

RESOLUTION NO. 12 (SERIES 2021)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OURAY, COLORADO ADOPTING SHORT TERM RENTAL ADMINISTRATIVE POLICIES; A REVISED STR FEE SCHEDULE; AND A REVISED APPLICATION.

WHEREAS, City Council has recently repealed and replaced the short-term rental (STR) regulations within the City after conducting many work sessions and public meetings on the subject.

WHEREAS, City Council desires to adopt certain administrative policies for City staff to follow when regulating STRs, revise the fee structure for STR licenses and to adopt the template application.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OURAY, COLORADO as follows:

1. The attached Exhibit A, B, and C to this Resolution No. 12 (SERIES 2021) is hereby approved.
2. With respect to Exhibit B and C, any previously adopted fees, including Resolution No. 6 (SERIES 2019), are hereby repealed.

ADOPTED this 18TH day of ~~September~~ OCTOBER 2021, by the Ouray City Council.

CITY OF OURAY, COLORADO


Greg Nelson, Mayor

ATTEST:


Melissa M. Drake, City Clerk

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A. Purpose

These policies apply to any Short-Term Rental (STR)¹ within the City of Ouray and are necessary for the health, safety, and welfare of the public.

B. Definitions

1) **Change of Real Property Ownership:** Any transfer of ownership interest in real property where a STR licensed dwelling unit is located, except as allowed Ouray Municipal Code, Section 7-5-j-11, a copy of which is attached as Exhibit 1.

2) **Inspection Ready:** Property is ready for an inspection when it is not (1) under construction and has been issued a Certificate of Occupancy; (2) there is no remodel work being performed; and, (3) the real property owner believes the property meets all City of Ouray adopted building codes.

3) **Grantor's Family:** For purposes of an ownership change, Grantor's family is defined as the real property owner's spouse and biological or adopted children.

C. General Provisions

1) **Notifications:** The real property owner is solely responsible for compliance with all STR regulations and policies. The City is not responsible for notifying real property owners of license expiration; any change of real property ownership or management shall be communicated to the City Community Development Department by the real property owner.

2) **Annual License Renewal:** STR licenses are valid for one (1) year. Renewal applications are due on or before February 28th of each year. All licensed STRs will be required to submit a Renewal Application and applicable fees on or before February 28, 2022, to remain an active licensed STR. Those that fail to meet the February 28th deadline shall lose their STR license. To facilitate this policy change, all STR licenses issued between June 30, 2021 and February 28, 2022 shall not be required to pay any renewal fees but is still required to submit a Renewal Application.

3) **Cap:** The maximum number of STRs licenses is set at 120.

¹ Ouray Municipal Code, Section 7-2, Definitions defines an STR.

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D. MAXIMUM NUMBER OF STR LICENSES

- 1) All applications will be date stamped at the time of receipt by the Community Development Department and processed in the order of receipt upon license availability.
- 2) If a property has never obtained a STR license and fails the initial building inspection due to structural defects, as identified on the *Short-Term Rental Inspection Checklist*, a copy of which is attached as Exhibit 2, and as updated by the Community Development Department from time to time, the application will be moved to the back of the waitlist and dated to the time of the failed inspection.
- 3) The STR License Application Packet and STR License Renewal Application may be updated by the Community Development Department from time to time, as directed by the City Administrator.
- 4) If a property has obtained a previous STR license or was grandfathered within the R-1 zone district, and fails the building inspection, the application will keep its spot on the waitlist and shall pass a building inspection within six (6) months of the initial failure date or the application will be denied. An extension of one (1), six (6) month period may be granted administratively for lack of material availability or weather delay, in staff's sole discretion.
- 5) STR applicants shall request a building inspection at the time of application submittal and the dwelling unit must be Inspection Ready. If no STR licenses are available, the application will be placed on a wait list in order of receipt and the inspection will only take place upon an available license.
- 6) Any issued STR license is renewable the following February 28th and each year thereafter, upon building inspection approval, if required, and payment of fees regardless of when it was first issued.
- 7) All applications where the dwelling units are not Inspection Ready will be accepted but only processed upon becoming Inspection Ready.
- 8) A real property owner shall maintain fire, hazard and liability insurance on the Short-Term Rental. Such coverage shall be maintained in full force and effect for the term of the license.
- 9) The City will not limit the number of STR applications on the waitlist.
- 10) License fees will only be accepted at the time of license issuance. New license application fees will not be prorated.

ORDINANCE NO. 7 (SERIES 2021)

AN ORDINANCE OF THE CITY OF OURAY, COLORADO, AMENDING THE OURAY MUNICIPAL CODE TO REVISE THE DEFINITIONS OF A SHORT-TERM RENTAL, SINGLE FAMILY DWELLING UNIT AND LODGING BUSINESS IN SECTION 7-2; REPEALING AND REPLACING SECTION 7-5-J-11 TO REVISE THE SHORT-TERM RENTAL REGULATIONS; ADD CAP AND TRADE PROVISIONS; AND REVISE THE PENALTY AND ENFORCEMENT PROVISIONS.

WHEREAS, on July 17, 2019, the City of Ouray adopted short-term rental regulations of dwelling units within R-2, C-1 and C-2 Zone Districts and granting grandfather status to any existing STRs located in the R-1 Zone District with the grandfather status terminating upon non-use of the STR license or property ownership transfer.

WHEREAS, the impacts from STRs within the City including, but not limited to, refuse collection issues, inadequate off-street parking for vehicles, and real property owners failing to obtain an STR license for dwelling units used as STRs, are causing concerns.

WHEREAS, the City has spent extensive time since 2020 reviewing STR regulations, identifying necessary ordinance revisions, instituting a maximum STR license cap, and providing a mechanism for exceeding the maximum license cap if long-term rental units are created in return for an STR license.

WHEREAS, issues concerning short-term rental regulations indirectly exempting a use sometimes referred to as condotels are addressed in this revision such that it is made clear that no condotels exist as a use in the City and all dwelling units used as short-term rentals must have a license.

WHEREAS, while STRs operating prior to July 17, 2019 within the R-1 Zone District were grandfathered as a legal, non-conforming STR use, there was confusion such that these revisions make clear they are subject to the license requirements and the use ends upon any transfer of ownership interest with no ability to transfer.

WHEREAS, these regulations are necessary for the health, safety and welfare of the public under the City's police power.

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OURAY, COLORADO, as follows:

SECTION 1.

Section 7-2 of the City of Ouray Municipal Code, Single Family Dwelling Unit definition is repealed and replaced to remove the word Unit from the words being defined, as follows:

Single-Family Dwelling is a dwelling unit designed for and occupied exclusively by one (1) family.

SECTION 2.

Section 7-2 of the City of Ouray Municipal Code, Short-Term Rentals definition is repealed and replaced as follows:

Short-Term Rental (STR) means the use of a dwelling unit, or any part thereof, for remuneration, for less than thirty (30) consecutive calendar days.

SECTION 3.

Section 7-2 of the City of Ouray Municipal Code, Lodging Business definition is repealed and replaced to add the word consecutive, as follows:

Lodging Business means a lodging unit, hotel, motel, lodge, inn, bed breakfast, or hostel used for temporary occupancy for sleeping purposes, rented on a short-term basis of less than thirty (30) consecutive calendar days, and excludes short-term rental as defined herein.

SECTION 4.

Section 7-5-J, subsection 11, titled Short-Term Rental Regulations, of the City of Ouray Municipal Code, is repealed and replaced as follows:

The attached Exhibit A is incorporated herein by reference into this Section 4 of this Ordinance No. 07 (SERIES 2021).

SECTION 5: EFFECTIVE DATE.

The provisions of this Ordinance shall become effective 30 days following publication pursuant to City of Ouray Home Rule Chart 3-5-G.

SECTION 6: SEVERABILITY.

If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

SECTION 7: ALPHABETICAL ORDER.

When repealing and replacing definitions in Section 7-2, the definitions should be in alphabetical order.

SECTION 8: PRIOR PENALTY.

The amendment of various provisions of the Ouray Municipal Code by this ordinance shall not affect any offense or act committed, any penalty incurred, any contract, right or duty established or accruing before the effective date of this ordinance.

INTRODUCED, READ, APPROVED AS INTRODUCED, AND ORDERED PUBLISHED on first reading by 5 to 0 vote of the Ouray City Council this 4TH day of OCTOBER, 2021.

CITY OF OURAY, COLORADO



Greg Nelson, Mayor

ATTEST:


Melissa M. Drake, City Clerk

INTRODUCED, READ, AND ADOPTED on second reading by 5 to 0 vote of the Ouray City Council this 18TH day of OCTOBER, 2021.

CITY OF OURAY, COLORADO


Greg Nelson, Mayor

ATTEST:


Melissa M. Drake, City Clerk

CERTIFICATE OF ATTESTATION

I, Melissa M. Drake, Ouray City Clerk, hereby certify that Ordinance No. 7 (Series No. 2021), was introduced, read, and passed by the Ouray City Council on first reading on OCTOBER 4, 2021. The Ordinance was published, in summary, in the *Ouray County Plaindealer* on OCTOBER 7, 2021, and thereafter introduced, read, and adopted by the Ouray City Council on OCTOBER 4, 2021, and thereafter published in the *Ouray County Plaindealer*, as required by law.


Melissa M. Drake, City Clerk

Exhibit A to Ordinance No. 7 (SERIES 2021), Section 4

11. Short-Term Rental (STR) Regulations

a. Purpose

To prevent adverse impacts attributable to short-term rentals in dwelling units; preserve the current character and ambience of City neighborhoods; protect public health, safety, and welfare; and ensure compatibility with surrounding land uses.

b. Applicability

These regulations apply to any owner of real property with dwelling unit(s) used as a STR, whether directly or indirectly, in R-2, C-1, and C-2 Zone Districts, for less than thirty (30) consecutive days.

c. Prohibitions and Conditions

- i. STRs are prohibited in the R-1 Zone District.
- ii. STRs are prohibited in accessory dwelling units.
- iii. A maximum number of STR licenses, also known as a Cap, may be adopted by City Council from time to time.
- iv. Dwelling units with an STR license must use the dwelling unit as a STR rental for thirty (30) or more days each annual license period.

d. Exemptions

- i. Any STR within the R-1 Zone District in existence and use as an STR prior to July 17, 2019, must obtain an STR license and upon the granting of a license such use shall be deemed as legal non-conforming. Upon non-renewal, or transfer in ownership of the real property of any kind, such license and use shall cease.
- ii. Dwelling units located within a lodging business premises are exempt but those located outside the lodging business premises must have an STR license.
- iii. Any real property owner who provides three (3) new dwelling units for rent for more than 30 consecutive days on the same parcel, after adoption of this Ordinance, may obtain one (1) STR license for a fourth dwelling unit on the same parcel and shall be considered exempt from any STR license cap, so long as the policies concerning this exemption are met, as determined by City Council from time to time. This program shall be known as the STR Cap and Trade. When using the STR Cap and Trade program, a real property owner may use one (1) of the three (3) dwelling units as their primary residence and be excluded from the cap. The real property owner shall execute an affidavit when the STR license is issued stating that three (3) dwelling units are being utilized as rentals with a minimum lease agreement of six (6) months,

excluding, if applicable, the real property owner's primary residence and shall provide the City, upon request, proof of lease agreements. All other requirements of these regulations apply, including policies and procedures, adopted by City Council from time to time.

e. Registration, Licensing, and Renewals

- i. An application is required to be submitted in accordance with the STR administrative policies and fee schedules, as City Council may adopt from time to time.
- ii. The City Administrator, or any authorized staff, may issue and regulate short-term rental licenses, administratively.
- iii. Upon submittal of a new STR application, a site inspection will be conducted to ensure the dwelling unit meets the City's adopted building codes.
- iv. License renewals may require an additional inspection if substantial changes to the premises were made or complaints arose during the previous licensing period, as determined administratively.
- v. An STR license is issued to the real property owner and is not transferable, except if the real property for which a valid STR license has been issued is transferred pursuant to a deed meeting any of the following conditions (these exceptions do not apply to any STRs within R-1):
 1. The transfer of title to real property if the grantee is a member of the grantor's family.
 2. The transfer of title to real property from a grantor to a trust established by the grantor.
 3. The transfer of title to real property from a grantor to a limited liability company or another form of business entity recognized by Colorado law so long as the grantor has a controlling interest in such limited liability company or other business entity.
 4. Any transfer of the property between the same parties creating or terminating a joint tenancy in such property.
 5. The transfer of title or change of interest in real property by reason of death, pursuant to a will, the law of descent and distribution, or otherwise.
 6. The transfer of title to make effective any plan confirmed or ordered by a court of competent jurisdiction under the bankruptcy code or in an equity receivership proceeding.
 7. The transfer of title without consideration for the purpose of confirming, correcting, modifying, or supplementing a transfer previously recorded; making minor boundary adjustments; removing clouds of titles; or granting rights of way, easements, or licenses.

8. The transfer of title pursuant to any decree or order of a court of record quieting, determining, or vesting title, including a final order awarding title pursuant to a condemnation proceeding.

9. The transfer of title between spouses or former spouses made pursuant to a separation agreement, decree of legal separation, or dissolution of marriage.

- vi. The real property owner remains solely responsible for compliance with these regulations and any policies adopted by City Council from time to time.
- vii. Licenses are valid for one (1) year; and all license renewals shall be due on or before February 28 of each year.
- viii. Real property owners who have an STR license must maintain liability insurance during the licensing period, as set forth in the administrative policies adopted by City Council from time to time.

f. Signs and Advertising Standards

- i. External signs are prohibited for short-term rentals in the R-2 zone district and within the R-1 zone district on any non-conforming STRs.
- ii. One (1) internal sign no larger than 8 ½" x 11" is allowed in R-1 and R-2 to identify a particular dwelling unit.
- iii. Signs in the C-1 and C-2 zone districts shall comply with the City Sign Code
- iv. All short-term rentals shall clearly post the correct address on the exterior of the building in accordance with City addressing and street numbering requirements.

g. Rules

- i. The maximum number of persons per short-term rental shall be two (2) per bedroom, plus two (2) additional persons.
- ii. Noise Ordinance shall be followed.
- iii. The real property owner is responsible to remit all applicable local, state, and federal taxes, along with applicable Lodging Occupation Tax, Sales Tax, or any other applicable local tax, unless exempt.
- iv. Real property owner 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.

h. Parking Standards

Parking shall meet any applicable provisions of the Ouray Municipal Code and any specific parking requirements of the underlying zone district.

i. Snow Removal

Real property owner shall comply with all City requirements for snow removal on public sidewalks, in addition to the requirement to remove snow from STR parking spaces, walkways, and the entrance to the short-term rental.

j. Building Code Requirements

- i. An STR shall only be used for one party that occupies the entire dwelling unit. Individual rooms within a single-family dwelling short-term rental shall not be rented out unless (a) the dwelling unit is separate, attached, or detached and it complies with the City of Ouray Municipal Code requirements; or (b) the short-term rental has a separate entrance from the primary dwelling, the bedroom areas have been constructed in accordance with the City's adopted building codes, no more than one short-term rental bedroom is provided on the property, and the building use and design complies with the underlying zone district requirements.
- ii. The short-term rental shall meet all applicable local, state, and federal regulations, including the requirement for carbon monoxide detectors under C.R.S. § 38-45-101 et seq.; lighting; one (1) wall mounted, certified, five (5) lb. ABC Fire Extinguisher within the short-term rental kitchen area; smoke detector requirements; and, all other life-safety requirements, such as egress from sleeping areas.

k. Refuse

- i. The real property owner is responsible for proper disposal of garbage, refuse and trash collection in accordance with the Ouray Municipal Code.
- ii. STRs will be charged the residential rate for trash removal unless there are two or more trash violations within a six (6) month period and then the real property owner may be required to provide for two residential trash services at the same address to manage trash (paying for two cans at the residence), or to provide for a commercial trash pickup of trash if two residential service pickups do not resolve the trash complaints.
- iii. All trash shall be properly stored within containers that are not visible from any public street or sidewalk.

l. Other General Requirements

- i. Short-term rentals must replace any exterior open light fixtures with dark sky compliant lighting.
- ii. Real property owner must abide by all other applicable local, state, and federal laws and regulations.

m. License Posting Requirements

- i. The STR License must be posted in a conspicuous place and contain the following items.
 1. Contact information for the owner or responsible party.
 2. The STR address and license number.
 3. Maximum number of guests.
 4. Location of fire extinguishers.
 5. A copy of the noise ordinance.
 6. Parking and snow storage rules.
 7. Trash disposal information.
 8. How to sign up for emergency notifications.
 9. Information on any City fire bans, or water use restrictions.
 10. Map showing locations where trailer and large vehicle parking is allowed.

n. Revocation or Suspension of License

- i. A license may be revoked after notice to the real property owner and opportunity to be heard for violations which result in more than two suspensions or serious violations which affect the health, safety, and welfare of the public.
- ii. An STR license in the R-1 Zone District is a legal non-conforming use and upon the nonrenewal, suspension, revocation, abandonment of use or any transfer of ownership interest in the real property containing the dwelling unit with the STR license, the STR license is revoked immediately. There are no exceptions, and no affirmative or other defenses of any kind.
- iii. A license may be suspended after notice to the real property owner for:
 1. One or more violations of any condition of the license or of any provision of these regulations during the licensing period.
 2. Written notice of any violation shall be mailed to real property owner at the address provided in the most recent application.
 3. The suspension is effective seven (7) days after the date of the notice.

4. This suspension procedure does not apply when an emergency arises which affects the health, safety, and welfare of the public under the City's police powers.

o. Violations and Penalties

- i. It shall be unlawful to operate a short-term rental without a valid license or to violate any provision in these short-term rental regulations or any other City ordinance, resolution or official policy regarding short-term rentals or any state law or federal law.
- ii. Violations are declared to be a nuisance, which may be abated in any lawful manner, including Section 10-4 of the Ouray Municipal Code (OMC).
- iii. Enforcement and penalties for violations of these Short-term Rental regulations shall be as provided for in OMC, Section 7-3.

p. Appeals

Appeals of administrative decisions under these regulations shall be pursuant to OMC Section 7-5-H, except an appeal will be heard by City Council and not the Planning Commission.