - ii. The administration and enforcement of the Short-term Rental Regulations shall be as provided for in OLUC Section 7-3-A.
  - iii. In addition to the foregoing serious or repeat violations of the Short-term Rental Regulations may warrant administrative revocation of a short-term rental license for a period of up to two (2) years.
- g. **Appeals.**
  - i. Appeals of administrative decisions under this Section shall be made pursuant to OLUC Section 7-5-H.

## Community Development Coordinator

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**Subject:** FW: short term rentals

**From:** Jane Holmes <[janebrownholmes@gmail.com](mailto:janebrownholmes@gmail.com)>

**Sent:** Monday, November 5, 2018 5:06 PM

**To:** Pam Larson; Glenn Boyd; [mauerb@cityofouray.com](mailto:mauerb@cityofouray.com); Dee Hilton; Dawn Glanc

**Subject:** short term rentals

Hello,

I am not able to attend the meeting tonight, so I am writing to you to briefly express my thoughts regarding limiting the short term rental permits. My husband, Rob, and I purchased our property at 718 4th St, Ouray, CO in 1991. It is zoned R2 and consists of our home plus a duplex in our back yard. We have always rented the duplex long term, but with the knowledge that because of the zoning we could someday rent short term to supplement our retirement income. In fact, that was a major selling point when we decided to buy the place, and one of the reasons we were willing to live in such a densely populated part of town. We have kept the property in spite of challenges dealing with the mulit-family dwellings next door because we knew our place was a money maker if we eventually chose to rent short term. I would hope that current property owners could be "grandfathered in" and be able to purchase a short term rental permit whenever we are ready. Otherwise we feel like we will need to switch to short term in the more immediate future, which doesn't seem like it would jive with the intent of any regulation. Thank you for your consideration.

Jane Holmes

## Community Development Coordinator

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**From:** ouraybrew@gmail.com  
**Sent:** Thursday, November 08, 2018 12:34 PM  
**To:** Katie Sickles  
**Cc:** Community Development Coordinator  
**Subject:** Following up on STR's - Erin

Katie, Chris, good afternoon. I hope you are both doing well. Below is the email that I sent to Craig regarding the proposed STR ordinance that our workgroup sent to planning and zoning. After thinking this through I'm assuming that Chris is most likely going to simply put the 10 items below into an application for property owners to fill out. Chris, please correct me if I'm wrong.

I will reiterate that I am in favor of the shortened ordinance that Chris has put together. I am hoping that Council continues forth with what they are working on rather than kicking things back to Planning and Zoning. I am personally in favor of a cap on STR's although the committee I worked with was not. (My two cents).

Thank you both for all your hard work on this.

Best,

Erin Eddy

Craig, good morning. I finally had time to review the suggested ordinance our group put forward in comparison to the draft Chris is presenting to Council. Here are the areas in which I feel our committee's suggestions may have been ignored. I may ask Council to pay particular attention to these items unless Chris is planning on putting them into the City's application for a STVR.

1. Section (3) F: Signage.
2. Section (4) B: Project Description.
3. Section (4) C: Mapping.
4. Section (4) E: Insurance.
5. Section (5) C: Transferability.
6. Section (5) E: Insurance.
7. Section (5) G: Registration.
8. Section (5) H: Management Enforcement.
9. Section (6) B: Guest Information.
10. Section (8): Short Term Rental Units.

My comments to Council tonight may include the following:

1. That the proposed ordinance is not a new concept. In the US many communities have already recognized that STVR are an issue. Many communities in this state and in the nation have adopted far more restrictive statutes to address this situation. Copies of STVR ordinances from Durango, Silverton, Ridgway and Ouray County were provided to all committee members. Silverton Colorado's ordinance was used as our template. Silverton's ordinance (due to the comparable size in population and regional closeness of that community to Ouray) was redlined to develop a far less restrictive suggested ordinance for Ouray.
2. Condo-Hotels were discussed in our boards meeting but not at length. It was never suggested by our committee that this type of use be included in the definition of a established lodging businesses.

3. The persons that comprised the STVR committee were selected from numerous sectors of the community (retail business owners, citizens, STVR owners, second home owners, restauranteurs, realtors and even climbers).Through 13 meetings by these 11 committee members over 250 “Thought Hours” were utilized. The process was fair and objective and all committee members thoughts and opinions on the subject were considered.
4. The public was allowed to participate in all meetings. The public’s thoughts and opinions were considered and discussed. At several meetings, in order to maintain forward progress, the public’s comments were dismissed due to the fact that the STVR committee had already thoroughly discussed these items as a group.
5. The STVR committee members were available to P/Z via email or phone if they had questions about the ordinance our group put forth.
6. As Chair and Co-Chair of the STVR committee Erin and Craig feel that P/Z may have not included our committee’s suggestions (see above notes) in the proposed STVR ordinance that council is currently reviewing.

If you see this email prior to the meeting please feel free to redline or modify as necessary so that we both are on the same page at the meeting.

Best,

Erin



## Community Development Coordinator

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**From:** K J Wood Distillers <kjwdistillers@gmail.com>  
**Sent:** Wednesday, November 07, 2018 8:36 AM  
**To:** Katie Sickles; Pam Larson; Glenn Boyd; Bette Maurer; Dee Hilton; Dawn Glanc;  
Community Development Coordinator; craig hinkson; Aaron Eddy  
**Subject:** STR Draft Regulation

Madame Mayor, Council and All,

It is incumbent on me that I first make a Formal Apology to Craig, Aaron, Bette and the STR Committee. Based on the manner in which the STR Draft Regulation was presented by Planning and Zoning, and Staff two weeks ago; I was miss-lead in believing that the proposed Draft was the work of the STR Committee. After this weeks work session it became very clear that their work had been greatly disregarded by P&Z, and Staff in tone and detail. My initial reaction was not only unfair to those mentioned above, but was unnecessarily reactionary against their work.

There are two major issues I think should be strongly deliberated prior to any passage of STR Regulations. First is the inclusion of C1/C2 in any restrictive or encumbering regulation. None of the many regional STR Regulations have ventured into this area. All have purposely excluded C1/C2. Not only as it is the Highest and Best use in this instance, but it represents the greatest potential revenue return for a community to have STR in C1/C2. Secondly, the process engaged by P&Z, and Staff should be of great concern to Council. Not only was it a grave departure from the intentions of a 13 week diligent process by the Committee; but it allowed personal agenda and unilateral ethos to direct a process that should rest with the Citizens of the City, be defensible by Council and be ultimately in the best interest of all. That appears to not have been the thinking or process utilized in this instance. With an average of 5-6 City Committee and Council meetings twice a month, P&Z's expectation that 20-30 people attend their meetings is not in keeping with the principle of representative government expected by our citizenry.

Again, my two main hopes with this email are that you take away my apology to those whom I offended or upset with my protest over the past two weeks. And that we consider very strongly the financial implications and impacts of assigning further regulation to C1/C2 zones in this measure.

Sincerely,

K John Wood  
KJWood Distillers-Owner  
929 Main St  
Box 1017  
Ouray, Colorado 81427  
303-517-7697  
[kjwdistillers@gmail.com](mailto:kjwdistillers@gmail.com)  
[www.KJWoodDistillers.com](http://www.KJWoodDistillers.com)



The short-term rental committee submitted to staff and planning commission regulations directly from Silverton. This was a matter of convenience one would suspect. However, not Ouray centric.

The first offense of the proposed regulations is that to real property owner rights. When purchasing real property, one is actually purchasing a bundle of rights. Some of which are the quiet enjoyment of occupying one's home and preventing others from doing so. In the case of R2 zoning one is also provided the right to expose one's property to outside occupancy, just as are motels and B&Bs.

Let's look at the bigger picture. Whether or not we as individuals like, dislike, want, don't want, want less or more vacation rentals is subjective and irrelevant to the larger scope of understanding. We, as a city, allow thousands of dollars to be allocated solely for the purpose of promoting Ouray as a vacation destination. This comes with consequences. What we are really talking about here is tourism. Tourism. The reason why people wait in line to sit on a roof to eat a hamburger. The reason why multiple shops make a living selling t-shirts and the like. The reason why, as I attempt to navigate 3<sup>rd</sup> Avenue on my way to and from our home, which becomes our city's busiest sidewalk, I see "No Vacancy" signs on motel marquees on a consistent basis. It is also the reason why vacation rentals exist. We, as a city, are victims of our own success. Or, as the song most famously proclaims, prisoners of our own device. We must make a choice. The argument that limiting vacation rentals to create a balance of occupancy, while well intentioned and altruistic in nature, is naïve and moot. We are a decade too late for that.

To the points: Preventing hollowed out communities. On our street in R1 zoning, Pinecrest Drive, there are 13 homes. Five are owner occupied. One is rented long term. Seven are empty now because the owners went back to Texas for the winter. Queen Street. When the 4,000 S.F. summer home home is completed next door to us, there will be 5 homes. Only one of which is owner occupied. The remainder, summer homes. One of which is occupied on average one week every 3 years.

The argument that vacation rentals are a conglomerate of over occupied housing is erroneous and potentially harmful to the owners of same. It is reported by staff that 124 vacation rentals exist in Ouray. When I sold my vacation rental management business in December 2017 my company represented nearly half that number. All of these were closely monitored for occupancy levels and quality of lodging fitness. All paid LOT and

sales tax monthly. It is highly doubtful that the remaining half are in an aggressive violation of the same.

Another fact to consider is that there are a dozen or so homes in R1 zoning that are occupied by visitors to our city for a minimum of 30 days, sometimes as much as 90 days. These can only be considered as extended stay vacation rentals. Yet they are exempt from the proposed regulations.

There are home owners in R2 zoning that only purchased their homes because of the right to expose them to the vacation rental market. In some cases, a purchase in R1 was preferable except for that fact. When we allow some owners of R2 properties to permit vacation rentals and not others, we may not legally be performing a taking, but we are most certainly exercising discrimination. We must take into consideration the fact that up to 3/4ths of annual income from a vacation rental can be used to establish loan to value ratio for the purpose of a home loan. If one is not guaranteed the option of transferring a vacation rental option to a buyer, then the home values are potentially decreased. This is a liability issue laid squarely upon the city and probably city council.

Lastly, does the city really want to get involved in the policing of vacation rentals? Two persons per bedroom when modern bunk beds accommodate three. Rent a room in your home long term, but not short term? Do we want to be in a liable situation where we sanction a vacation rental where someone potentially experiences harm in same?

It gets down to this. Keep it simple. If the information circulated by OCRA is correct, visitors spent over 27 million dollars in Ouray in 2017. They say that equates to 350 local jobs and 1.1 million in local taxes. If we decide to keep this pace of marketing we will require more vacation rentals, not less. If we decide to cap vacation rentals, we will create a monopoly for those currently in existence and a barrier for others seeking equal enjoyment within the same zoning.

The only practical way to limit vacation rentals, if that is the goal, is to limit the marketing of our city as a vacation destination. We cannot keep telling more people to come here without providing the lodging to house them. It doesn't make sense to do so. Supply is limited by a decrease in demand.

Take this issue down a notch. Establish a simple registration system. Incentivize participation instead of mandating compliance. Work with owners of vacation rental properties. These people are exercising their use by right, just as are motels and B&Bs. Recognize them as the valuable contributors to the reality we've created. Or, we simply moderate our zeal for increased tourism, and we all live with the results of that. One choice is truly sustainable. The other is not.

*Michael Underwood*

Owner, Broker  
(970) 318-6577 cell  
(970) 325-7280 office

[www.betterrealestateservices.com](http://www.betterrealestateservices.com)



## Community Development Coordinator

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**From:** April H. Orgren <april.orgren@gmail.com>  
**Sent:** Monday, December 03, 2018 4:20 PM  
**To:** Pam Larson; Glenn Boyd; Bette Maurer; Dee Hilton; Dawn Glanc  
**Cc:** Community Development Coordinator; 'Mark Orgren'  
**Subject:** STR vs LTR

Dear City Council,

My reasons for contacting you about short term rentals in Ouray are two-fold. I represent our own little short-term rental business, and also represent the non-profit owner of a building who could use some help in offering six affordable apartments to the community.

### **STR Comments:**

With cities jumping on the band wagon to restrict short term rentals, there seems to be a general misunderstanding of the motivation for a property owner to offer a property for short-term rental. Regulators seem to harbor a fantasy that such huge profits are to be made through VRBO that investors are snatching up properties in order to VRBO them, thus causing a housing shortage. As one who has owned both long-term and short-term rentals in Ouray, I can tell you that is a gross misunderstanding. First, let's look at where short-term rentals are already banned in Ouray. Most residential properties in Ouray, those in the R-1 zoning district, are forbidden from doing short-term rentals. Yet, most of those homes sit empty for most of the year. Why? Because the owners of those homes refuse to rent them! People buy second homes in Ouray for two primary reasons: 1) because they want a vacation home and 2) because they intend to retire in the house someday. They apparently can afford to have a second home, they want to use the home sometimes, and they don't want renters trashing their dream retirement home.

While most second homes in Ouray are in R-1 and prevented from short-term rentals, some folks have bought their second homes in R-2 where short-term rental is a use by right. These folks have the option of supplementing their mortgage payments with occasional short-term rentals, but their primary use of the property is still as a vacation home for themselves. Telling these people that they can't do short term rentals is NOT going to force them to rent their houses to transient restaurant workers. They will, instead, make their house join the ranks of the vacant second homes in R-1.

Mark and I own probably one of only a handful of residential properties that is a dedicated short-term rental at 301 2<sup>nd</sup> St. We converted from a long-term rental to a short term rental after three year cycle of transient restaurant workers trashing the house, us investing time and money in the repairs, only to have it trashed again. We lost money for three years doing long-term rental. Since July, we've been experimenting with full-time short-term rentals. We have had some moderate success in having no damage done to the house. I'm still not sure it's financially worth the trouble though. I've attached a hypothetical scenario showing an investor's rate of return on a \$300,000 home in Ouray. As you can see, one can barely break even if a mortgage is involved. The economics would be even worse with a more expensive home. My point is that it's ludicrous to think investors are storming into Ouray snatching up properties for short term rentals. Properties are being snatched up for vacation homes, and STR regulations will not change that fact one iota. In fact, STR regulations could result in more dark houses in Ouray.

Economics - \$300,000 Ouray home used as short-term rental	
\$25,200	Annual Income - 15 days per month @ average \$140 per night
(\$14,400)	Annual mortgage payments*
(\$4,500)	Cleaning - 5 times per month @ \$75
(\$800)	property tax
(\$1,300)	EQR
(\$1,000)	Insurance
(\$1,800)	electricity
(\$720)	internet
\$680	NET INCOME
*Mortgage - \$300,000 home with 20% down @ 4.5 % interest = approx \$1,200 per month	

If Ouray wants to have dedicated housing for low-income employees, it seems that the burden for providing such housing falls to the city and to the employers who aren't paying their employees enough to live here.

#### Help with affordable apartments?:

As you are aware, the Friends of the Wright Opera House recently purchased the "candy store" building. I am the treasurer at the Wright. We bought the building because of the need to structurally support both buildings in order to preserve Ouray's important historic landmarks. The apartments in the candy store building are currently uninhabitable. They are filthy and soaked with pet urine. We would like to make these apartments available as affordable housing in Ouray. The margins are very tight, but since this is a high density commercial property, the rental economics are a little better than with single family homes. Between the mortgage, the EQR, insurance, and property taxes, we think we will be able to break even. But right now, we are in desperate need of some funding to make these apartments habitable again. There are currently five apartments in the building. There is a sixth space that could be converted into a studio apartment with the addition of a bathroom and small kitchen. Alternatively, that space could be made into a laundromat which is another need in town for both tourists and low income residents. Right now, the Wright has no funds dedicated to improving the candy store building by adding another apartment or cleaning and re-carpeting the existing apartments. If the city is truly dedicated to increasing the affordable housing options for local employees, I respectfully request that the city partner with the Wright Opera House board to help us upgrade the five apartments in the building and work to create a sixth apartment in the old candy store building.

Thank you for your consideration,  
 April Orgren  
 428 5<sup>th</sup> Ave, Ouray

**From:** [Lee Ann Parden](#)  
**To:** [Katie Sickles](#)  
**Subject:** STR"s  
**Date:** Monday, January 7, 2019 11:13:59 AM

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Hi Katie,

My name is Lee Ann Parden and I've lived in Ouray for over 15 years, I sell real estate and have owned and managed businesses in the past here in our great city. I am emailing you today out of concern over what the city is trying to do in the way of limiting "short term rentals".

I have attended planning meetings and city council meetings and voiced my concerns, regarding personal property rights being taken away. I do not believe the city has proven that STR's will "hollow out" our community as their buzz phase suggests. I see no proof or any viable studies by the city to prove the council's point of view. In fact I sat at a meeting where Chris Hawkins gave out bad information about how STR's could effect our school. It turns out what Mr Hawkins was stating was his opinion rather than actual data, because there was a school board member who happened to be at the meeting and corrected Mr. Hawkins, proving his information was incorrect. If you drive through 2nd street and that area zoned R-2, there are numerous, hotels, condo's (Alpenglow, managed by Twin Peaks) B&B's, restaurants and spas scattered through out that area where all of us who live there have managed to co-exist just fine. It is hyperbole to believe or suggest the whole area will succumb, (meaning individual homes) to all becoming STR's.

I do have a concern regarding Betty Mauer who's sister owns Twin Peaks and Pam Larsen who's brother is business partner's with Craig Hinkson, who plans to build hotel condos and who owns a hotel. It seems to me these two people should not be allowed to vote in the matters of limiting STR's due to their immediate conflict of interest. Please know that I have no ill will toward either of these women, I highly respect them and their service to our community, but this is a matter of fairness and what I see as protection from nepotism.

Thanks so much for your time!

With kind regards,

**Lee Ann Parden**  
**Broker Associate, RENE**

Ouray Real Estate Corporation  
635 Main St./PO Box 125  
Ouray, CO 81427  
970-318-6740



AGENDA  
OURAY CITY COUNCIL  
**320 6<sup>th</sup> Avenue – Community Center MASSARD ROOM**  
**February 25, 2019**  
**Work Session 4:00PM and Regular Meeting 6:00PM**

- Electronic copies of the Council Packet are available on the City website at [www.cityofouray.com](http://www.cityofouray.com). A hard copy of the Packet is also available at the Administrative Office for interested citizens.
- Action may be taken on any agenda item
- Notice is hereby given that a majority or quorum of the Planning Commission, Community Development Committee, Beautification Committee, and/or Parks and Recreation Committee may be present at the above noticed City Council meeting to discuss any or all of the matters on the agenda below for Council consideration

**4PM - Work Session**

Short Term Rental Regulations

**6PM - Regular Meeting**

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. CITIZENS' COMMUNICATION
5. CITY COUNCIL REPORTS/INFORMATION  
Glenn Boyd, Dawn Glanc, Bette Maurer, Dee Hilton, and Pam Larson
6. DEPARTMENT REPORTS
  - a. Interim City Administrator
  - b. Finance & Administration Director
7. CONSENT AGENDA  
Liquor License Renewal – TABJ Company dba Silver Eagle Saloon
8. ACTION ITEMS
  - a. Special Events Permit Application – BPOE #492, Mardi Gras, March 2<sup>nd</sup>
  - b. Huckstering Permit Application – Campbell's Cajun Cuisine, summer mobile food cart
  - c. April Pool Closure and Future Closures for Chemical Cleaning
  - d. Give Direction to Staff Regarding Short Term Rental Regulations
  - e. SGM Geothermal Resources Phase 3 Funding
  - f. Lease Agreement for Pool Concessions
9. DISCUSSION
  - a. Schedule for Twin Peaks Preliminary PUD Public Hearing
  - b. LOT Discount Discussion
  - c. Future Agenda Items
13. ADJOURNMENT

320 6<sup>th</sup> Avenue  
PO Box 468  
Ouray, Colorado 81427



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**TO:** Ouray City Council, Ouray Planning Commission and Short-term Rental Committee  
**FROM:** Chris Hawkins, Community Development Coordinator  
**DATE:** October 11, 2018  
**SUBJECT:** **Short-term Rental Regulations Work Session**

**Attachments:**

Exhibit A: Short-term Rental Committee Ordinance  
Exhibit B: Draft Short-term Rental Regulations  
Exhibit C: Current Short-term Rental Unit List from the Tax Report  
Exhibit D: Public Comments on Proposed Regulations

**BACKGROUND**

The City Council formed the Short-term Rental Committee ("**Committee**") in the fall of 2017 to evaluate the impacts of short-term rentals and draft initial Short-term Rental Regulations ("**STR Regulations**"). The Committee members include Sharon Wild, Michael Underwood, Bill Leo, Erin Eddy, Craig Hinkson, Dolgio Nergui, Bill Hall, Taryn Lee, Bruce Gulde and Tom Elliston, with Bette Maurer as the Council liaison. The Committee provided the initial draft of the STR Regulations to the Community Development Department in February of 2018 for Planning Commission and City Council consideration (Exhibit A).

The Planning Commission began its deliberations of the Short-term Rental Regulations in May of 2018. During the review of the Committee's STR Regulations the Planning Commission directed staff to redraft the regulations based on the Committee's work, comparable community regulations, and to create succinct and clear regulations. The end result of the Planning Commission's direction is shown in the draft Short-term Rental Regulations as set forth in Exhibit B. The Planning Commission unanimously passed a motion at its October 10, 2018 meeting recommending the City Council adopt the Short-term Rental Regulations.

The Planning Commission's main concern on short-term rental of dwelling units is that they are "hallowing out" residential neighborhoods and the community, with some blocks having exceptionally high numbers of short-term rental properties. The Planning Commission was also concerned that short-term rental unit demand will continue to grow and the city will gain additional unoccupied housing units, with short-term rental caps in the Town of Ridgway (maximum cap of 50 units) and Ouray County (maximum cap of 100 units) driving more investors to seek short-term rental properties in the City of Ouray.



This City of Ouray has an exceptionally high percentage of vacant, unoccupied properties with 42.4% percent of the housing stock unoccupied in 2017 as shown in Table 1. This data shows that the percent of vacant housing units has been creeping up over time from approximately 37% in 1980 to 42% in 2017 (Approximately 5% increase). The number of vacant housing units has increased from approximately 164 units in 1980 to 348 units today which is an increase of 184 units in 17 years. The number of occupied housing units has increased from approximately 280 units in 1980 to 473 units in 2017 which is an increase of 193 units. Thus, the number of vacant versus occupied housing units added since 1980 is close (184 vacant units to 193 occupied units).

It is important to note that some of the vacant housing units are simply second homes and not short term rentals. The 112 short-term rentals shown in Exhibit C represents 32% of the total vacant housing units in 2017. However, the 112 short-term rentals represents approximately 61% of the vacant unit increase seen since 1980 (184 units).

**Table 1. Population, Housing and Occupancy**

<b>Year</b>	<b>Total Population</b>	<b>Total Housing Units</b>	<b>Occupied Housing Units</b>	<b>Vacant Housing Units</b>	<b>Vacancy Percent</b>
1980	684	444	280	164	36.9%
1990	644	480	292	188	35.8
2000	813	583	374	209	35.8%
2010	1,003	802	458	344	42.9%
2015	1,003	809	458	351	43.3%
2017	1,034	821	473	348	42.4%

Source: Colorado State Demography Office

The City Council conducted a work session on the STR Regulations at the November 5, 2018. The City Council conducted a discussion on the STR Regulations at the December 3, 2018 meeting and directed staff to set up this work session with the Committee and Planning Commission.

Both the Committee and the Planning Commission discussed if the STR Regulations should include a cap on the number of short-term rental units in the city. The Committee did not have any cap in its draft regulations. The Planning Commission felt that a cap was needed in order to assure that additional short-term rental units would not contribute to the city's housing issues or the hallowing out of neighborhoods and the community.

The Planning Commission recommended the City Council adopt a cap on the number of short-term rental units at the current number on the Lodging and Occupancy Tax Report ("**Tax Report**") plus 15 units to allow for some wiggle room in the number of units shown on the Tax Report. The current number of short-term rental units shown on the current Tax Report is 112 units, so the cap recommended by the Planning Commission would be 127 units. The current short-term rental units are shown in Exhibit C. Table 2 breaks down the location of the current short-term rental units by zone district.

**Table 2. Short-term Rentals By Zone District**

<b>Zone District</b>	<b>R-1</b>	<b>R-2</b>	<b>C-1</b>	<b>C-2</b>	<b>Total Short-Term Units</b>
<b>Total Units</b>	6	68	31	7	112

It is important to note that Exhibit C does not include lodging businesses as defined by the Ouray Land Use Code ("**OLUC**")

**“Lodging Business** means a lodging unit, or hotel, motel, lodge, inn, bed breakfast, or other building or group of buildings, including on and off site lodging units, containing lodging units for temporary occupancy for sleeping purposes that are rented on a short-term basis of less than thirty (30) days.”

The short-term units in the R-1 Zone District are a legal non-conforming use since the units existing prior to the City prohibiting short-term rentals in the R-1 Zone District. The short-term units in the C-1 Zone District are mostly second floor apartments over commercial space.

The following sections briefly discuss the key issues and considerations that have been discussed by the Committee, Planning Commission and City Council.

#### To Cap or Not to Cap the Number of Short-term Dwelling Units

The Committee did not recommend a cap. The Planning Commission recommended a cap as discussed above. The provision of a cap in the STR Regulations is the main issue that should be discussed at the February 25<sup>th</sup> work session.

#### STR Regulations and Takings

The City Attorney has reviewed and edited the draft Short-term Rental Regulations, and confirmed that adding a cap on the number of short-term rental units would not constitute a regulatory takings of private property rights. The City Attorney indicated that the City must, however, give priority licensing to the current short-term rental units shown on the Tax Report. No detailed studies are needed to justify a cap in the STR Regulations.

#### Signs

The Planning Commission recommended that short-term rentals not be allowed to have signs to ensure the character of the city is not impacted. The main issue with signs is that any amendment to the City’s Sign Regulations must be content neutral and have such apply to all development in a given zone district. So any sign allowance for a short-term rental would also apply to residential or commercial development and could have the impact of sign proliferation in the community, such as allowing signs in residential areas or excessive signs in commercially zoned areas. Staff therefore continues to recommend that signs be prohibited for short-term rentals since addresses are required be posted per the proposed STR Regulations.

#### Trash

The STR Regulations required that the commercial trash rate be applied to short-term rentals due to the commercial nature of the rentals and what can be excessive trash and recycling due to unit turnover and the number of people in a unit. There is no City commercial rate. Staff has amended the STR Regulations to allow for the residential rate for short-term rentals that allows the City to either require additional residential service (2 or more residential rates at the same address) or the use of a commercial hauler if trash cannot be accommodated through the residential rate.

#### Short-term Rentals for Local Housing

A few local property owners have requested an exemption to any cap on short-term rental units if new units are used to help pay for a local to purchase a home in the community. This type of exemption should require a deed restriction that runs with the property to ensure the owner is a

local employee, the home is a primary residence, and the short-term rental meets the proposed STR Regulations. Staff would note that long-term rental of bedrooms and legal accessory dwelling units have also provided a means for locals to buy housing. The allowance for short-term rentals for housing may be more lucrative, but the provision of long-term housing may also provide for needed financial incentives for a local to afford housing. Other considerations include administering and enforcing a deed restriction; lifting the allowance for short-term rentals and deed restriction when a property is sold; and equal treatment for all property owners.

#### Property Tax on Short-term Rentals

A question arose on how short-term rentals are taxed. The County Assessor indicated that current State law requires dwelling units to be taxed on residential use whether a unit is rented long-term or short-term. There is no different or higher tax if a dwelling unit is used for a short-term versus a long-term rental. This law may change at the State level but is outside the scope of the STR Regulations and City oversight.

#### Non-conforming Short-term Rentals

There are some short-term rental units listed in Exhibit C that do not meet all of the proposed criteria set forth in the proposed STR Regulations, such as the unit rented out by Dolgio Nergui and her husband. The City will still issue a permit to Dolgio and treat it as a non-conforming unit and only require compliance with standards that do not impact the as-built design of the unit. For example, the City would not require the provision of a kitchen in Dolgio's unit but would require fire extinguishers, addressing, off-site parking if practical, and other standards that can be met. The evaluation of property specific nonconformance will have to be completed on a case-by-case basis, with life safety requirements non-negotiable (smoke alarms, carbon monoxide alarms, egress, etc.).

#### Inclusion of C-1 and C-2 Zoned Property

A few property owners have requested that the City not include the C-1 or C-2 zone districts due to the commercial nature of the zoning. There are numerous properties in the C-1 Zone District that have residential dwelling units over main level commercial space. These dwelling units provide housing to the community along with year round activity and vitality in the downtown core. The C-1 and C-2 Zone District also have the potential for a large number of dwelling units via development of the North Corridor and infill development of the downtown core. The STR Regulations should be equitably applied to the rental of all dwelling units that are not a lodging business. Any cap in the STR Regulations would also prevent new short-term rentals through conversion or new development.

### **RECOMMENDATION**

The City Council, Committee and Planning Commission should review the draft of the STR Regulations and develop a list of any questions, issues, concerns, or desired changes. The City Council should also discuss if an ordinance should be prepared to adopt the STR Regulations. If the consensus is to move forward with an ordinance at this time, the Council should direct staff to prepare the ordinance, and to make any changes that represent the Council consensus of the work session.

## CITY OF OURAY SHORT TERM VACATION RENTAL COMMITTEE

January 31, 2018

City of Ouray  
 Land Use Department  
 Planning Commission  
 POB 468  
 320 6<sup>th</sup> Avenue  
 Ouray, CO 81427

Re: Short Term Rental Vacation Ordinance (STVR) v1.31.18

To Whom It May Concern:

Enclosed, please find the final STVR Ordinance that our volunteer advisory committee has worked diligently on since November of 2017. The ordinance was modeled after the Town of Silverton's Vacation Rental Ordinance No. 2017-09. The suggested ordinance supports Short Term Vacation Rental use in the C1, C2 and R2 zoning districts within the City of Ouray while also recognizing the need for the monitoring of STRs in regards to life safety issues and compliance with all City of Ouray municipal codes. Please keep in mind, these volunteers are not versed in the proper, legal verbiage and definitions, and as such, some may not be worded properly, however we hope our intent and spirit of this draft is clear.

Of greatest concern to our committee in these discussions was the significant underlying problem within the City of Ouray of the lack of municipal code enforcement. **The STVR advisory board hereby strongly suggests to the City of Ouray that their municipal codes be followed by citizens and effectively enforced by the City. The City of Ouray may also want to consider updating the current Land Use Code with a modern and less ambiguous code.**

During our meetings over the past several months, the STVR advisory board discussed numerous topics which included but were not limited to: Impacts of STRs on the community in regards to the diminishing availability of long term rentals, employee housing, code enforcement, ~~disproportionate property taxation rates in the C1, C2 and R2 zoning districts~~, sales tax and LOT tax collection, life safety issues, parking, occupancy levels, zoning, and STVR application and renewal fees.

Striking a balance between the regulation and acceptance of STVR Units within the community of Ouray and the consideration of private property ownership rights was also discussed at length and of primary importance.

The scope of our advisory board's work, as it relates to STVR regulation, was to encourage the City of Ouray to adopt an ordinance that helps effectively regulate this rapidly emerging sector of Ouray's economy while building off knowledge of what has worked for similar communities and which

makes logical sense in regards to our unique circumstance and currently existing municipal codes. We have provided such an ordinance for your consideration and are confident the ordinance covers all relevant points of possible concern.

In regards to easing the city's burden of code regulation, the STVR advisory board collectively agrees that a Code Enforcement Officer position be created and partially funded by the charging of STVR Application and Renewal fees. Currently, there are an estimated 120 plus STRs in the City of Ouray. If these owner's were required to obtain a STVR permit and the proposed charged annual application/renewal fees ranging from \$250 to \$400 were levied, an estimated \$30,000 to \$48,000 dollars annually could be collected to help fund a Code Enforcement officer position, whose partial duties would be to enforce the STVR ordinances within the City of Ouray.

It was noted by our committee that numerous issues within the City of Ouray municipal codes must be addressed by Planning and Zoning and the City of Ouray as soon as possible. These concerns, listed below, directly relate to the city's ability to establish and effectively enforce this STVR Ordinance and to ensure it be followed by property owners operating these types of businesses. The STVR committee believes some definitions are ambiguous and/or conflicting and recommend the following be addressed by Planning and Zoning and the City of Ouray prior to moving forward.

To wit, Planning and Zoning must clearly and legally define and if appropriate, establish municipal codes for:

1. Bed and Breakfasts, Hostels, Hotels, Motels, RVs spaces, cabins, Lodges and STVR units. As it relates to STVR, verbiage within the municipal code needs to reflect that STVR Units are for one renter or one related party, per dwelling, only. Simply put, a residential home may not be used as a hotel or hostel with multiple unrelated parties renting separate rooms in one residence.
2. On street and off-street parking as it relates to all lodging types. In particular, Planning and Zoning should pay special attention to the lack of parking requirements for lodging establishments located within the R2 zone.
3. Conditional Uses and Uses by Right definitions, especially as they relate to STVR establishments in the C1, C2 and R2 zoning districts.
4. Information a STVR occupant (renter) is legally required to provide STVR property owner or property manager in order to rent said property.

The STVR Advisory board will be available to all members of the Planning and Zoning board via phone, email or at your monthly meetings, if requested, to provide clarification of language in the proposed ordinance or address any concerns your board may have.

Respectfully,

The Appointed Short Term Vacation Rental Committee

Erin Eddy: Chair

Craig Hinkson: Vice Chair

Thomas Elliston

Sharon Wild

Dolgio Negui

Taryn Lee

Bruce Gulde

Bill Leo

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## 7-2 Definitions

**Lodging Business** means a lodging unit, ~~or~~ hotel, motel, lodge, inn, bed breakfast, hostel or condominium-hotel, or other building or group of buildings, including on and off site lodging units, containing lodging units that are used for temporary occupancy for sleeping purposes, ~~that are~~ rented on a short-term basis of less than thirty (30) days, and excludes short-term rental as defined herein. ~~the short-term rental of single family, duplex, or multi-family dwellings that meet the Short-term Rental Regulations in Section 7-5-J-10.~~

**Short-term Rentals** means any rental or lease of a single-family, duplex, or multi-family property, lodging unit, dwelling unit, or part thereof, for less than thirty days. Short-Term Rentals are subject to the Lodging and Occupation Tax imposed by the City in Chapter 3 of the Municipal Code, and, Short-term rental of single family, duplex, or multi-family dwellings, or portions thereof, shall meet the Short-term Rental Regulations in Section 7-5-J-10.

## New Ouray Land Use Code Section 7-5-J-10 Short-term Rental Regulations

### 10. Short-term Rental Regulations

- a. **Purpose.** The Short-term Rental Regulations are intended to protect the public health, safety, and welfare; preserve the character and ambience of neighborhoods within the City; prevent adverse impacts attributable to short-term rentals; and to ensure compatibility with surrounding land uses.
- b. **Applicability.** The Short-term Rental Regulations are applicable to the short-term rental of any single-family, duplex, or multi-family dwelling located in the R-2, C-1, and C-2 Zone Districts.
  - i. Short-term rental of dwelling units in the R-1 Zone District are prohibited.
  - ii. Short-term rental of accessory dwelling units is prohibited.
  - iii. Lodging businesses are not subject to these regulations.
  - iv. The short-term rental or property shall be subject to the City of Ouray Lodging and Occupation Tax.
  - v. These regulations shall not apply to condominium-hotels that may be operated as a lodging business provided the condominium is created in accordance with the requirements of the OLUC.
- c. **Registration and Licensing.** A separate short-term rental license is required for each short-term rental.
  - i. Applicants for a short-term rental license, or renewal of a license, shall submit a short-term rental application and other City required application materials along with the application fee as set by the City in a fee resolution.
  - ii. The applicant/licensee shall reimburse the City for all out-of-pocket costs incurred during review of the application or license by outside consultants, including but not limited to legal fees and engineering fees. The City shall bill the applicant/licensee upon completion of the application or review process and completion of any conditions thereof. No application or license shall be finally approved until the bill is paid.
  - iii. Community Development staff will review and act on short-term rental licenses.
  - iv. As a condition of the issuance of an initial license, the City shall conduct a site inspection to ensure the standards set forth in this Section will be met, including

but not limited to parking, carbon monoxide detectors, smoke detectors, street addressing, and lighting.

- a) License renewals shall not require an additional inspection unless Community Development staff determine a new inspection is required due to changes since the last application, past complaints, or other issues that arise from the license review.
  - v. A short-term rental license shall be granted solely to the owner of record of the property for which the license is issued and shall not be transferable to any other person.
    - a) The short-term rental license may list a responsible party to ensure the requirements of this Section are met; however, the property owner shall remain responsible for compliance.
  - vi. The Community Development Department may impose reasonable license conditions to ensure the requirements of this Section will be met.
  - vii. Short-term rental licenses shall be issued for a period of two (2) years and subject to biannual renewal.
  - viii. All existing short-term rentals shall apply for a short-term rental license within three (3) months of the effective date of this ordinance. Thereafter, short-term rentals without a license shall be considered illegal and the City may pursue enforcement action.
- d. **Short-term Rental Cap.** The number of short-term rental licenses in the City of Ouray shall be limited to 139 dwelling units at any one time.
- i. Short-term rentals that are included in the City Monthly Lodging and Occupancy Tax Report as of October 1, 2018 (“**Current Short-term Rentals**”) shall be given priority for issuance of a short-term rental license prior to the issuance of any new license by the City.
    - a) Current Short-term Rentals shall submit an application for a short-term rental license by March 29, 2019; if such an application is not submitted by such date, the Current Short-term Rental shall lose its priority status and be treated as any other eligible property in the City.
    - b) Current Short-term Rentals that submit an application for a property that does not meet the requirements of the Short-term Rental Regulations shall be denied the issuance of a short-term rental license.
  - ii. Only complete applications will be considered, with licenses issued by the City on first complete application - first considered basis, with Current Short-term Rentals given priority for issuance of a short-term rental license within the cap and application deadlines established by this section.
- e. **Standards.**
- i. A short-term rental shall not change the residential character of the property, either by use of colors, materials, lighting, advertising, excessive site improvements, or other actions that change the residential character.
  - ii. A short-term rental shall not cause a public nuisance through adverse impacts such as lighting, parking, signage, noise, glare, vibrations, or odors.
  - iii. Signs are prohibited for short-term rental. .
    - a) Short-term rentals that currently have a sign shall remove all signage as a part of obtaining a license.

- iv. All short-term rentals shall clearly post the correct address in accordance with City addressing and street numbering requirements.
- v. The maximum number of persons per short-term rental shall be two (2) per bedroom, plus two additional persons provided a sofa bed, Murphy bed, or similar temporary bed is provided in the short-term rental.
- vi. In addition to Ouray Municipal Code Section 10-2-Y, short-term rentals shall be subject to quiet hours between 11:00 PM and 7:00 AM.
- vii. One parking space per two (2) bedrooms shall be provided.
  - a) All parking for the short-term rental shall be provided on site, or on-street fronting the short-term rental where on-street parking is allowed by the City.
  - b) The on-street parking shall not be reserved for the short-term rental and will be available to the general public on a first come, first served basis.
  - c) No parking shall occur on sidewalks, lawns, or other landscaped improvements.
  - d) Trailer parking on City streets shall comply with the Ouray Municipal Code.
  - e) Parking shall be constructed and provided on-site if physically possible based on standard engineering practices.
- viii. The short-term rental license shall designate a responsible party who is located within a forty-five (45) minute drive of the City and available for immediate response to issues or emergencies that arise from the short-term rental.
- ix. A short-term rental shall only be leased or rented out to one party that occupies the entire dwelling. Individual rooms within a single-family dwelling short-term rental shall not be rented out separately unless the dwelling unit has a separate, attached, or detached dwelling unit that complies with the applicable Municipal Code requirements (Building Code, OLUC, etc.).
  - a) Multi-family buildings may have more than one short-term rental provided a license is obtained for each dwelling unit and no more than twenty percent (20%) of the units are short-term rentals. Condominium-hotels shall be exempt from this limitation.
- x. The owner or responsible party shall collect and pay all applicable local, state, and federal taxes, including the City's Lodging and Occupancy Tax.
- xi. The short-term rental shall meet all applicable local, state, and federal regulations, such as the Colorado requirement for carbon monoxide detectors (CRS 38-45-101 et seq.), the Building Code requirement for smoke detectors, and life-safety Building Code requirements, such as egress from sleeping areas.
- xii. One (1) fire extinguisher shall be kept and maintained within the short-term rental kitchen area.
- xiii. The short-term rental property shall be kept free from litter and junk as required by Ouray Municipal Code Section 10-2-Z.
- xiv. Trash or recycling shall not be stored in a location that is visible from the public street or sidewalk. The short-term rental shall comply with Ouray Municipal Code Section 12-1, with arrangements for proper disposal of garbage, refuse and trash collection.
  - a) Short-term rentals shall be charged the residential rate to manage trash. The City may require a short-term rental property to provide for two or

more residential trash services at the same address to manage trash (paying for two residences), or to provide for a commercial trash pickup of trash if residential service and pickup cannot manage trash in accordance with the Municipal Code and these regulations.

- b) Trash shall be properly managed and not visible or overflowing so as to cause a nuisance.
  - c) Animal resistant trash containers shall be provided as required by the Ouray Municipal Code.
- xv. Short-term rentals shall replace any exterior open light fixtures with dark sky compliant lighting.
- xvi. The following information shall be posted in readily visible location within the short-term rental:
  - a) The Short-term Rental License issued by the City;
  - b) Contact information for the owner and, or, responsible party;
  - c) Maximum number of guests;
  - d) Location of fire extinguishers;
  - e) Quiet hours of 11 PM to 7AM;
  - f) Trash disposal information;
  - g) Other information???
- xvii. All online or published advertising for the short-term rental shall display the City of Ouray Short-term Rental License number.
- f. **Violations, Revocation and Penalties.**
  - i. The Community Development Coordinator, or other such authorized person as designated by the City Administrator, may revoke or suspend a short-term rental license for a violation of the Short-term Rental Regulations or a violation of the Ouray Municipal Code.
  - ii. The administration and enforcement of the Short-term Rental Regulations shall be as provided for in OLC Section 7-3-A.
  - iii. In addition to the foregoing serious or repeat violations of the Short-term Rental Regulations may warrant administrative revocation of a short-term rental license for a period of up to two (2) years.
- g. **Appeals.**
  - i. Appeals of administrative decisions under this Section shall be made pursuant to OLC Section 7-5-H.

	A	B	C	D	E	F	G	H	I	J
1	2019 SHORT-TERM RENTALS FROM TAX REPORT									
2										
3	Property Name	Address	UNITS	TYPE	Owner	Manager	R1 Zone 1992 GF	R2 Zone	C1 Zone	C2 Zone
4	1889 Victorian Miners	301 2nd St.	1	HTC	Mark & April Orgren	April Orgren		1		
5	1983 Lodge	1983 Main St	1	HTC	Roxanne Kirschler	Roxanne Kirschler				1
6	1971 Lodge	1971 Main St	1	HTC		Jill Schoenebaum				1
7										
8	A Getaway In Ouray LLC	445 Main Street	1		Travis & Paige Sackman				1	
9	Alpenglow Condo	215 5th Avenue	1	HTC	Jennifer Greenholt			1		
10	Alpenglow Properties					Ryan Hein				
11		215 5 <sup>th</sup> Avenue, #6	1	HTC	BCE Inc			1		
12		215 5 <sup>th</sup> Avenue, #7	1		BCE Inc			1		
13		215 5 <sup>th</sup> Avenue, #8	1		Fountainhead Properties			1		
14		215 5th Avenue, #9	1		Fountainhead Properties			1		
15		215 5th Avenue #15	1		Fountainhead Properties			1		
16		215 5th Avenue #16	1		Fountainhead Properties			1		
17		215 5th Avenue #18	1		Fountainhead Properties			1		
18		104 8th Avenue	1		Jeromy Taylor			1		
19		804 2nd Street	1		Robert Kaukol			1		
20		102 8th Avenue	1		Prospect & Hafer			1		
21	Alpine House	200 6th Avenue	1	HTC	Larry & Alice Leeper	Alice Leeper		1		
22	Bailey, Billy & Carole	107 Fedel Court	1	HTC	Carole Bailey			1		
23	Billy Goat on Main	400 Main Street	5	HTC	John & Marcy Wood	Marcy Wood		5		
24	Brodbeck, Lance & Sandra	812 2nd Street	1	HTC	Lance & Sandra Brodbeck	Sandra Brodbeck		1		
25	Cartier Victorian House	757 4 <sup>th</sup> Street	1	HTC	John Cartier	Leo Lloyd	1			
26	Casa de Springs	210 9th Ave	1	HTC	Marta Gradowski			1		
27	Cascade Luxury Condos	949 Main St	1	HTC	Barbara Hoekendorf	Rhonda Follman			1	
28		958 Main St	1		Tim & Lezah Saunders				1	
29		1586 Oak St	1		Sandra Myers			1		
30	Cozy Cabin	124 Fedel Court	1	HTC	Joe & Christine Kersen	Christine Kersen		1		
31	Haggar Penthouse	535B Main St	1	HTC	Nancy Haggar	Nancy Haggar			1	
32	Lane's Victorian House	311 4 <sup>th</sup> Street	2	HTC	Richard Lane	Richard Lane	2			
33										
34	LaPorte Real Estate Partners	531 N. Pinecrest	1	HTC	LaPorte Real Estate Partners LP	Steve Lankenau	1			
35	MacArthur Apartments	1822 Main St	2	HTC						2
36	Mountain Queen	226 3rd Avenue	1	HTC	Daniel Hughes & Dolgio Nergui	Dolgio Nergui			1	
37	Oak Street Retreat	1538 Oak St	1	HTC	Rosemary Hill	Jamie Walker		1		
38		Ouray, CO 81427								
39	Ouray County Properties	1512 Oak St.	1	HTC	Derek Engdahl	Carl Cockle		1		
40		343 2nd St	1	HTC	Kate Falk			1		
41		745 Main Street	1	HTC	Patricia Caldwell				1	
42	Ouray Hotsprings Condo	960 Main St	2	HTC	Gary Keffer	Gary Keffer			2	
43	Ouray Manor	317 2nd Street	6	HTC	Amber Cunningham	Amber Cunningham		6		
44		1919 Main Street	1	HTC	Janet McKay					1
45		708 Main St, #6	1	HTC	Lynne McGrew				1	

	A	B	C	D	E	F	G	H	I	J
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46	Ouray Premier					Brad Fuhrman				
47	Vacation Rentals 0	96 4th Ave, Unit 1	1	HTC	Steven & Ruth Wood			1		
48	0	103 Fedel Court	1	HTC	Edward & Laura Smith			1		
49	0	115 7th Ave	1	HTC	Rick Hanson			1		
50	0	117 7th Ave	1	HTC	Rick Hanson			1		
51	0	119 7th Ave	1	HTC	Rick Hanson			1		
52	0	148 Loretta Ct	1	HTC	Barbara Woolverton			1		
53	0	169 Fedel Court	1	HTC	Bill Brucker			1		
54	0	209 10th Ave, Unit B2	1	HTC	Beverly Martin			1		
55	0	215 5th Ave, Unit #2	1	HTC	Brent Evans			1		
56	0	215 5th Ave Unit #3	1	HTC	Russell Metzger			1		
57	0	215 5th Ave, Unit #4	1	HTC	David Haugstad			1		
58	0	215 5th Ave, Unit #5	1	HTC	Russell Metzger			1		
59		215 5th Ave, Unit #11	1	HTC	Michael Hicks			1		
60		310 6th Ave	1	HTC	Roger Hirst				1	
61	0	320 8th Ave	1	HTC	Mollie & Nathan Wertman			1		
62	0	329 Main Street	1	HTC	William Colaw				1	
63	0	414 Main Street	1	HTC	Heidi Albritton				1	
64	0	520 2nd St	1	HTC	Chad & Jennifer Leaver			1		
65	0	650 Oak Street	1	HTC	Kathleen Cook		1			
66	0	704 Oak Street	1	HTC	Heather Clark					1
67	0	708 Main St,, Unit 4	1	HTC	Steve & Gayle Brand				1	
68	0	736 Main Street	1	HTC	Mike James				1	
69	0	820 2nd Street	1	HTC	William Holman			1		
70	0	837 Main Street, East	1	HTC	Mark & Cathy Hartman				1	
71	0	837 Main Street, West	1	HTC	Mark & Cathy Hartman				1	
72	0	837 Main St, Gallery	1	HTC	Mark & Cathy Hartman				1	
73	0	952 Main Street	1	HTC	Mike & Joan Gibbs				1	
74	0	961 Main Street	1	HTC	Todd & Marilyn Mayfield				1	
75	0	1239 Park Road	1	HTC	Lincoln Earhart				1	
76	0	1241 Main Street	1	HTC	Rusell Metzger				1	
77	0	1242 Champ Ln	1	HTC	Bill Lewis				1	
78	0	1244 Champ Lane	1	HTC	Wayne Sponcil				1	
79	0	1245 Park Road	1	HTC	Mark Serra				1	
80	0	1251 Main St	1	HTC	David Tollen				1	
81	0	1252 Champ Lane	1	HTC	David McHenry				1	
82	0	1256 Champ Lane	1	HTC	Al Champ				1	
83	0	1342 Oak St	1	HTC	James Clay			1		
84	0	1482 Oak St	1	HTC	Jeff Hopfer			1		
85	0	1490 Oak St	1	HTC	Mary White			1		
86	0	1494 Oak St	1	HTC	Katherine Johnson			1		
87	0	1496 Oak St	1	HTC	Michael & Raven Kantor			1		
88	0	1518A Oak St	1	HTC	Alan Senter & Vicki Lane			1		
89	0	1523 Oak St	1	HTC	Chris Bettin			1		
90		1542 Hinkson Terr	1	HTC	Elias Andrew-Martos			1		



	A	B	C	D	E	F	G	H	I	J
1	2019 SHORT-TERM RENTALS FROM TAX REPORT									
2										
3	Property Name	Address	UNITS	TYPE	Owner	Manager	R1 Zone 1992 GF	R2 Zone	C1 Zone	C2 Zone
91		1570 Oak St	1	HTC	Jens Lange			1		
92	0	1925 Elkhorn Drive	1	HTC	Anthony Disser			1		
93	0	1951 Main Street	1	HTC	Henry Barrett					1
94	Pricco House	941 Main St	1	HTC	Vickie Cramp	Robert & Vickie Cramp		1		
95	San Juan Chalet	115 6 <sup>th</sup> Avenue	3	?	Ryan Cook	Ryan Cook		3		
96	Silverhsield Chalet	1554 N. Oak Street	1	HTC	Michael Castagliola	Nicole Skoloda		1		
97	Simba Suites	732 Main Street	2	HTC	Bill Leo	Bill Leo			2	
98	Spangler House	520 2nd Street	1	HTC	Chad & Jennifer Leaver	Chad & Jennifer Leaver		1		
99	Tyler, Tom & Linda	736 1/2 4th St	1	HTC	Tom & Linda Tyler	Linda Tyler		1		
100	Vander Ploeg, Hans & Ingrid	180 5th Ave	1	HTC	Hans & Ingrid Vander Ploeg	Ingrid VanderPloeg		1		
101	Wiesbaden Hot Springs Spa				Linda Wright –Minter	Delinda Austin				
102		540 6 <sup>th</sup> Avenue	1	HTC			1			
103		531 6 <sup>th</sup> Avenue*	1	HTC				1		
104		539 Main Street	2						2	
105	Wolfe's Grandview	1480 Oak St	1	HTC	Ted & Betty Wolfe	Ted & Betty Wolfe		1		
106		TOTAL	112				6	68	31	7
107			UNITS				R1 Zone 1992 GF	R2 Zone	C1 Zone	C2 Zone
108	NOTE: LIST DOES NOT CONTAIN BED AND BREAKFAST OPERATIONS, INNS, HOTELS, MOTELS AND RV PARKS AS WELL AS STR CABINS WITHIN RV PARKS									
109										
110										

**From:** [Stone Wood](#)  
**To:** [Pam Larson](#); [Katie Sickles](#); [K. J. Wood Distillers](#)  
**Subject:** Corrected Cap and Trade Proposal  
**Date:** Thursday, October 18, 2018 8:58:21 AM  
**Attachments:** [Corrected Short Term Rental Cap and Trade \(1\).pdf](#)

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Please see attached corrected PDF corrected for 1 STR License /Titled Property. I have also included some ideas/tweaks I think are more in-keeping with a STR mindset.

I would appreciate your consideration:

- Strike sec b.v. : condominium-hotel under lodging business. (The Front Desk is under an operating management co, this could be considered operating without a real estate license, legally it is allowed in the State of Colorado but is inherently no different than a Property Management Co. working under a real estate license, this operating management co would be the Responsible Party.) Definition: A condo hotel, also known as a Condotel, hotel-condo or a Contel, is a building, which is legally a condominium but which is operated as a hotel, offering **short term rentals**, and which maintains a Front Desk.

- Suggest adding something to the effect:  
Fee resolution will be reviewed on a five (5) year cycle.

- Community Development Staff will review and act on applications within a reasonable amount of time not to exceed a three (3) month time period.

- Sec c.v. should read: not be transferable to any other **location**. not Person

- Suggested clarification to c.vii: STR licenses shall be issued for a period of two (2) years and subject to renewal application at the conclusion of the two (2) year licensing period. (or maybe 3 months prior to the conclusion of the 2 year...)

- Beautification:  
Signs for example could be

Signs for STR must be approved by the CCD and be in keeping with the residential character of the property.

- a) No larger than... x" by x" and shall not include phone numbers
- b) Signs cannot be located higher than the first story of the dwelling
- c) Signs shall be flatly adhered to the dwelling and cannot extend more than 1 inch in profile.
- d) Signs must be natural in color or in keeping with the accent color of the dwelling.

e) Signs may be down lighted by a single bulb and shall comply with dark sky compliance. Lighting shall not disturb the peaceful enjoyment of neighboring properties. Lighting may only use direct wiring, the use of extension cords are strictly prohibited.

f) Yard signs, semi-detached, hanging or dangling signs shall not be allowed.

Trash could include:

A natural screening or fencing in-kind of landscape design for the dwelling unit is an acceptable alternative to visible public or sidewalk facing storage but is subject to approval by the CCD.

Bedrooms Occupancy

No more than 4 person occupancy in a bedroom except for 1 temporary crib

No temporary bedding (rollaways or cots) allowed

No bedding furniture, when fully extended may block ingress/egress

No living space may sleep more than 2 people and must have safety, and cannot block, ingress/egress

No more than 4 unrelated persons may reside in the unit at any one time. (Boulder precedence).

Parking:

Sec e.vii. Strike "Fronting", this potentially eliminates certain dwellings from being eligible. Parking on-street is free to all parking uses and making this type of requirement is taking away the Owners use potential. The City can always start a parking permit program for R2 by which you could require a buy-in with STR.

I am happy to meet and discuss and/or attend the next meeting and present.

Sincerely,

Marcy Wood

Property Executive

Stonewood Property Management, LLC

326 6th Avenue, Box 1017

Ouray, CO 81427-1017

<https://www.rentbuffs.com>

Nov 17,2018

Thoughts for City Council on direction CC seems to be encouraging:

I do not think property that has been purchased as C1/C2 should be limited at this stage. My understanding has been that the property I purchased would be used as commercial eventually which included in its use as possible short term rentals . My investment and others is predicated on that assumption. To change direction at this stage is to put an undue burden on current property owners to attempt to move the town in a direction that certain people seem to want the town to follow. I do not think the investment ( at least in my case) in commercial real estate can be justified by a long term rental or a combination of LTR and STR nor am I interested in some of the issues acquired when committed to do so. It is also clear to me that a STR allows residents to continue to live here by providing needed income to supplement current job and/or retirement income.

If the city council or whomever is wanting to limit STR then they should first see if the populace of the town is wanting to go in that direction . If the town feels that is important (I personally have not heard an abundance of complaints that we have too many STR) to limit STR then perhaps a bond issue could be floated to pay for properties as they become available for the express purpose of guiding the direction of those properties. This would take the responsibility of financing this changed direction on all those concerned rather than on a few individuals.

It also seems to me that the idea of adding more regulations on and then hiring someone for the express purpose of regulating these regulations is not the direction that should be taken. The code compliance and safety issues can be enforced by our current building department w/o having to add another job to the city payroll.

Lastly it would seem to me that by and large the hotel accommodations and short term non-hotel accommodations fill a difference niche and therefore do not often compete with ea other . I know at least some of the Hotels are full in the summer months so having more STR might benefit Ouray business (in the summer at least ) and am not in favor of imposing a two day minimum stay on the owners of STR.

Thanks for your consideration, Barry Maclennan

Notes For STR Work Session

- \* The committee's task was to make a recommendation or draft language for an Ordinance concerning STR's, not fix housing issues in the City.
- \* Near unanimous agreement that a Cap on STR's would be going to far.
- \* Number 1 reason the committee felt an Ordinance was needed was because the City has continually failed to enforce it's Code. It was thought that a Permit/ fee could generate enough revenue to pay a STR oversight person to "Help" STR Owners with compliance issues such as Tax reporting and collecting, complaint management, safety concerns contained in the Ordinance, and conflict avoidance. We did not envision this position being the Building Inspector or Land Use Coordinator.
- \* Lot of time spent (13 Mtgs) We made a very comprehensive recommendation for an Ordinance that pointed out to PC where further direction/discussion was needed. We were not contacted for any further input by PC. It appears that the PC only had opportunity to discuss this issue for a few hours before coming up with their Draft Ordinance? If this is the case there was not enough time spent for the Commissioners to get a deep enough understanding of the issues.

Points about Cap

- \* A Cap could adversely affect new home construction in Ouray by eliminating a newcomers ability to build and rent their home until such time as they could relocating (financial burden).
- \* STR's make it possible for part time residents to live in Ouray by helping them pay for their home. Otherwise their home would sit empty. The new version of a snow bird- someone who comes periodically through all seasons for a short time. STR restrictions could cause some part time residents to have to sell.
- \* Most STR houses are too big and expensive for the average renter in Ouray to Afford, so STR's don't have a major effect on the housing debate. This does not mean that attainable housing is not a significant problem in Ouray, just that there are other factors to consider in finding a solution.
- \* STR's generate jobs by employing people to clean, book and maintain them. STR's collect, sales and lodging tax, People who rent STR's create more commerce in town by patronizing local businesses.
- \* STR's keep houses from sitting empty and encourage owners to keep their grounds attractive. In some cases there has been some adverse

Craig, good morning. I finally had time to review the suggested ordinance our group put forward in comparison to the draft Chris is presenting to Council. Here are the areas in which I feel our committee's suggestions may have been ignored. I may ask Council to pay particular attention to these items unless Chris is planning on putting them into the City's application for a STVR.

1. Section (3) F: Signage.
2. Section (4) B: Project Description.
3. Section (4) C: Mapping.
4. Section (4) E: Insurance.
5. Section (5) C: Transferability.
6. Section (5) E: Insurance.
7. Section (5) G: Registration.
8. Section (5) H: Management Enforcement.
9. Section (6) B: Guest Information.
10. Section (8): Short Term Rental Units.

My comments to Council tonight may include the following:

1. That the proposed ordinance is not a new concept. In the US many communities have already recognized that STVR are an issue. Many communities in this state and in the nation have adopted far more restrictive statutes to address this situation. Copies of STVR ordinances from Durango, Silverton, Ridgway and Ouray County were provided to all committee members. Silverton Colorado's ordinance was used as our template. Silverton's ordinance (due to the comparable size in population and regional closeness of that community to Ouray) was redlined to develop a far less restrictive suggested ordinance for Ouray.
2. Condo-Hotels were discussed in our boards meeting but not at length. It was never suggested by our committee that this type of use be included in the definition of a established lodging businesses.
3. The persons that comprised the STVR committee were selected from numerous sectors of the community (retail business owners, citizens, STVR owners, second home owners, restauranteurs, realtors and even climbers).Through 13 meetings by these 11 committee members over 250 "Thought Hours" were utilized. The process was fair and objective and all committee members thoughts and opinions on the subject were considered.
4. The public was allowed to participate in all meetings. The public's thoughts and opinions were considered and discussed. At several meetings, in order to maintain forward progress, the public's comments were dismissed due to the fact that the STVR committee had already thoroughly discussed these items as a group.
5. The STVR committee members were available to P/Z via email or phone if they had questions about the ordinance our group put forth.
6. As Chair and Co-Chair of the STVR committee Erin and Craig feel that P/Z may have not included our committee's suggestions (see above notes) in the proposed STVR ordinance that council

## Katie Sickles

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**From:** Dolgio Nergui <dolgio@gmx.com>  
**Sent:** Monday, November 19, 2018 5:00 PM  
**To:** Katie Sickles  
**Subject:** STR Regulations Comments  
**Attachments:** STR Regulations.pdf

Hi, Katie.

Sorry for last minute, can you please forward my letter and the attachment to the Council?

Thanks!

Dolgio

Dolgio Nergui  
226 Third Avenue  
PO Box 251  
Ouray, CO 81427

November 19, 2018

City of Ouray  
Ouray, CO 81427

### Re: Short Term Rental Regulations

Dear distinguished members of the City Council and Mayor:

I would like to further my comments I gave at the November 5 Work Session meeting re: Short Term Rental Regulations.

As I stated in my address to the Council on November 5, my husband and I own a home in Ouray that is our primary and only residence. Renting the part of the house long-term or short-term was the only way we could afford owning a home in Ouray. According to Zillow, median home prices in Ouray are at least \$100,000 above neighboring Montrose (where a lot of people who work in Ouray County reside) and the majority of housing stock is over 100 years old and in need of major repairs. This makes owning a home in Ouray for a working family like ours very difficult without some sort of supplemental income.

We are concerned and disappointed that the proposed STR Regulations prohibit us from renting part of our house unless we have a separate Certificate of Occupancy for the unit (we rent out one level of our house that has a separate entry, full bath and bedrooms and just a coffee maker and microwave – no full kitchen). The proposed requirement for a full kitchen contradicts concerns of the restaurant owners about short-term rentals taking away their share of business by offering full kitchens and discouraging visitors from dining out. Having a full kitchen also offers a direct competition to the conventional hotels and motels and also increases use of water, sewage and trash disposal.

I would encourage the City of Ouray to promote home ownership by year-around residents and business owners in Ouray and introduce some exemptions such as C.O. to STRs that are also primary residences and perhaps an exemption from an annual cap of STRs. From the past meetings, a lot of people seem to be alarmed about the proposed quota – I think a good balance could be achieved by decreasing the cap to say 100 (round number), but waive the cap for folks with primary residency address in City of Ouray (could be a home or business owner, or could be a renter)?

Lastly, having helped draft first draft of the STR Regulations, I'm in favor of some sort of registration process if anything for the purposes of collecting data.

I'm also attaching some minor remarks in the attached document to (highlighted with my comments).



## 7-2 Definitions

**Lodging Business** means a lodging unit, ~~or hotel, motel, lodge, inn, bed breakfast, hostel or condominium-hotel, or other building or group of buildings, including on and off-site lodging units, containing lodging units that are used~~ for temporary occupancy for sleeping purposes, ~~that are rented on a short-term basis of less than thirty (30) days, and excludes short-term rental as defined herein. the short-term rental of single-family, duplex, or multi-family dwellings that meet the Short-term Rental Regulations in Section 7-5-J-10.~~

**Short-term Rentals** means any rental or lease of a single-family, duplex, or multi-family property, lodging unit, dwelling unit, or part thereof, for less than thirty days. Short-Term Rentals are subject to the Lodging and Occupation Tax imposed by the City in Chapter 3 of the Municipal Code, and, Short-term rental of single-family, duplex, or multi-family dwellings, or portions thereof, shall meet the Short-term Rental Regulations in Section 7-5-J-10.

## New Ouray Land Use Code Section 7-5-J-10 Short-term Rental Regulations

### 10. Short-term Rental Regulations

- a. **Purpose.** The Short-term Rental Regulations are intended to protect the public health, safety, and welfare; preserve the character and ambience of neighborhoods within the City; **prevent adverse impacts attributable to short-term rentals;** and to ensure compatibility with surrounding land uses.
- b. **Applicability.** The Short-term Rental Regulations are applicable to the short-term rental of any single-family, duplex, or multi-family dwelling located in the R-2, C-1, and C-2 Zone Districts.
  - i. Short-term rental of dwelling units in the R-1 Zone District are prohibited.
  - ii. Short-term rental of accessory dwelling units is prohibited.
  - iii. Lodging businesses are not subject to these regulations.
  - iv. The short-term rental **or property** shall be subject to the City of Ouray Lodging and Occupation Tax.
  - v. These regulations shall not apply to condominium-hotels that may be operated as a lodging business provided the condominium is created in accordance with the requirements of the OLUC.
- c. **Registration and Licensing.** A separate short-term rental license is required for each short-term rental.
  - i. Applicants for a short-term rental license, or renewal of a license, shall submit a short-term rental application and other City required application materials along with the application fee as set by the City in a fee resolution.
  - ii. The applicant/licensee shall reimburse the City for all out-of-pocket costs incurred during review of the application or license by outside consultants, including but not limited to legal fees and engineering fees. The City shall bill the applicant/licensee upon completion of the application or review process and completion of any conditions thereof. No application or license shall be finally approved until the bill is paid.
  - iii. Community Development staff will review and act on short-term rental licenses.
  - iv. As a condition of the issuance of an initial license, the City shall conduct a site inspection to ensure the standards set forth in this Section will be met, including

but not limited to parking, carbon monoxide detectors, smoke detectors, street addressing, and lighting.

- a) License renewals shall not require an additional inspection unless Community Development staff determine a new inspection is required due to changes since the last application, past complaints, or other issues that arise from the license review.
- v. A short-term rental license shall be granted solely to the owner of record of the property for which the license is issued and shall not be transferable to any other ~~person~~.
- a) The short-term rental license may list a responsible party to ensure the requirements of this Section are met; however, the property owner shall remain responsible for compliance.
- vi. The Community Development Department may impose reasonable license conditions to ensure the requirements of this Section will be met.
- vii. Short-term rental licenses shall be issued for a period of two (2) years and subject to biannual renewal.
- viii. All existing short-term rentals shall apply for a short-term rental license within three (3) months of the effective date of this ordinance. Thereafter, short-term rentals without a license shall be considered illegal and the City may pursue enforcement action.
- d. **Short-term Rental Cap.** The number of short-term rental licenses in the City of Ouray shall be limited to 139 dwelling units at any one time.
  - i. Short-term rentals that are included in the City Monthly Lodging and Occupancy Tax Report as of October 1, 2018 ("**Current Short-term Rentals**") shall be given priority for issuance of a short-term rental license prior to the issuance of any new license by the City.
    - a) Current Short-term Rentals shall submit an application for a short-term rental license by March 29, 2019; if such an application is not submitted by such date, the Current Short-term Rental shall lose its priority status and be treated as any other eligible property in the City.
    - b) Current Short-term Rentals that submit an application for a property that does not meet the requirements of the Short-term Rental Regulations shall be denied the issuance of a short-term rental license.
  - ii. Only complete applications will be considered, with licenses issued by the City on first complete application - first considered basis, with Current Short-term Rentals given priority for issuance of a short-term rental license within the cap and application deadlines established by this section.
- e. **Standards.**
  - i. A short-term rental shall not change the residential character of the property, either by use of colors, materials, lighting, advertising, excessive site improvements, or other actions that change the residential character.
  - ii. A short-term rental shall not cause a public nuisance through adverse impacts such as lighting, parking, signage, noise, glare, vibrations, or odors.
  - iii. Signs are prohibited for short-term rental.
    - a) Short-term rentals that currently have a sign shall remove all signage as a part of obtaining a license.

- iv. All short-term rentals shall clearly post the correct address in accordance with City addressing and street numbering requirements.
- v. The maximum number of persons per short-term rental shall be two (2) per bedroom, plus two additional persons **provided a sofa bed, Murphy bed, or similar temporary bed is provided in the short-term rental.**
- vi. In addition to Ouray Municipal Code Section 10-2-Y, short-term rentals shall be subject to quiet hours between 11:00 PM and 7:00 AM.
- vii. One parking space per two (2) bedrooms shall be provided.
  - a) All parking for the short-term rental shall be provided on site, or on-street fronting the short-term rental where on-street parking is allowed by the City.
  - b) The on-street parking shall not be reserved for the short-term rental and will be available to the general public on a first come, first served basis.
  - c) No parking shall occur on sidewalks, lawns, or other landscaped improvements.
  - d) Trailer parking on City streets shall comply with the Ouray Municipal Code.
  - e) Parking shall be constructed and provided on-site if physically possible based on standard engineering practices.
- viii. The short-term rental license shall designate a responsible party who is located within a forty-five (45) minute drive of the City and available for immediate response to issues or emergencies that arise from the short-term rental.
- ix. A short-term rental shall only be leased or rented out to one party that occupies the entire dwelling. Individual rooms within a single-family dwelling short-term rental shall not be rented out separately unless the dwelling unit has a separate, attached, or detached dwelling unit that complies with the applicable Municipal Code requirements (Building Code, OLUC, etc.) .
  - a) Multi-family buildings may have more than one short-term rental provided a license is obtained for each dwelling unit and no more than twenty percent (20%) of the units are short-term rentals. Condominium-hotels shall be exempt from this limitation.
- x. The owner or responsible party shall collect and pay all applicable local, state, and federal taxes, including the City's Lodging and Occupancy Tax.
- xi. The short-term rental shall meet all applicable local, state, and federal regulations, such as the Colorado requirement for carbon monoxide detectors (CRS 38-45-101 et seq.), the Building Code requirement for smoke detectors, and life-safety Building Code requirements, such as egress from sleeping areas.
- xii. One (1) fire extinguisher shall be kept and maintained within the short-term rental kitchen area.
- xiii. The short-term rental property shall be kept free from litter and junk as required by Ouray Municipal Code Section 10-2-Z.
- xiv. Trash or recycling shall not be stored in a location that is visible from the public street or sidewalk. The short-term rental shall comply with Ouray Municipal Code Section 12-1, with arrangements for proper disposal of garbage, refuse and trash collection.
  - a) Short-term rentals shall be charged the commercial rate.

- b) Trash shall be properly managed and not visible or overflowing so as to cause a nuisance.
    - c) Animal resistant trash containers shall be provided as required by the Ouray Municipal Code.
  - xv. Short-term rentals shall replace any exterior open light fixtures with dark sky compliant lighting.
  - xvi. The following information shall be posted in readily visible location within the short-term rental:
    - a) The Short-term Rental License issued by the City;
    - b) Contact information for the owner and, or, responsible party;
    - c) Maximum number of guests;
    - d) Location of fire extinguishers;
    - e) Quiet hours of 11 PM to 7AM;
    - f) Trash disposal information;
    - g) Other information???
  - xvii. All online or published advertising for the short-term rental shall display the City of Ouray Short-term Rental License number.
- f. **Violations, Revocation and Penalties.**
  - i. The Community Development Coordinator, or other such authorized person as designated by the City Administrator, may revoke or suspend a short-term rental license for a violation of the Short-term Rental Regulations or a violation of the Ouray Municipal Code.
  - ii. The administration and enforcement of the Short-term Rental Regulations shall be as provided for in OLUC Section 7-3-A.
  - iii. In addition to the foregoing serious or repeat violations of the Short-term Rental Regulations may warrant administrative revocation of a short-term rental license for a period of up to two (2) years.
- g. **Appeals.**
  - i. Appeals of administrative decisions under this Section shall be made pursuant to OLUC Section 7-5-H.

## Community Development Coordinator

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**Subject:** FW: short term rentals

**From:** Jane Holmes <[janebrownholmes@gmail.com](mailto:janebrownholmes@gmail.com)>

**Sent:** Monday, November 5, 2018 5:06 PM

**To:** Pam Larson; Glenn Boyd; [mauerb@cityofouray.com](mailto:mauerb@cityofouray.com); Dee Hilton; Dawn Glanc

**Subject:** short term rentals

Hello,

I am not able to attend the meeting tonight, so I am writing to you to briefly express my thoughts regarding limiting the short term rental permits. My husband, Rob, and I purchased our property at 718 4th St, Ouray, CO in 1991. It is zoned R2 and consists of our home plus a duplex in our back yard. We have always rented the duplex long term, but with the knowledge that because of the zoning we could someday rent short term to supplement our retirement income. In fact, that was a major selling point when we decided to buy the place, and one of the reasons we were willing to live in such a densely populated part of town. We have kept the property in spite of challenges dealing with the mulit-family dwellings next door because we knew our place was a money maker if we eventually chose to rent short term. I would hope that current property owners could be "grandfathered in" and be able to purchase a short term rental permit whenever we are ready. Otherwise we feel like we will need to switch to short term in the more immediate future, which doesn't seem like it would jive with the intent of any regulation. Thank you for your consideration.

Jane Holmes

## Community Development Coordinator

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**From:** ouraybrew@gmail.com  
**Sent:** Thursday, November 08, 2018 12:34 PM  
**To:** Katie Sickles  
**Cc:** Community Development Coordinator  
**Subject:** Following up on STR's - Erin

Katie, Chris, good afternoon. I hope you are both doing well. Below is the email that I sent to Craig regarding the proposed STR ordinance that our workgroup sent to planning and zoning. After thinking this through I'm assuming that Chris is most likely going to simply put the 10 items below into an application for property owners to fill out. Chris, please correct me if I'm wrong.

I will reiterate that I am in favor of the shortened ordinance that Chris has put together. I am hoping that Council continues forth with what they are working on rather than kicking things back to Planning and Zoning. I am personally in favor of a cap on STR's although the committee I worked with was not. (My two cents).

Thank you both for all your hard work on this.

Best,

Erin Eddy

Craig, good morning. I finally had time to review the suggested ordinance our group put forward in comparison to the draft Chris is presenting to Council. Here are the areas in which I feel our committee's suggestions may have been ignored. I may ask Council to pay particular attention to these items unless Chris is planning on putting them into the City's application for a STVR.

1. Section (3) F: Signage.
2. Section (4) B: Project Description.
3. Section (4) C: Mapping.
4. Section (4) E: Insurance.
5. Section (5) C: Transferability.
6. Section (5) E: Insurance.
7. Section (5) G: Registration.
8. Section (5) H: Management Enforcement.
9. Section (6) B: Guest Information.
10. Section (8): Short Term Rental Units.

My comments to Council tonight may include the following:

1. That the proposed ordinance is not a new concept. In the US many communities have already recognized that STVR are an issue. Many communities in this state and in the nation have adopted far more restrictive statutes to address this situation. Copies of STVR ordinances from Durango, Silverton, Ridgway and Ouray County were provided to all committee members. Silverton Colorado's ordinance was used as our template. Silverton's ordinance (due to the comparable size in population and regional closeness of that community to Ouray) was redlined to develop a far less restrictive suggested ordinance for Ouray.
2. Condo-Hotels were discussed in our boards meeting but not at length. It was never suggested by our committee that this type of use be included in the definition of a established lodging businesses.

3. The persons that comprised the STVR committee were selected from numerous sectors of the community (retail business owners, citizens, STVR owners, second home owners, restauranteurs, realtors and even climbers).Through 13 meetings by these 11 committee members over 250 “Thought Hours” were utilized. The process was fair and objective and all committee members thoughts and opinions on the subject were considered.
4. The public was allowed to participate in all meetings. The public’s thoughts and opinions were considered and discussed. At several meetings, in order to maintain forward progress, the public’s comments were dismissed due to the fact that the STVR committee had already thoroughly discussed these items as a group.
5. The STVR committee members were available to P/Z via email or phone if they had questions about the ordinance our group put forth.
6. As Chair and Co-Chair of the STVR committee Erin and Craig feel that P/Z may have not included our committee’s suggestions (see above notes) in the proposed STVR ordinance that council is currently reviewing.

If you see this email prior to the meeting please feel free to redline or modify as necessary so that we both are on the same page at the meeting.

Best,

Erin



## Community Development Coordinator

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**From:** K J Wood Distillers <kjwdistillers@gmail.com>  
**Sent:** Wednesday, November 07, 2018 8:36 AM  
**To:** Katie Sickles; Pam Larson; Glenn Boyd; Bette Maurer; Dee Hilton; Dawn Glanc;  
Community Development Coordinator; craig hinkson; Aaron Eddy  
**Subject:** STR Draft Regulation

Madame Mayor, Council and All,

It is incumbent on me that I first make a Formal Apology to Craig, Aaron, Bette and the STR Committee. Based on the manner in which the STR Draft Regulation was presented by Planning and Zoning, and Staff two weeks ago; I was miss-lead in believing that the proposed Draft was the work of the STR Committee. After this weeks work session it became very clear that their work had been greatly disregarded by P&Z, and Staff in tone and detail. My initial reaction was not only unfair to those mentioned above, but was unnecessarily reactionary against their work.

There are two major issues I think should be strongly deliberated prior to any passage of STR Regulations. First is the inclusion of C1/C2 in any restrictive or encumbering regulation. None of the many regional STR Regulations have ventured into this area. All have purposely excluded C1/C2. Not only as it is the Highest and Best use in this instance, but it represents the greatest potential revenue return for a community to have STR in C1/C2. Secondly, the process engaged by P&Z, and Staff should be of great concern to Council. Not only was it a grave departure from the intentions of a 13 week diligent process by the Committee; but it allowed personal agenda and unilateral ethos to direct a process that should rest with the Citizens of the City, be defensible by Council and be ultimately in the best interest of all. That appears to not have been the thinking or process utilized in this instance. With an average of 5-6 City Committee and Council meetings twice a month, P&Z's expectation that 20-30 people attend their meetings is not in keeping with the principle of representative government expected by our citizenry.

Again, my two main hopes with this email are that you take away my apology to those whom I offended or upset with my protest over the past two weeks. And that we consider very strongly the financial implications and impacts of assigning further regulation to C1/C2 zones in this measure.

Sincerely,

K John Wood  
KJWood Distillers-Owner  
929 Main St  
Box 1017  
Ouray, Colorado 81427  
303-517-7697  
[kjwdistillers@gmail.com](mailto:kjwdistillers@gmail.com)  
[www.KJWoodDistillers.com](http://www.KJWoodDistillers.com)

The short-term rental committee submitted to staff and planning commission regulations directly from Silverton. This was a matter of convenience one would suspect. However, not Ouray centric.

The first offense of the proposed regulations is that to real property owner rights. When purchasing real property, one is actually purchasing a bundle of rights. Some of which are the quiet enjoyment of occupying one's home and preventing others from doing so. In the case of R2 zoning one is also provided the right to expose one's property to outside occupancy, just as are motels and B&Bs.

Let's look at the bigger picture. Whether or not we as individuals like, dislike, want, don't want, want less or more vacation rentals is subjective and irrelevant to the larger scope of understanding. We, as a city, allow thousands of dollars to be allocated solely for the purpose of promoting Ouray as a vacation destination. This comes with consequences. What we are really talking about here is tourism. Tourism. The reason why people wait in line to sit on a roof to eat a hamburger. The reason why multiple shops make a living selling t-shirts and the like. The reason why, as I attempt to navigate 3<sup>rd</sup> Avenue on my way to and from our home, which becomes our city's busiest sidewalk, I see "No Vacancy" signs on motel marquees on a consistent basis. It is also the reason why vacation rentals exist. We, as a city, are victims of our own success. Or, as the song most famously proclaims, prisoners of our own device. We must make a choice. The argument that limiting vacation rentals to create a balance of occupancy, while well intentioned and altruistic in nature, is naïve and moot. We are a decade too late for that.

To the points: Preventing hollowed out communities. On our street in R1 zoning, Pinecrest Drive, there are 13 homes. Five are owner occupied. One is rented long term. Seven are empty now because the owners went back to Texas for the winter. Queen Street. When the 4,000 S.F. summer home home is completed next door to us, there will be 5 homes. Only one of which is owner occupied. The remainder, summer homes. One of which is occupied on average one week every 3 years.

The argument that vacation rentals are a conglomerate of over occupied housing is erroneous and potentially harmful to the owners of same. It is reported by staff that 124 vacation rentals exist in Ouray. When I sold my vacation rental management business in December 2017 my company represented nearly half that number. All of these were closely monitored for occupancy levels and quality of lodging fitness. All paid LOT and

sales tax monthly. It is highly doubtful that the remaining half are in an aggressive violation of the same.

Another fact to consider is that there are a dozen or so homes in R1 zoning that are occupied by visitors to our city for a minimum of 30 days, sometimes as much as 90 days. These can only be considered as extended stay vacation rentals. Yet they are exempt from the proposed regulations.

There are home owners in R2 zoning that only purchased their homes because of the right to expose them to the vacation rental market. In some cases, a purchase in R1 was preferable except for that fact. When we allow some owners of R2 properties to permit vacation rentals and not others, we may not legally be performing a taking, but we are most certainly exercising discrimination. We must take into consideration the fact that up to 3/4ths of annual income from a vacation rental can be used to establish loan to value ratio for the purpose of a home loan. If one is not guaranteed the option of transferring a vacation rental option to a buyer, then the home values are potentially decreased. This is a liability issue laid squarely upon the city and probably city council.

Lastly, does the city really want to get involved in the policing of vacation rentals? Two persons per bedroom when modern bunk beds accommodate three. Rent a room in your home long term, but not short term? Do we want to be in a liable situation where we sanction a vacation rental where someone potentially experiences harm in same?

It gets down to this. Keep it simple. If the information circulated by OCRA is correct, visitors spent over 27 million dollars in Ouray in 2017. They say that equates to 350 local jobs and 1.1 million in local taxes. If we decide to keep this pace of marketing we will require more vacation rentals, not less. If we decide to cap vacation rentals, we will create a monopoly for those currently in existence and a barrier for others seeking equal enjoyment within the same zoning.

The only practical way to limit vacation rentals, if that is the goal, is to limit the marketing of our city as a vacation destination. We cannot keep telling more people to come here without providing the lodging to house them. It doesn't make sense to do so. Supply is limited by a decrease in demand.

Take this issue down a notch. Establish a simple registration system. Incentivize participation instead of mandating compliance. Work with owners of vacation rental properties. These people are exercising their use by right, just as are motels and B&Bs. Recognize them as the valuable contributors to the reality we've created. Or, we simply moderate our zeal for increased tourism, and we all live with the results of that. One choice is truly sustainable. The other is not.

*Michael Underwood*

Owner, Broker  
(970) 318-6577 cell  
(970) 325-7280 office

[www.betterrealestateservices.com](http://www.betterrealestateservices.com)



## Community Development Coordinator

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**From:** April H. Orgren <april.orgren@gmail.com>  
**Sent:** Monday, December 03, 2018 4:20 PM  
**To:** Pam Larson; Glenn Boyd; Bette Maurer; Dee Hilton; Dawn Glanc  
**Cc:** Community Development Coordinator; 'Mark Orgren'  
**Subject:** STR vs LTR

Dear City Council,

My reasons for contacting you about short term rentals in Ouray are two-fold. I represent our own little short-term rental business, and also represent the non-profit owner of a building who could use some help in offering six affordable apartments to the community.

### **STR Comments:**

With cities jumping on the band wagon to restrict short term rentals, there seems to be a general misunderstanding of the motivation for a property owner to offer a property for short-term rental. Regulators seem to harbor a fantasy that such huge profits are to be made through VRBO that investors are snatching up properties in order to VRBO them, thus causing a housing shortage. As one who has owned both long-term and short-term rentals in Ouray, I can tell you that is a gross misunderstanding. First, let's look at where short-term rentals are already banned in Ouray. Most residential properties in Ouray, those in the R-1 zoning district, are forbidden from doing short-term rentals. Yet, most of those homes sit empty for most of the year. Why? Because the owners of those homes refuse to rent them! People buy second homes in Ouray for two primary reasons: 1) because they want a vacation home and 2) because they intend to retire in the house someday. They apparently can afford to have a second home, they want to use the home sometimes, and they don't want renters trashing their dream retirement home.

While most second homes in Ouray are in R-1 and prevented from short-term rentals, some folks have bought their second homes in R-2 where short-term rental is a use by right. These folks have the option of supplementing their mortgage payments with occasional short-term rentals, but their primary use of the property is still as a vacation home for themselves. Telling these people that they can't do short term rentals is NOT going to force them to rent their houses to transient restaurant workers. They will, instead, make their house join the ranks of the vacant second homes in R-1.

Mark and I own probably one of only a handful of residential properties that is a dedicated short-term rental at 301 2<sup>nd</sup> St. We converted from a long-term rental to a short term rental after three year cycle of transient restaurant workers trashing the house, us investing time and money in the repairs, only to have it trashed again. We lost money for three years doing long-term rental. Since July, we've been experimenting with full-time short-term rentals. We have had some moderate success in having no damage done to the house. I'm still not sure it's financially worth the trouble though. I've attached a hypothetical scenario showing an investor's rate of return on a \$300,000 home in Ouray. As you can see, one can barely break even if a mortgage is involved. The economics would be even worse with a more expensive home. My point is that it's ludicrous to think investors are storming into Ouray snatching up properties for short term rentals. Properties are being snatched up for vacation homes, and STR regulations will not change that fact one iota. In fact, STR regulations could result in more dark houses in Ouray.



Economics - \$300,000 Ouray home used as short-term rental	
\$25,200	Annual Income - 15 days per month @ average \$140 per night
(\$14,400)	Annual mortgage payments*
(\$4,500)	Cleaning - 5 times per month @ \$75
(\$800)	property tax
(\$1,300)	EQR
(\$1,000)	Insurance
(\$1,800)	electricity
(\$720)	internet
\$680	NET INCOME
*Mortgage - \$300,000 home with 20% down @ 4.5 % interest = approx \$1,200 per month	

If Ouray wants to have dedicated housing for low-income employees, it seems that the burden for providing such housing falls to the city and to the employers who aren't paying their employees enough to live here.

#### Help with affordable apartments?:

As you are aware, the Friends of the Wright Opera House recently purchased the "candy store" building. I am the treasurer at the Wright. We bought the building because of the need to structurally support both buildings in order to preserve Ouray's important historic landmarks. The apartments in the candy store building are currently uninhabitable. They are filthy and soaked with pet urine. We would like to make these apartments available as affordable housing in Ouray. The margins are very tight, but since this is a high density commercial property, the rental economics are a little better than with single family homes. Between the mortgage, the EQR, insurance, and property taxes, we think we will be able to break even. But right now, we are in desperate need of some funding to make these apartments habitable again. There are currently five apartments in the building. There is a sixth space that could be converted into a studio apartment with the addition of a bathroom and small kitchen. Alternatively, that space could be made into a laundromat which is another need in town for both tourists and low income residents. Right now, the Wright has no funds dedicated to improving the candy store building by adding another apartment or cleaning and re-carpeting the existing apartments. If the city is truly dedicated to increasing the affordable housing options for local employees, I respectfully request that the city partner with the Wright Opera House board to help us upgrade the five apartments in the building and work to create a sixth apartment in the old candy store building.

Thank you for your consideration,  
 April Orgren  
 428 5<sup>th</sup> Ave, Ouray

**From:** [Lee Ann Parden](#)  
**To:** [Katie Sickles](#)  
**Subject:** STR"s  
**Date:** Monday, January 7, 2019 11:13:59 AM

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Hi Katie,

My name is Lee Ann Parden and I've lived in Ouray for over 15 years, I sell real estate and have owned and managed businesses in the past here in our great city. I am emailing you today out of concern over what the city is trying to do in the way of limiting "short term rentals".

I have attended planning meetings and city council meetings and voiced my concerns, regarding personal property rights being taken away. I do not believe the city has proven that STR's will "hollow out" our community as their buzz phase suggests. I see no proof or any viable studies by the city to prove the council's point of view. In fact I sat at a meeting where Chris Hawkins gave out bad information about how STR's could effect our school. It turns out what Mr Hawkins was stating was his opinion rather than actual data, because there was a school board member who happened to be at the meeting and corrected Mr. Hawkins, proving his information was incorrect. If you drive through 2nd street and that area zoned R-2, there are numerous, hotels, condo's (Alpenglow, managed by Twin Peaks) B&B's, restaurants and spas scattered through out that area where all of us who live there have managed to co-exist just fine. It is hyperbole to believe or suggest the whole area will succumb, (meaning individual homes) to all becoming STR's.

I do have a concern regarding Betty Mauer who's sister owns Twin Peaks and Pam Larsen who's brother is business partner's with Craig Hinkson, who plans to build hotel condos and who owns a hotel. It seems to me these two people should not be allowed to vote in the matters of limiting STR's due to their immediate conflict of interest. Please know that I have no ill will toward either of these women, I highly respect them and their service to our community, but this is a matter of fairness and what I see as protection from nepotism.

Thanks so much for your time!

With kind regards,

**Lee Ann Parden**  
**Broker Associate, RENE**

Ouray Real Estate Corporation  
635 Main St./PO Box 125  
Ouray, CO 81427  
970-318-6740

## Interim Administrator Report – 1.21.19

- Councilman Boyd mentioned a few weeks ago about the desire to have an official purchasing policy for staff which would include a bid process for purchases over \$10,000. There has been discussion that we currently have a policy in place, however nothing has been located. I have discussed this with City staff and we all agree that there should be a formal policy in place to ensure fiscal responsibility with taxpayer's dollars. I will be working on this over the next few weeks with our attorney and will present at future council meeting.
- I met with Chad Lever who wanted to discuss a garage he would like to build at his home on 6th Street. His home is located on the farthest plot on the east side of 6th Street and the last home on the north. Almost directly above 6th Avenue. The issue will deal with a possible encroachment permit to the northwest of his property, which is City property. The encroachment is minimal but it does belong to the City and would require a variance, permanent encroachment permit, or purchase of some kind. I have spoken with Chris about this and we will be moving forward as Chris completes some of the current Planning Commission items.
- I had a meeting with Patrick Rondinelli regarding the grant application that was submitted to DOLA by past Administrator Sickles regarding funds for the 3rd phase geothermal project. Construction costs were not equated and included within the request and the grant review board requested total project costs. The overall project cost submitted by Katie was for \$209,200. With the construction costs for the project, the total is raised to \$256,008. This is a 50% matching grant, which results in an overall cost of \$128,004 for the City and matching funds from DOLA of \$128,004. This is an increase to our budget of \$23,404.00.
- I met with Acting Chief Ray and we discussed the Discovery Channel's proposal for the television show. The Ouray Board of County Commissioners denied their special use permit and therefore it does not sound like Discovery will proceed with the show. We decided as a PD that we would assist the County agencies and State Patrol however needed with the show as long as it did not interfere with our daily operations.
- We have had great discussion regarding the pool closure with staff and with CIRSA. Last week the City had our annual CIRSA audit and during that audit, the pool maintenance issues were brought up. Given the fact that toxic chemicals will be used for this process and the risks associated with it, they have formally stated in a letter that the pool should be closed to public throughout the timeframe.
- Emergency Manager Glenn Boyd, Melissa, and I have not had a chance to meet as of yet to discuss emergency purchasing policies since Glenn has been out of town. When he returns and things have slowed a bit, we will meet to further discuss this potential policy or regulation. I fully agree with a contingency fund that will assist throughout an emergency.
- I met with Greg Nelson regarding the PARC committee and some of the activities he is currently involved with. The committee is looking to further expand the available



outdoor activities to include other sporting opportunities for the City. We had great discussion regarding the current state of the Ice Rink and Rotary Park as a whole. They would like to discuss as we approach the budget cycle for 2020, an increase to their budget so they can accomplish the goals they hope to align with.

- I met with Gary Dunn regarding the Ouray Trails Group project on the Perimeter Trail with the stairs below the tunnel. Gary reported that the Trails group had met with City officials and the city agreed to work towards a purchase of an easement from Paul Chesley that would be required prior to construction. Katie brought this before Council in January and it was intended that negotiations would occur through Michael Hockersmith for all the logistics and the City would utilize Beautification funds of \$2500 for the process. I am unsure if this would have been the entire cost associated with the purchase or if this is solely a contribution on the City's part. Since this meeting, I have had quite a few people comment on the use of Beautification funds for this purpose. Many feel it is an inappropriate use of funds. So far no transactions have occurred and prior to use of Beautification dollars, I would like to ensure this type of transaction falls within the scope and use of funds. If not, we might need to return to council with a request from a different fund/line item.
- City Staff and I met with OIPI officials for an Ice Festival debrief to discuss a few issues that were identified throughout the fest. Most notably we discussed snow removal of the parking areas, parking issues, and Community Center cleaning logistics. The meeting was beneficial and provided all of us the opportunity to discuss how to improve for future Ice Festivals.
- I met with Acting Police Chief Ray on various occasions to provide specific training regarding some of the administrative details within the police department. Last week we had an officer submit a letter of resignation with a completion date of March 6<sup>th</sup>. We will begin the hiring process as soon as possible and will be utilizing part-time and contract officers to assist with coverage throughout the time.
- We are currently working on hiring a company that will conduct the work on the Box Cañon stairs. This is something that has previously been discussed and budgeted for. We are hoping to have the work completed before opening.
- All of the pool manager applications were reviewed and discussed on February 12th. Interviews will begin next week for this position. Once hired, the manager will assist in hiring the assistant manager, which will include the top applicants for the manager position. We have hired 5 lifeguards over the past two weeks but unfortunately due to some injuries, we were down 3. Lifeguards are slim but we are making things work. Rick has done a fantastic job with pool employees and has spent most of his time with them.
- Sally and Scott Clifford would like to run the concessions stand at the pool. This includes a lease agreement, which would have them operating by April 1st. They have great plans on a simple but yet effective concession stand that will include premade sandwiches, goodies/snacks, and beverages.
- In staff Meeting on the 12th I met with Jenn, Dave, and our department heads. We discussed the heating system in the community center and will be working on

rectifying the issue. It seems to have been very cold in the room for some time now so hopefully we'll have the system functioning at a higher level. We discussed our social media efforts and how we can better achieve communications with community members. Jenn is going to be working with all department heads to be more active with our social media efforts. I believe we need to have a better method of engaging with the public on City matters and therefore will be holding a staff community meeting each month. The first meeting will be March 13th at 6pm. I would like to hold these meetings at local businesses but in the event the venue does not work, we will conduct them here at the Community Center. Every department head will be involved with these meetings and will actively participate. Each month we will highlight a different department and things occurring within that department. We will hopefully have good participation by the community and good Q&A sessions.

- I met with Kat Papenbrock on the 11th and had a great discussion about the business district and the direction of the Tourism Office. Kat said her organization is very excited to meet with Council in April to discuss the new LOT numbers and the possibility of increasing their budget. Kat demonstrated a sincere desire to work with the City as much as possible and hopes for a very strong collaborative relationship. The City is striving to build a stronger relationship with the Tourism Office and will be participating with them on many different levels in the future.
- I attended a police academy board meeting for the Technical College of the Rockies. The academy has a new program they are implementing for instructors, which will include current agency instructors. If we are able to send a few of our instructors to teach occasionally, we will receive half off tuition for any future academy student. The current tuition costs for the police academy is \$8000.00.
- I met with our IT Administrator, Kay Briggs, and discussed the current status of IT and the future needs we will be seeing for the Organization. We will be implementing more communication strategies between Kay and the departments to ensure needs are fully being met. Four areas we identified that will be improving for IT in the future are, planning, technical (behind the scenes management), help desk needs, and training/education.

P.O. Box 468  
320 Sixth Avenue  
Ouray, Colorado 81427



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Fax 970.325.7212  
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## CONSENT AGENDA ITEMS (February 25, 2019):

### **Liquor License Renewal– TABJ Company dba Silver Eagle Saloon**

**Action Requested** – *Does City Council approve the Liquor License Renewal for TABJ Company dba Silver Eagle Saloon?*

**Staff Recommendation** – The City Staff has reviewed the application for Liquor License Renewal and found it complete and everything is in order. I recommend City Council approve the Liquor License Renewal for TABJ Company dba Silver Eagle Saloon.

**RETAIL LIQUOR OR 3.2 BEER  
LICENSE RENEWAL APPLICATION**

THE SILVER EAGLE SALOON  
PO BOX 191  
OURAY CO 81427

Fees Due	
Renewal Fee	500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
Amount Due/Paid	

Make check payable to: Colorado Department of Revenue.  
The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

**PLEASE VERIFY & UPDATE ALL INFORMATION BELOW**

**RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE**

Licensee Name TABJ COMPANY		DBA THE SILVER EAGLE SALOON		
Liquor License # 03-07850	License Type Tavern (city)	Sales Tax License # 31917484	Expiration Date 04/05/2019	Due Date 02/19/2019
Operating Manager BRAD JOHNSON	Date of Birth 11-1-1960	Home Address 1010 1/2 N. MAIN ST. OURAY CO. 81427		
Manager Phone Number 970-325-4161		Email Address brad@silvereagle.com		
Street Address 617 MAIN STREET OURAY CO 81427				Phone Number 970-325-4161
Mailing Address PO BOX 191 OURAY CO 81427				

- Do you have legal possession of the premises at the street address above? ☒ YES ☐ NO  
Is the premises owned or rented? ☐ Owned ☒ Rented\* \*If rented, expiration date of lease 4-19-Will Renew 4-21
- Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. ☐ YES ☒ NO  
**NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS:** If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. ☐ YES ☒ NO
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. ☐ YES ☒ NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. ☐ YES ☒ NO

**AFFIRMATION & CONSENT**

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business Patricia Schuster-Johnson	Title Owner
Signature Patricia Schuster-Johnson	Date 11/23/19

**REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY**

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. THEREFORE THIS APPLICATION IS APPROVED.

Local Licensing Authority For	Date
Signature	Title
	Attest



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## ACTION ITEMS (February 25, 2019):

### Special Events Permit Application – BPOE #492, Mardi Gras, March 2nd

**Action Requested** – *Does City Council approve the Special Events Permit for BPOE Lodge No. 492 for the Mardi Gras event on March 2nd?*

**Background** – The organizers will take steps to ensure following of all applicable State laws for serving alcohol during this event. The Police Department has reviewed and provided approval for this request.

**Staff Recommendation** – The City staff recommends that City Council approve the Special Events Permit for BPOE Lodge No. 492 for the Mardi Gras event to be held on March 2<sup>nd</sup>.

### Huckstering Permit Application – Campbell's Cajun Cuisine, summer mobile food cart

**Action Requested** – *Does City Council approve the Huckstering Permit Application for Campbell's Cajun Cuisine, summer mobile food cart*

**Background** – This Huckstering Permit request includes the utilization of an electric golf cart from which food sells will occur as it's being driven throughout the City.

### April Pool Closure and Future Closures for Chemical Cleaning

**Action Requested** – *Will City Council approve the full closure of the Ouray Hot Springs Pool for April 15<sup>th</sup> through April 18<sup>th</sup>, and during future periods of maintenance when chemical or other risk factors to the public are involved?*

**Background** – The Ouray Hot Springs Pool is in need of regular maintenance that requires the use of toxic chemicals (including but not limited to Hydrochloric Acid) for cleaning

purposes. Prior communication from City Council was that there was desire to have no closures to the pool after the renovation took place. A review of this through our insurance company, CIRSA, has resulted in a recommendation of full closure. Please refer to the email within the packet.

**Staff Recommendation** – City Staff recommends following the recommendation and direction of CIRSA and providing a full closure during the periods of needed maintenance, when risks factors towards the public are present.

### **Council Direction to Staff Regarding Short Term Rental Regulations**

**Action Requested** – *What direction will City Council provide City Staff regarding future progression with Short Term Rental Regulations?*

**Background** – Please refer to the Short Term Rental Regulations packet for today's work session.

### **SGM Geothermal Resources Phase 3 Project Funding**

**Action Requested** – *Will City Council approve an additional \$23,404.00 for the Phase 3 Geothermal Resources Project?*

**Background** – After meeting with DOLA regarding the grant application for the Phase 3 Geothermal line, it was determined that construction costs were not equated and included within the original grant application for the project. The grant review board requested total projected costs to include construction costs even if it were done as in-kind service. The overall project cost submitted by Katie was for \$209,200. With the construction costs for the project, the total is raised to \$256,008. This is a 50% matching grant, which results in an overall cost of \$128,004 for the City and matching funds from DOLA of \$128,004. This is an increase to our budget of \$23,404.00.

**Staff Recommendation** – It is the recommendation of City Staff that City Council approve the additional funds needed for this project and grant application. The addition funds would be allocated from the PARC fund.

### **Lease Agreement for Pool Concessions**

**Action Requested** – *Will City Council approve the lease Agreement for Pool Concessions for Ouray County Watersports, Inc., d.b.a. Ouray Picnic Basket?*



**Background** – Scott and Sally Clifford have submitted a business proposal for concessions at the Ouray Hot Springs. According to their plan, they would offer items such as pre-packaged sandwiches, drinks, chips, candy, ice cream, etc. In addition to food items, Ouray Picnic Basket would also sell various sundries such as sun screen, sun glasses, hats and other pool and water related items. They would also have a rental program with rentals of water toys, water-wings, goggles, noodles, and rings. The current lease agreement cost is \$395/month.

**Staff Recommendation** – It is the recommendation of City Staff that City Council approve the Lease Agreement for Ouray Picnic Basket.

## APPLICATION FOR A SPECIAL EVENTS PERMIT

Department Use Only

IN ORDER TO QUALIFY FOR A SPECIAL EVENTS PERMIT, YOU MUST BE NONPROFIT  
AND ONE OF THE FOLLOWING (See back for details.)

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> SOCIAL               | <input type="checkbox"/> ATHLETIC                              | <input type="checkbox"/> PHILANTHROPIC INSTITUTION |
| <input checked="" type="checkbox"/> FRATERNAL | <input type="checkbox"/> CHARTERED BRANCH, LODGE OR CHAPTER    | <input type="checkbox"/> POLITICAL CANDIDATE       |
| <input type="checkbox"/> PATRIOTIC            | <input type="checkbox"/> OF A NATIONAL ORGANIZATION OR SOCIETY | <input type="checkbox"/> MUNICIPALITY OWNING ARTS  |
| <input type="checkbox"/> POLITICAL            | <input type="checkbox"/> RELIGIOUS INSTITUTION                 | FACILITIES   |

LIAB TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:  
2110 ☒ MALT, VINOUS AND SPIRITUOUS LIQUOR \$25.00 PER DAY  
2170 ☐ FERMENTED MALT BEVERAGE (3.2 Beer) \$10.00 PER DAY

DO NOT WRITE IN THIS SPACE

LIQUOR PERMIT NUMBER

1. NAME OF APPLICANT ORGANIZATION OR POLITICAL CANDIDATE

State Sales Tax Number (Required)

Ouray Elks Lodge - Mardi Gras

2. MAILING ADDRESS OF ORGANIZATION OR POLITICAL CANDIDATE  
(Include street, city/town and ZIP)

PO Box 647  
Ouray CO 81427

3. ADDRESS OF PLACE TO HAVE SPECIAL EVENT  
(Include street, city/town and ZIP)

421 Main St  
Ouray CO 81427

NAME

DATE OF BIRTH

HOME ADDRESS (Street, City, State, ZIP)

PHONE NUMBER

4. PRES /SEC'Y OF ORG. or POLITICAL CANDIDATE

John Korman

5. EVENT MANAGER

Sharon Wild

6. HAS APPLICANT ORGANIZATION OR POLITICAL CANDIDATE BEEN  
ISSUED A SPECIAL EVENT PERMIT THIS CALENDAR YEAR?

☐ NO ☐ YES HOW MANY DAYS?

7. IS PREMISES NOW LICENSED UNDER STATE LIQUOR OR BEER CODE?

☐ NO ☒ YES TO WHOM?

8. DOES THE APPLICANT HAVE POSSESSION OR WRITTEN PERMISSION FOR THE USE OF THE PREMISES TO BE LICENSED? ☐ Yes ☐ No

LIST BELOW THE EXACT DATE(S) FOR WHICH APPLICATION IS BEING MADE FOR PERMIT

Date	Date	Date	Date	Date
Hours From To	Hours From To	Hours From To	Hours From To	Hours From To
3.2.19 P.m.	2 P.m.			
	2 A.m.			

### OATH OF APPLICANT

I declare under penalty of perjury in the second degree that I have read the foregoing application and all attachments thereto, and that all information therein is true, correct, and complete to the best of my knowledge.

SIGNATURE

Bette Mauer

TITLE

Club Manager

DATE

2.7.19

### REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY OR COUNTY)

The foregoing application has been examined and the premises, business conducted and character of the applicant is satisfactory, and we do report that such permit, if granted, will comply with the provisions of Title 12, Article 48, C.R.S., as amended.

THEREFORE, THIS APPLICATION IS APPROVED.

LOCAL LICENSING AUTHORITY (CITY OR COUNTY)

☐ CITY  
☐ COUNTY

TELEPHONE NUMBER OF CITY/COUNTY CLERK

SIGNATURE

TITLE

DATE

DO NOT WRITE IN THIS SPACE - FOR DEPARTMENT OF REVENUE USE ONLY

### LIABILITY INFORMATION

License Account Number	Liability Date	State	TOTAL
		-750 (999)	\$

(Instructions on Reverse Side)



P.O. Box 468  
320 Sixth Avenue  
Ouray, Colorado 81427



970.325.7211  
Fax 970.325.7212  
www.cityofouray.com

## HUCKSTERING APPLICATION AND PERMIT

### APPLICATION

Name of Business: Campbell's Cajun Cuisine  
Name of Applicant: Adrian Musgrove  
Primary Business Address: 636 Main St Ouray, Co  
Mailing Address: Po Box 984  
Telephone Number: 970 318-1207 Email Address: cheta@adrianmusgrove@yahoo.com  
Event Name: Summer & Mobile Unit  
Description of Activity: Electric Golf Cart Selling Hot dogs in Ouray through the summer 100% Mobile (Not a food truck)  
Date of Huckstering activity: 6/1/19 - 10/30/19  
Location of Huckstering activity: City of Ouray (City Limits)  
Adjoining Property Owner permission if applicable: N/A  
Signature of Adjoining Property Owner: \_\_\_\_\_

Is the Applicant a non-profit organization? Yes: \_\_\_\_\_ No: ✓

Proof of Sales Tax License Attached. Yes: ✓ No: \_\_\_\_\_

[Signature]  
Signature of Applicant (signature required on both sides of application)

2/9/19  
Date

Receipt of Complete Application:

\_\_\_\_\_  
Signature of City Staff

\_\_\_\_\_  
Date

## Interim City Administrator

---

**From:** MartyJo Davis  
**Sent:** Tuesday, February 05, 2019 3:58 PM  
**To:** Joe Coleman; Interim City Administrator; Rick Noll  
**Subject:** FW: Muriatic Acid

Hi Gents,

Larry provided a recommendation that we do not keep the pool open during the cleaning process. See below.

Warm regards,

MartyJo Davis  
Administrative Accounting Clerk  
970.325.7083



---

**From:** Larry Cardamone [mailto:larry@cirsa.org]  
**Sent:** Tuesday, February 05, 2019 3:29 PM  
**To:** MartyJo Davis <DavisM@cityofouray.com>  
**Subject:** Muriatic Acid

Hi MJ. Feel free to relay this to Pam and Justin.

Hydrochloric acid is the chemical name of muriatic acid. It is extremely toxic (category 4), and considered a health hazard if exposed. It can cause severe skin burns & eye damage and is a respiratory irritant. Possible means of exposure include airborne from mist or vapor, or direct contact with the chemical liquid. Consequently, when working with this chemical personal protective equipment must be worn including gloves, protective clothing, eye protection and face protection.

If the city were to keep the pool open to the public during cleaning operations, the public would subsequently be indirectly or directly exposed to this toxic and dangerous chemical. The city's general duty of care to the public is to ensure a safe and healthy environment when using city facilities; however, if during the cleaning operation a claim were to arise from the public due to exposure to this chemical, the city would most likely be deemed negligent as it should have known that this chemical is inherently dangerous and posed an unreasonable risk to the safety and health of the public. **Therefore, I recommend that the pool be closed to the public during cleaning operations when using muriatic acid.**



**SAFER**TOGETHER

**Larry Cardamone**  
Senior Loss Control  
Representative

800.228.7136 Main  
970.615.1011 Direct  
970.209.9166 Cell

EIAF # 8868                      Ouray Box Canyon Geothermal Pipeline Replacement Phase III  
 Lead Applicant:                City of Ouray  
 Contact Name / Title:        Kathleen Sickles / City Administrator  
 Contact Phone:                970-325-7060

**Project Description:**

Ouray Box Canyon Geothermal Pipeline Replacement Phase III consists of the following: Replace approximately 1,725 LF of PVC waterline with 6" insulated pipe from the termini of Phase II in the area of 3rd Avenue to 7th Avenue; replace and lower a heat exchange vault and insulate, reroute pipe alignment away from bank slope, bury pipe, and replace manholes.

**Problem Statement:**

This is the primary source for the Ouray Hot Springs Pool. Geothermal temperatures at the end of Phase II (completed in 2016) equal 154.4° and decrease by 6° at the point where phase III will end. This affects water temperatures at the pool, especially during the winter months, leading to the closure of some of the pools as well as the City discounting entrance fees because hot temperatures cannot be maintained. The existing line also is exposed to the elements, vandal interference, and natural hazards.

**Demonstration of Problem / Opportunity and Urgency of Need**

- The existing line has many angles and clogs due to mineralization of the geothermal water.
- Manholes are not secured and are susceptible to weather and vandalism.
- Increasing the water temperatures will aid in keeping pool temperatures and maintain a reliable revenue stream.
- Current conditions result in increase operation and maintenance costs as well as overall lost revenues at the pool. Completion of this project will result in an improved customer experience, expanded use of the facility, and increased revenues.
- Future phases are anticipated and include 2,350 LF of insulated pipe, manholes and appurtenances from the termini of Phase III to the pool. Additional phases will require engineering, permits, and financial resources that are not currently secured.

**Priority, Community Goal, Outcome:**

- The Hot Springs Pool is a local and regional facility that is a major economic driver for the City and business community.
- Customers and citizens are concerned about pool temperatures and the impact to the City's tourism economy.
- This project is the second priority in the City's Capital Improvement and Strategic Plans, second only to a new bathhouse. In addition to being the primary source for the pool, the geothermal water is used to heat the bathhouse. Upon researching costs and resources, this was determined the appropriate project for 2019.
- Project Contingency is 15% of the total budget.
- Phases I and II of the geothermal line replacement have been supported by DOLA (EIAF #6338 for \$60,000 in 2008 and EIAF #7580 for 125,000 in 2014).

**Local Effort:**

Committed Local Contribution is            50% of total project costs.

- The City is planning to bid construction, but if bids are too high, the City crew will complete the work.
- Admission rates at the pool were increased effective January 1, 2019.
- Some of the funds from this project will come from the Capital Improvement Fund, which is a fund supported by 1% of the City's sales tax (implemented in 2016).

All Purpose Mill Levy	16.166	is > the statewide median of	11.769 for a muni 1,000 to 4,999 in size.
Per Capita Total Debt	\$8,155	is > the statewide median of	\$1,314 for a muni 1,000 to 4,999 in size.
Per Capita AV	\$31,462	is > the statewide median of	\$11,794 for a muni 1,000 to 4,999 in size.
Sales Tax Rate	4.00%	is > the statewide median of	3.00% for a muni 1,000 to 4,999 in size.

**Readiness to Go and Operational Capacity:**

Ready to Go Score:

12 of 15

Ready Categories (Score 0 - 3, if N/A then leave it blank)

A. 2

B.  C.  

Project can begin in: less than 3 months

D. 2

E. 3

F.  

- A City Utility/Excavation Permit will be required.
- This project is in the adopted 2019 budget.
- The majority of the project will be within City ROW or within existing utility easements. One section will need to be rerouted on private property so the utility easement will need to be adjusted.
- No further engineering is needed.

**Energy/Mineral Relationship:**

Energy Impact Score:

3 of 10

County: Ouray

- The City has a long mining history with mine activity throughout the adjoining mountains which created the economic base for the community for decades. While there is still one active mine outside of the City limits, the current economy is now mostly oriented towards tourism and the Hot Springs Pool is a major economic driver for the City and community.

**Project Budget:**

Budget Expenditures	Expenditure Per Line Item	State Funds	Local Funds <i>Pending + Confirmed</i>	(P) (C)	Funding Contributor	Source of Funds
1,725 LF of 6" insulated pipe	\$ 146,625	\$ 128,004	\$ 128,004	C	City	Capital
4 each of 48" manholes	\$ 27,500					
1 heat exchange vault	\$ 8,000					
Pipe bedding material	\$ 13,500					
Utility potholing	\$ 5,000					
Re-establish landscaping	\$ 5,500					
Mobilization	\$ 16,490					
Contingency	\$ 33,393					
<b>Total</b>	<b>\$ 256,008</b>	<b>\$ 128,004</b>	<b>\$ 128,004</b>			
Match % of total budgeted project costs		50%	50%			

**Financial Data as of Jan. 1st:**

Lead Applicant

(Capital Fund)

( )

Assessed Valuation	\$ 32,531,840	\$ -	\$ -
Mill Levy	16.166		
Property Tax Revenue	\$ 525,909.73	\$ -	\$ -
Sales Tax Rate	4.00%		
Sales Tax Est. Annual Revenue	\$ 1,082,469	\$ -	\$ -
Budget Revenues (GF)	\$ 1,889,869	\$ -	\$ -
Budget Expenditures (GF)	\$ 2,340,114	\$ -	\$ -
Fund Balance (GF)	\$ 469,253	\$ -	\$ -
Unassigned Fund Balance (GF)	\$ 261,859	\$ -	\$ -
Outstanding Debt (All Funds)	\$ 8,432,638	\$ -	\$ -
Budget Revenues (All Funds)	\$ 7,769,677	\$ -	\$ -
Budget Expenditures (All Funds)	\$ 14,593,491	\$ -	\$ -
Fund Balance (All Funds)	\$ 2,884,213	\$ -	\$ -
Budget Revenues (Parks Fund)	\$ 1,510,891	\$ 349,933	\$ -
Budget Expenditures (Parks Fund)	\$ 1,882,400	\$ 284,577	\$ -
Fund Balance (Parks Fund)	\$ 837,970	\$ 484,561	\$ -
Long-Term Debt (Parks Fund)	\$ 8,150,000	\$ -	\$ -
(Parks Fund) Mill Levy	0		

**Current Population:** 1,034

**Project Pros:**

- DOLA has already supported previous phases of this overall project as well as improvements to the Hot Springs Pool.

**Project Cons:**

- There will still be future phases to complete replacement of the entire geothermal line to the pool.

**Applicant Questions**

# **BUSINESS PLAN FOR OURAY PICNIC BASKET AND OURAY COUNTY WATERSPORTS TO OPERATE AT THE OURAY HOT SPRINGS POOL**

## **INTRODUCTION**

This is a proposal by Ouray County Watersports, Inc., (Watersports) d.b.a. Ouray Picnic Basket to operate as a concessionaire at the Ouray Hot Springs Pool beginning April 1, 2019. More specifically, it would lease the space previously occupied by Rib City Grill. Ouray Picnic Basket would provide snack shop type products to the patrons of the pool. For the most part, Watersports will be renting paddle boards, kayaks and other watersports equipment to the general public to be used on the lake at Ridgway State Park.

## **OURAY PICNIC BASKET**

The Ouray Picnic Basket would be offering pre-packaged sandwiches, drinks, chips, candy, ice cream and the like. It would not be cooking any food. It will also sell various sundries such as sun screen, sun glasses, hats and other pool and water related items. Finally, it would handle the rental to patrons of water toys and other pool items such as water-wings, goggles, noodles and rings.



## **OURAY COUNTY WATERSPORTS**

Watersports is currently in the business of renting stand up paddle boards, kayaks and similar water equipment to be used on the lake at Ridgway State Park. It also offers whitewater rafting and kayaking on the Uncompahgre River and sailing on Ridgway Reservoir. Watersports will be occupying a portion of the leased space and promoting its business from there.

### **HOURS AND INSURANCE**

Watersports and the Picnic Basket contemplates being open 7 days per week from approximately 9:00 a.m to 7:00 p.m. during the season.

Watersports currently has a Certificate of Liability Insurance in the amount of Two Million Dollars (\$2,000,000). It will name the City of Ouray as a Certificate Holder.

### **BUSINESS INFORMATION**

Watersports is a Colorado corporation in good standing. Ouray Picnic Basket is a trade name of Watersports. The principals of Watersports and the Picnic Basket are Scott and Sally Clifford who reside in Ouray, Colorado. Its business telephone numbers are (970) 708-0141 and, toll free, (800) 252-0978. Watersports is licensed by the State of Colorado as a River Outfitter. Both Scott and Sally are certified United States Coast Guard Captains.

Both Scott and Sally have substantial business experience as concessionaires. They have operated a boat tour business for many years and two years ago ran the marina and boat tours at Horseshoe Bend Marina in Bighorn Canyon National Recreation area on the Wyoming/Montana border. This included managing the deli and snack store which would be similar to the concession at the Ouray Hot Springs Pool.

Sally also worked for many years in a large employee owned, multi-state grocery chain, where she oversaw deli and pizza departments. Lastly, Sally is a Certified Life Guard and is working this winter at the Hot Springs Pool.

## COMMERCIAL BUSINESS LEASE AGREEMENT

THIS LEASE is made this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the CITY OF OURAY, COLORADO, a municipal corporation of the State of Colorado (City), and Ouray County Watersports, Inc., dba Ouray Picnic Basket and Scott Clifford and Sally Clifford (Lessee).

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Description of Premises:

The Premises include an area contiguous to the Ouray Pool Bathhouse, together with the additional structure immediately adjacent to the Ouray Pool Bathhouse known as the Pool's Swim and Snack Shop, as shown on Exhibit A, and located at the Ouray Municipal Swimming Pool (Pool), City of Ouray, Colorado.

2. City Personal Property:

The Premises also contain personal property of the City. Such personal property, as listed on Exhibit B, shall be subject to the terms of this Lease.

3. Description of Business:

The Business consists of three components:

- a. Food sales, consisting of pre-packaged sandwiches, drinks, chips, candy, ice cream, etc., for both patrons of the pool and walk up service at the window to the parking lot. No food shall be cooked on the Premises.
- b. Rental of pool related items such as flotation devices and other water toys, goggles, towels and swimsuits.
- c. Sale of pool incidental items such as sunscreen, sunglasses, lip balm, etc.

4. Lease Term:

The term of this Lease shall be for one (1) year, commencing on April 1, 2019.

5. Rent:

Lessee shall pay the City rent in monthly installments of Three Hundred Ninety-Five Dollars (\$395.00) a month, beginning on April 1, 2019, with succeeding payments due on or before the first day of each month. If the pool is closed for more than two consecutive (2) weeks at any time, for any reason, other than Lessee's negligent act, during the Lease Term, rent shall be abated during such period.

6. Use of Premises:

The Premises are to be used for the purpose of conducting the Business. Lessee shall restrict its use to such purpose and shall not use or permit the use of the premises for any other purpose without the written consent of City or City's authorized agent.

It is understood between the Parties that the patrons of the Pool and Lessee may use the items purchased and/or rented from Lessee for the purpose(s) such items are intended to be used at the City's swimming and park facilities. City may revoke or limit the right of patrons to use such items to protect the safety of the Pool's patrons.

7. Hours:

Lessee agrees the Business will be open for business from 9:00 a.m. until 7:00 p.m., seven (7) days per week.

8. Restrictions on Use:

Lessee shall not use the Premises or conduct the Business in any manner that will increase risks covered by insurance on the Premises and result in an increase in the rate of insurance or a cancellation of any insurance policy, even if such use may be in furtherance of Lessee's business purposes related to the Premises. Lessee shall not keep, use or sell anything prohibited by any policy of fire insurance covering the Premises, and shall comply with all requirements of the insurers applicable to the Premises necessary to keep in force the fire and liability insurance. No alcoholic beverages shall be served or consumed on the Premises.

9. Standards of Operation:

Lessee shall maintain high standards of service and operate in accordance with all applicable State of Colorado requirements and comply with any duties or obligations imposed by the County Food Service Inspector. Lessee shall provide prompt, friendly, and courteous service at all times and shall in no way alienate pool patrons. Excessive complaints shall be a breach of this Lease.

10. Waste, Nuisance or Unlawful Activity:

Lessee shall not allow any waste or nuisance on the Premises, or use or allow the Premises to be used for any unlawful purpose. Lessee shall be responsible to keep the Premises clear from all trash and refuse.

11. Repairs, Maintenance and Cleaning:

Lessee shall maintain the Premises and keep them in good repair at Lessee's expense. Lessee shall perform routine maintenance and repairs to the interior of the Premises, as necessary, at Lessee's expense. Lessee shall maintain, repair and clean windows, doors, floors and interior walls. Any improvements or alterations made by Lessee shall first be

approved by City in writing and, in such event, such alterations or additions shall be at Lessee's expense. Damage caused by Lessee, or others, shall be repaired at Lessee's expense.

12. Delivery, Acceptance and Surrender of Premises:

City represents that the Premises are in fit condition for use by Lessee. Acceptance of the Premises by Lessee shall be construed as recognition that the Premises are in good state of repair and in a sanitary condition. Lessee shall surrender the Premises at the end of the Lease Term, or any renewal thereof, in the same condition as when Lessee took possession, allowing for reasonable use and wear, and damage by acts of God, including fires and storms. Before delivery, Lessee shall remove all business signs placed on the Premises and restore the portion of the Premises on which they were placed in the same or equal condition as when received. Any fixtures or improvements of a permanent nature installed by Lessee shall become the property of City at the expiration of the Lease, or any renewal thereof.

13. Partial Destruction of Premises:

Partial destruction of the Premises shall not render this lease void or voidable, nor terminate it except as herein provided. If the Premises are partially destroyed during the term of this Lease, City shall repair them when such repairs can be made in conformity with governmental laws and regulations, within thirty (30) days of the partial destruction. Written notice of the intention of City to repair shall be given to Lessee within five (5) days after any partial destruction. Rent will be reduced proportionately to the extent to which the repair operations interfere with the business conducted on the Premises by Lessee. If the repairs cannot be made within the time specified above, City shall have the option to make them within a reasonable time and continue this Lease in effect with proportional rent rebate to Lessee as provided for herein. If the repairs cannot be made in thirty (30) days, and if City does not elect to make them within a reasonable time, either party shall have the option to terminate this Lease.

14. Entry on Premises by City; Non-Exclusive Use Area:

City reserves the right to enter on the Premises at reasonable times and upon reasonable notice to inspect them, perform required maintenance and repairs, or make conditions, alterations or modifications to any part of the building in which the Premises are located, and Lessee shall permit City to do so. City may erect scaffolding, and similar structures, post relevant notices, and place movable equipment in connection with making alterations, additions, or repairs, all without incurring liability to Lessee for disturbance of quiet enjoyment of the Premises or loss of occupation thereof.

15. Signs, Awnings, and Marquees Installed by Lessee:

Lessee shall not construct or place signs, awnings, marquees, or other structures projecting from the exterior of the Premises without the written consent of City. Lessee shall remove signs, displays, advertisements or decorations that, in the opinion of City as given by written notice, are offensive or otherwise objectionable. If the Lessee fails to remove such

signs, display, advertisements, or decorations within five (5) days after receiving written notice from the City to remove them, the City reserves the right to enter the Premises and remove them at the expense of the Lessee. City shall have the right to post signs that indicate that Premises are for use by all pool patrons. Lessee may display, in a conspicuous poolside location, a promotional sampling of Lessee's merchandise, the quality and location of such display to be agreed upon between the City and Lessee. The Lessee shall be able to install signage on the parking lot side of the Swim Shop at the existing service window, in compliance with Ouray City Code.

16. Indemnification:

The Lessee agrees to indemnify and hold harmless the City, and its officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the Lessee's possession of the Premises or operation of the business thereon, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other fault of the Lessee or any subcontractor of the Lessee, or any officer, employee, or agent of the Lessee or any subcontractor, or any other person for whom Lessee is responsible. The Lessee shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands, and to bear all other costs and expenses related thereto, including court costs and attorneys' fees. The Lessee's indemnification obligation of this paragraph 15 shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the City.

17. Liability Insurance:

a. The Lessee agrees to procure and maintain, at its own cost, the policy or policies of insurance required by this paragraph 14. The Lessee shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to the Lease by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. Such coverages shall be procured and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained from the date of commencement of this Lease. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

b. Insurance Required:

i. Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent Lessees, products, and completed operations. The policy shall contain a severability of

interest provision.

- ii. The policies required shall be endorsed to include the City, and its officers and employees, as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, or its employees, shall be excess and not contributory insurance to that provided by Lessee. The additional insured endorsement for the Comprehensive General Liability insurance acquired above shall not contain any exclusion for bodily injury or property damage arising from operation of the Premises. The Lessee shall be solely responsible for any deductible losses under each of the policies required above.
- iii. Certificates of insurance shall be provided to the City upon execution of this Lease and each subsequent year of the Lease Term. Each certificate shall identify the Premises and shall provide that the coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the City. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. City reserves the right to request and receive a certified copy of any policy and any endorsement thereto. Failure on the part of the Lessee to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of the Lease upon which City may immediately terminate the Lease, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by City shall be repaid by Lessee to City upon demand.
- iv. The parties hereto understand and agree that City is relying on, and does not waive or intend to waive by any provision of this Lease, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §24-10-101 et seq., 10 C.R.S., as from time to time amended, or otherwise available to City, its officers, or its employees.

18. Worker's Compensation:

Lessee claims an exception from requirements to obtain worker's compensation insurance and hereby agrees to release, waive, save, hold harmless, defend and indemnify the City, its officers, agents or employees on account of any claims arising under the workmen's compensation laws of the State of Colorado on behalf of Lessee or any Lessee's employees, subcontractors or subcontractor's employees. Lessee hereby agrees that it shall obtain statutorily required workmen's compensation insurance to cover Lessee's employees and provide the City a certificate of such insurance.

19. Assignment, Sublease or License:

This Lease shall bind and benefit alike the heirs, successors, and assigns of the parties hereto. Lessee may not assign this Lease or sublet the premises without the written approval of City, which shall not be unreasonably refused. The financial status and the moral character, reputation and record of the proposed assignee may be considered by City in the event of a request for consent to assignment or sublease.

20. Breach by Lessee:

The appointment of a receiver to take possession of the assets of Lessee, a general assignment for the benefit of the creditors of Lessee, any action taken or allowed to be taken by Lessee under any bankruptcy act, or the failure of Lessee to comply with each and every term and condition of this Lease shall constitute a breach of this Lease. Lessee shall have ten (10) days after receipt of written notice from City of any breach to correct the conditions specified in the notice, or if the corrections cannot be made within the ten (10) day period, Lessee shall have a reasonable time to correct the default if action is commenced by Lessee within five (5) days after receipt of the notice.

21. Remedies of City for Breach by Lessee:

City shall have the following remedies in addition to its other rights and remedies in the event Lessee breaches this Lease and fails to make corrections as set forth in paragraph 20:

- a. City may re-enter the premises immediately and remove the property and personnel of Lessee, store the property in a public warehouse or at a place selected by City, at the expense of Lessee.
- b. After re-entry City may terminate the lease on giving ten (10) days' written notice of termination to Lessee. Without such notice, re-entry will not terminate the Lease. On termination City may recover from Lessee all damages proximately resulting from the breach, including the cost of recovering the Premises and the worth of the balance of this Lease over the reasonable rental value of the premises for the remainder of the lease term, which sum shall be immediately due City from Lessee.
- c. After re-entering, City may re-let the Premises or any part thereof for any term without terminating the Lease, at such rent and on such terms as it may choose. City may make alterations and repairs to the Premises. The duties and liabilities of the parties of the Premises are re-let as provided herein shall be as follows:
- d. In addition to Lessee's liability to City for breach of the Lease, Lessee shall be liable for all expenses for the re-letting, for the alterations and repairs made, and for the difference between the rent received by City under the new lease agreement and the rent installments that are due for the same period under this Lease.



- e. City, at its option, shall have the right to apply the rent received from re-letting the Premises: (1) to reduce Lessee's indebtedness to City under this Lease, not including indebtedness for rent: (2) to expenses of the re-letting and alterations and repairs made: (3) to rent due under this Lease, or (4) to payment of future rent under this Lease as it becomes due.
- f. If the new Lessee does not pay a rent installment promptly to City, and the rent installment has been credited in advance of payment to the indebtedness of Lessee other than rent, or if rentals from the new Lessee have been otherwise applied by City as provided for herein, and during any rent installment period, are less than the rent payable for the corresponding installment period under this lease, Lessee shall pay City the deficiency, separately for each rent installment deficiency period, and before the end of that period. City may at any time after such re-letting terminate the Lease for the breach on which City based the re-entry and re-let the premises.
- g. After re-entry, City may procure the appointment of a receiver to take possession and collect rents and profits of the business of Lessee, and if necessary, to collect the rents and profits the receiver may carry on the business of Lessee and take possession of the personal property used in the business of Lessee, including inventory, trade fixtures, and furnishings and use them in the business without compensating Lessee. Proceedings for appointment a receiver by City, or the appointment of a receiver and the conduct of the business of Lessee by the receiver, shall not terminate and forfeit this Lease unless City has given written notice of termination to Lessee as provided herein.

22. Notices:

All notices to be given to City shall be delivered to Ouray City Hall, P.O. Box 468, Ouray, CO 81427.

Notices to Lessee may be mailed to Scott Clifford, P.O. Box 198, Ouray, CO 81427

23. Taxes:

Lessee shall pay all real property taxes for the leased Premises during the terms of this Lease, and Lessee shall pay all personal property taxes incurred during the term of this Lease for the personal property owned by Lessee and kept on the leased Premises. Lessee shall pay any sales, use or other taxes due.

24. Utilities:

All utilities, except water, sewer, trash, and heat, used on the leased Premises during the terms of this Lease shall be arranged and paid for by the Lessee.

25. City's Right to Enforce:

The failure of City to insist, in any one or more instances, upon a strict performance of any of the obligations, covenants or agreements herein contained, or the failure of City in any one or more instances to exercise any option, privilege or waiver, relinquishment or release of such obligations, covenants or agreements, and no forbearance by City of any default hereunder shall in any manner be construed as constituting a waiver of such default.

26. Option to Renew:

City grants to Lessee an option to renew this Lease for two additional one (1) years terms at a rental to be determined by the City, with all other terms and conditions of the renewal Lease to be the same as those herein except for this paragraph 26, which shall not be renewed. To exercise this option to renew, Lessee must not be in breach of any terms of this Lease and must give City written notice of intention to do so at least ninety (90) days before this Lease expires.

27. Rent Increases. The City shall have the right, on the anniversary of the commencement date of the Lease, to increase the rent by five percent (5%) each term, subject to advance written notice to the Lessee.

IN WITNESS WHEREOF, the Parties have entered into this Lease as of the day and year first above written.

CITY OF OURAY

LESSEE

\_\_\_\_\_  
Pamela J. Larson, Mayor

\_\_\_\_\_  
Scott Clifford, President,  
Ouray County Watersports, Inc.

ATTEST:

\_\_\_\_\_  
Scott Clifford, individually

\_\_\_\_\_  
Melissa Drake, City Clerk

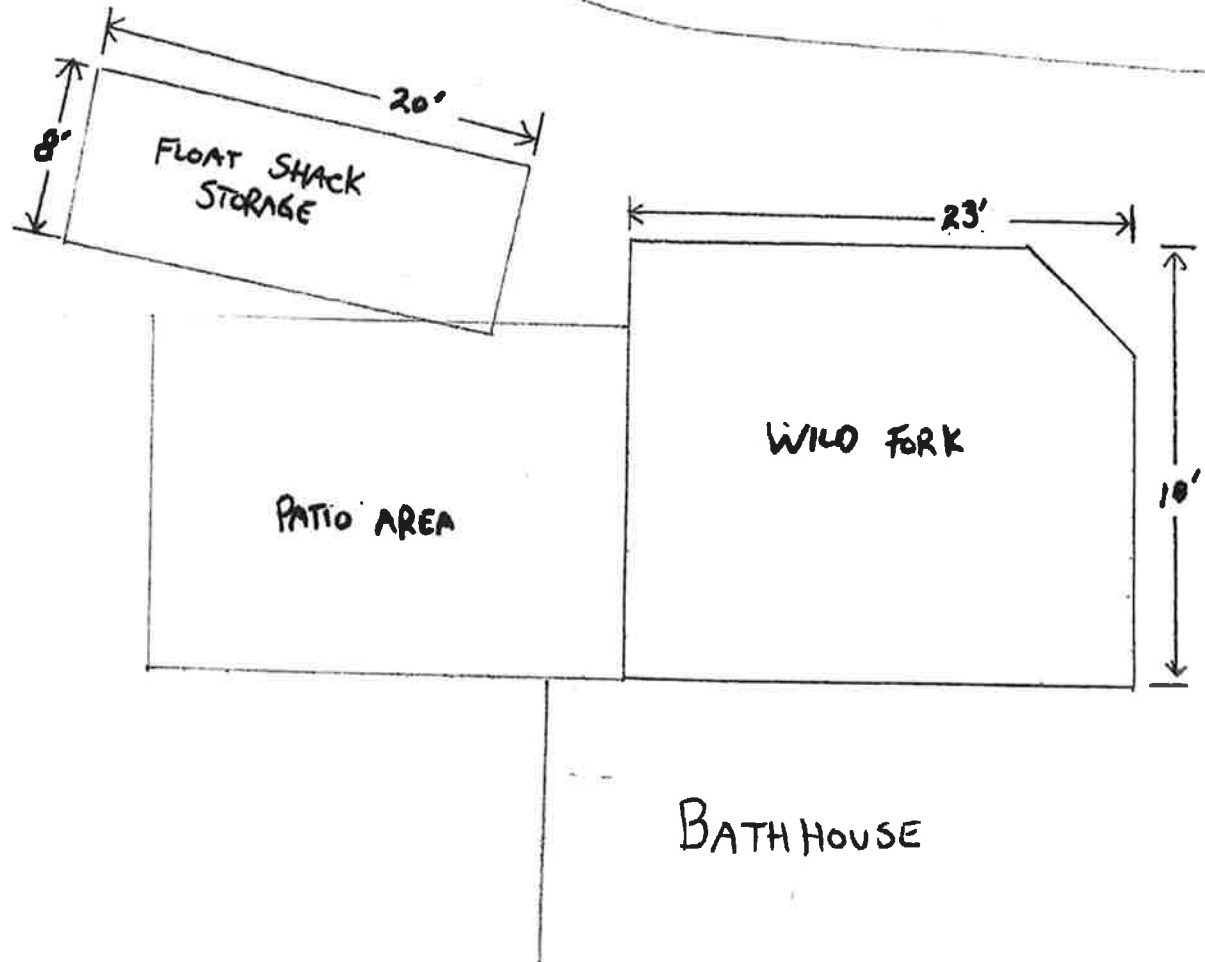
\_\_\_\_\_  
Sally Clifford, individually

EXHIBIT A

SWIMMING POOL

NORTH  
↑

WILD FORK  
EXHIBIT A



2-18-15  
RJP

## EXHIBIT B

Hot Springs Pool Swim Shop Inventory					
Date updated January 1, 2014					
Item name	Description	Model Number	Serial Number	Other Information	Location
Display Case	wood frame			Painted white, with electric light	Wild Fork
Refrigerator	Kenmore Upright residential	253.630823	unreadable	mfg. date 12-2003	City Hall Basement
TV	Sanyo				City Hall Basement
CD Player	Denon 5 disk				Wild Fork
Amp and Radio Tuner	Denon				Wild Fork
Cooler	Pepsi beverage cooler			owned by Pepsi	Float Shack
Fountain Drink Server				owned by Pepsi	removed by Pepsi
Freezer	Kenmore Upright residential	253.9264111	WB74023770	mfg. date 10-1997	City Hall Basement
Freezer	Kenmore commercial				City Hall Basement
Pretzel Server	heated and lighted				Wild Fork
Fryer	Wells brand	F49	FE 49071240009		City Hall Basement
Table	Stainless steel, Duke brand			approx. 3' x 3'	Wild Fork
Range	Garland US Range			griddle top, single door, natural gas	Parks Maintenance Building
Prep Table, refrigerated	Continental Refrigerator brand	SW48-12	134C5621	2-door, hinge top	City Hall Basement
Microwave	Panasonic, commercial stainless steel	NE1054T	TA05201010	mfg. date 10-2006	City Hall Basement
Soup Warmer	Star brand,			2 pot capacity, missing pots	Wild Fork
Credit Card machine	Merchant Solutions brand				Obsolete, discarded
Point of Sale System				Dell CPU, keyboard, cash drawer, monitor, credit card reader, receipt printer	City Hall Basement
Display shelves	blue, particle board			approx 6' tall x ?? x ??	repainted white Wild Fork
Step stool	2-step				disposed, unsafe
Bar stools - 2					Wild Fork
Display shelves	blue, particle board			approx. 3' tall x ?? x ??	repainted white Wild Fork
Air Pump				for inflating floats	Broken, put in trash in 2014
Picnic table (2)				located at drive up area	Wild Fork
3-compartment sink					Wild Fork
Hand Sink					Wild Fork

Rick Now  
 FEB 27, 2015  
 Float Shack  
 Rick Now  
 FEB 27, 2015

2-18-15  
 RNP

P.O. Box 468  
320 Sixth Avenue  
Ouray, Colorado 81427



970.325.7211  
Fax 970.325.7212  
[www.cityofouray.com](http://www.cityofouray.com)

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## DISCUSSION ITEMS (February 25, 2019)

### Schedule for Twin Peaks Preliminary PUD Public Hearing

**Background** – The Planning Commission recently approved the preliminary PUD for Twin Peaks, which now must come before City Council. Staff is requesting direction on scheduling this public hearing, whether it be in a special meeting or regular City Council meeting.

### LOT Discount Discussion

**Background** – A requested discussion by Council Member Maurer to discuss the possibility of LOT discounts.

**Future Agenda Items** – Council discussion about future agenda items.