



CITY COUNCIL ACTION FORM

DEPARTMENT	PRESENTED BY	DATE
Planning	Bill Almquist - Community Development Director	November 10, 2021

ITEM

Second Reading and Public Hearing for Ordinance 2021-17: An Ordinance of the City Council for the City of Salida, Colorado Amending Chapter 6 and Chapter 16 of the Salida Municipal Code Concerning Short Term Rentals.

BACKGROUND

On October 5, 2021, City Council approved Ordinance 2021-15, which amended Chapters 6 and 16 of the Municipal Code in regards to short term rental (STR) licenses. Among the items implemented via that ordinance included: area-specific caps on the number of licenses to be permitted; a Chaffee County residency requirement for licenses; a limit of one (1) STR license per person (or person controlling a corporate owner); new minimum parking requirements for STR units; and a limit of maximum 50% of all units on a single lot to be eligible for a license; among other clarifications and amendments. At the same meeting, due to public feedback, City Council requested that staff return with additional amendments and clarifications to be considered, specifically regarding exceptions to the residency requirement and the 50% rule. Staff subsequently proposed some related options to City Council at a work session on October 18, 2021 and received further direction regarding additional amendments. This ordinance is a result of that direction.

The amendments proposed pertain to the following:

- Exceptions to the Chaffee County residency requirement would extend to all owners of property purchased, or under valid and executed contract to be purchased, prior to December 19, 2021 (as opposed to July 20, 2021). Such individuals/properties would still require an existing unit or building permit for a unit prior to December 19, 2021; would need to submit an application by June 1, 2022; and would still be subject to the area-specific caps and other eligibility requirements.
 - This amendment would allow for a limited number of licenses to be issued to non-County residents, after which time future new licenses would be reserved for County residents (currently, 70% of all licenses belong to non-residents). Other potential exceptions subject to the provision of substantial affordable housing would still remain.
- Exceptions to the one (1) license per person (or person controlling a corporate owner) limit would extend to all owners of property purchased, or under valid and executed contract to be purchased, in non-residential areas, prior to December 19, 2021. Such individuals/properties would still require an existing unit or building permit for a unit prior to December 19, 2021; would need to submit an application by June 1, 2022; and would still be subject to the area-specific caps and other eligibility requirements.
 - This amendment would allow the individuals described above to hold more than one (1) license, subject to other eligibility requirements.
- Removal of the rule limiting 50% of all units on a single lot being eligible for a license.
 - Staff recommends this amendment primarily due to the additional administrative burden that it would present, given the fluid nature of such licenses. Additionally, staff recognizes that other regulations (such as residency requirements, the 1 per person limit, and area-specific caps) would already limit the proliferation of such types of development.



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At the first reading of the Ordinance on November 2, 2021, City Council recommended adding additional language regarding revisiting the new STR policies approximately 1 year from the effective date. This language has been included in the Ordinance.

PLANNING COMMISSION RECOMMENDATION

Planning Commission reviewed the initial amendments and concepts and provided feedback at their September 27, 2021 meeting. The commission recommended approval of the initial ordinance with its revisions. The concept of Chaffee County prioritization (or additional exceptions thereto) was discussed and recommended to be considered by Council. Exceptions to the one (1) license per person (or person controlling a corporate owner) were not specifically discussed. The commission was also in favor of the 50% limit at the time it was considered.

SUGGESTED MOTION

"I move that the City Council approve Ordinance 2021-17" followed by a roll call vote.

ATTACHMENTS

Ordinance 2021-17
Public Comments

CITY OF SALIDA, COLORADO
ORDINANCE NO. 17
(Series of 2021)

**AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF SALIDA,
COLORADO AMENDING CHAPTER 6 AND CHAPTER 16 OF THE SALIDA
MUNICIPAL CODE CONCERNING SHORT TERM RENTALS**

WHEREAS, the City of Salida, Colorado (“City”) is a statutory city, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-401, the City by and through its City Council (“Council”), possesses the authority to adopt laws and ordinances within its local powers in furtherance of the public health, safety and welfare; and

WHEREAS, pursuant to Title 31, Article 15 of the Colorado Revised Statutes, the City also possesses the authority to license and regulate businesses; and

WHEREAS, pursuant to C.R.S. § 31-23-301 the Council also possesses the authority to adopt and enforce zoning regulations; and

WHEREAS, pursuant to such authority, the City has previously adopted certain regulations concerning short-term rentals within Chapter 6, Business Licenses and Regulations, and Chapter 16, Land use and Development, of the Salida Municipal Code (“Code”); and

WHEREAS, the City of Salida is currently experiencing a severe shortage of housing and long-term rental units for the local workforce, and the diversion of the existing housing stock for short-term rental licenses contributes to the City’s housing shortage and has a direct and indirect impact on affordability and the availability of housing; and

WHEREAS, the City therefore engaged in a comprehensive public survey of approximately 750 residents, property owners and stakeholders, held work sessions, meetings and discussions, and reviewed City policy regarding housing of all types and short-term rentals, its impacts, availability, solutions and options that may lead to modification to land use regulations, business licensing requirements, staffing, funding and other regulatory measures; and

WHEREAS, as a result, Council adopted Ordinance 2021-15 on October 5, 2021, and due to additional public feedback has taken into consideration tweaks and amendments to the City’s short-term rental regulations; and

WHEREAS, after due and proper notice as required by C.R.S. §§ 31-23-304 and 305, the City Council held a public hearing on November 16, 2021; and

WHEREAS, the Council has conducted its review of all these issues and impacts, and has observed the processes provided for in the Code concerning short-term rentals, and finds that it is necessary for the public health, safety and welfare of its present and future

residents, local workforce, businesses, customers, economy and tax base of Salida to further amend Chapter 6, Article VI, regarding short-term rental licenses, and Chapter 16, regarding short term rentals, as provided below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SALIDA, COLORADO as follows:

Section 1. The City Council incorporates the foregoing recitals as conclusions, facts, determinations and findings by the City Council.

Section 2. Section 6-6-20 of the Salida Municipal Code is hereby amended to read as follows:

Sec. 6-6-20. Licensing; limitations; requirements.

- (a) It shall be unlawful for any person or entity to engage in the short-term rental business without first applying for and procuring a license from the City Administrator or City Clerk. The initial license fee, renewal license fee and penalty for operating without a license shall be established by resolution of City Council, as may be amended from time to time, and payable annually in advance.
- (b) Upon approval of a business license pursuant to this Article, the City Administrator or City Clerk shall issue a business license number to each short-term rental business.
- (c) Short-term rental businesses shall include their business license number in the title of the listing for all public advertising, including but not limited to webhosting services such as Airbnb, Home Away, Trip Advisor, VRBO, Kayak, Orbitz, etc.
- (d) Applications for a short-term rental license shall be submitted on a completed form provided by the City, and the City shall accept no incomplete applications. Applications shall include all information required on the form.
- (e) Each licensee shall submit to the City, on a yearly basis, and upon renewal, an affidavit, signed by the licensee and notarized, attesting, under penalty of perjury, to the duration and frequency of the prior year's short-term rental history, including the specific number of rooms and nights rented in the prior year, as well as confirmation of payment of all applicable sales and occupational lodging taxes.
- (f) The name of the license applicant must match the name of the owner on the deed for the property, or the person controlling the corporate owner of the property. The applicant shall submit to the City a copy of the recorded deed, showing the recording data with the Chaffee County Clerk and Recorder.
- (g) Chaffee County residency. To be eligible to apply for a short-term rental license, the applicant and owner of the property to be rented must be a bona fide resident of Chaffee County, pursuant to the following requirements, restrictions and parameters:
 - (1) Bona fide residency in Chaffee County shall be documented and established by two
 - (2) or more of the following:
 - a. Valid driver's license or Colorado identification card;
 - b. Current voter registration;

- c. Valid motor vehicle registration;
 - d. Document(s) designating a primary residence for income tax purposes.
 - (2) If there is a corporate owner of the property, the person controlling the corporate owner must establish bona fide residency in Chaffee County, as required above, and must provide proof of operating agreements or documentation filed with the Colorado Secretary of State establishing that person's control of the corporate owner.
 - (3) Current and valid documentation required by this Article must be provided to the City on an annual basis, for all new and renewal applications.
 - (4) Each licensee shall submit to the City, on an annual basis, for all new and renewal applications, an affidavit, signed by the applicant and notarized, attesting, under penalty of perjury, to bona fide residency in Chaffee County, as well as confirmation of the validity of all documentation submitted pursuant to this Article.
 - (5) All short-term rental units already licensed with the City as of ~~November 8~~ **December 19, 2021**, the effective date of Ordinance 2021-157, may continue to operate and renew annually regardless of the Chaffee County residency eligibility requirements of this subsection (g) until such time that the property changes ownership, or the person(s) controlling the corporate owner of the property changes, or until such time the short-term rental license is revoked or abandoned pursuant to this Article. Furthermore, owners of property purchased, or under valid and executed contract to be purchased, prior to ~~July 20~~ **December 19, 2021** may apply for a short-term rental license regardless of the eligibility requirements of this subsection (g), provided such license application is filed on or before June 1, 2022, and provided that the unit existed or had a valid building permit for construction ~~on or before July 20~~ **December 19, 2021**. If such a property had a valid building permit for construction ~~on or before July 20~~ **December 19, 2021**, and is unable to obtain a Certificate of Occupancy before June 1, 2022, such property owner may apply for an extension, in writing, to the City Administrator, except that if such extension is granted, the short-term rental license shall be filed on or before June 1, 2023.
 - (6) Exceptions to the residency requirements in this subsection (g) can be granted only upon City Council's sole discretion related to a land use application process, such as an annexation, planned development or subdivision, where the applicant is providing at least double the amount of affordable housing units required by the inclusionary housing requirements in effect at the time of application, and pursuant to the terms and conditions imposed by City Council upon approval of the subject land use application.
- (h) The maximum number of short-term rentals in the non-residential zones (eg: RMU, C-1, C-2 and I) shall not exceed the caps in the following neighborhoods and designated areas, as illustrated in "Exhibit A" to Ordinance 2021-15, a running tally of which shall be kept with the City Clerk's office along with the most recent neighborhood map, and open for public inspection at all times during business hours:
- (1) C-2/Historic Downtown: Ninety-Nine (99) short-term rental licenses
 - (2) Highway 291 Corridor: Seventy-One (71) short-term rental licenses

- (3) Industrial Corridor: Sixteen (16) short-term rental licenses
- (4) Highway 50 corridor: Forty-Six (46) short-term rental licenses

(i) The caps in this subsection (h) **of this Section 6-6-20** can be exceeded only upon City Council's sole discretion related to a land use application process, such as an annexation, planned development or subdivision, where the applicant is providing at least double the amount of affordable housing units required by the inclusionary housing requirements in effect at the time of application, and pursuant to the terms and conditions imposed by City Council upon approval of the subject land use application.

Section 3. Section 16-4-190(q) of the Salida Municipal Code, regarding Review standards applicable to particular uses, Short-term Rentals, is hereby amended, by the amendment of subsection (q)(1)a.2. as follows:

Sec. 16-4-190. – Review standards applicable to particular uses.

...

(q) Short-term Rentals.

(1) Purpose...

a. Registration and licensing requirements.

...

- 2. A separate short-term license is required for each short-term rental property. The permit shall be issued only to the owner of the short-term rental property. No more than one (1) short-term rental permit is permitted per property owner, which for these purposes shall be considered the person controlling a corporate owner. **Owners of property purchased, or under valid and executed contract to be purchased, in the RMU, C-2, C-1 and I zone districts, prior to December 19, 2021 are excepted from the preceding sentence, provided that the unit existed or had a valid building permit for construction before December 19, 2021, and provided that the short-term license applications are filed on or before June 1, 2022.** All short-term rental permits shall be granted solely to the applicant at the address for which the permit is issued and shall not be transferable to any other person or legal entity or property. The owner of the short-term rental is responsible for compliance with the provisions of this Section and Chapter 6 Article VI pertaining to short-term rental licensing.

Section 4. Section 16-4-190(q) of the Salida Municipal Code, regarding Review standards applicable to particular uses, Short-term Rentals, is hereby amended, by the deletion of subsection (q)(2)k. as follows:

Sec. 16-4-190. – Review standards applicable to particular uses.

...

(q) Short-term Rentals.

...

(2) Conditions and standards.

...

~~k. Any development that has two (2) or more primary units on the same lot shall have no more than fifty percent (50%) of its units as short term rental units.~~

Section 5. City Council shall revisit the City's short-term rental regulations in December 2022.

Section 6. The provisions of this ordinance are severable and the invalidity of any section, phrase, clause or portion of the ordinance as determined by a court of competent jurisdiction shall not affect the validity or effectiveness of the remainder of the ordinance.

INTRODUCED ON FIRST READING, ADOPTED and ORDERED PUBLISHED IN FULL in a newspaper of general circulation in the City of Salida by the City Council on the 2nd day of November, 2021, and set for second reading and public hearing on the 16th day of November, 2021.

INTRODUCED ON SECOND READING, FINALLY ADOPTED and ORDERED PUBLISHED BY TITLE ONLY, by the City Council on the 16th day of November, 2021.

CITY OF SALIDA

By: _____
Mayor PT Wood

ATTEST: (SEAL)

By: _____
City Clerk

Dear Salida City Council, Mr. Mayor and Staff -

I recently drove west on Hwy 50... past the wind turbines, remote hot springs, and opal mines. Through lightning storms, towns small and smaller. Grabbed a hotel/motel on the strip where we stayed the night, never venturing much past the room to grab a bite, or a beer, or a coffee, talk to a local or learn about the town. We drove it for days. Old towns, forgotten towns, strips thrown together using old models for quick convenience and not once did we see anything like Two Rivers Commons.

The Commons is a new approach, designed to **be** a walkable mixed-use commercial neighborhood along the highly visible Hwy 50 corridor and to serve as a compliment to adjacent residential communities.

The Two Rivers vision offers sustainable development: incorporates smaller lots and higher density; has and will honor the affordable housing requirement; offers a park at the confluence, acreage of preserved open space, wetland habitat, and dedicated pedestrian/cycling trails.

The city zoning for The Commons is C-2, defined as, *Central Business District*. The Commons itself was never intended to be a residential neighborhood, it was envisioned as a new kind of commercial neighborhood. A mash up of commercial enterprise and residential spaces with limited common elements like patios and a riverwalk that bring business outside, encourage interaction, support different lifestyles, and provide for varying tenancies over time.

The Commons is currently being developed with mixed-use buildings that offer ground floor commercial space plus 2-3 residential use units, all of which provide their own off street parking. The project was conceived and designed under a city code that allowed for short term rentals in the Central Business District and the opportunity for short term tenancies was both verified by the city and attractive to the buyers that either purchased land for future development or put these properties under contract prior to the STR moratorium.

In my correspondence with Mr. Almquist about the nature of Two Rivers Commons and the impact of increasingly strict STR regulations, specifically the 50% rule, on the proof of concept, Mr. Almquist offered the following, "Perhaps [the council] would consider a revision of the language to apply to developments of 4 units or more on the same lot? I'd be open to possibly supporting that if asked."

I am asking council to acknowledge the unique nature of Two Rivers Commons and to see it as a dynamic commercial neighborhood, a district designed for business and visitors, as an enhancement to the Hwy 50 corridor that helps meet the goals of that visioning committee, and to revise the language in the 50% rule such that it applies to developments of 4 or more primary (residential) units on the same lot, which would allow current and future development to continue with confidence and on a scale befitting of Salida's value and aesthetics.

Concerns over transient communities and, per Mr. Almquist, "people.... running what would essentially be multi-unit hotels, without having to go through the land-use process for an actual hotel and not being charged a commercial property tax," should be assuaged by the integrated nature of the larger Two Rivers Planned Development and the additional STR restrictions already in place that preclude ownership of multiple STR units. I would also submit that increased STR licensing fees, the exploration of an excise tax or similar, and language that allows lodging tax revenue to be used for purposes outside tourism could provide direct benefit to the workforce housing initiative.

Thank you for your time and consideration,
Kristin "Hale" Camp
120 E Crestone - Salida

Tom Pokorny
Two Rivers, LLC

Dear Council and Staff

As you have decided to revisit the issue of how to handle restricting STRs within the C-2 zone of the Two Rivers Commons I want to thank you for your continuing consideration, as this project certainly doesn't fit into the development model of about 99% of projects built in small cities currently.

The decision to zone this as C-2 allowed us to follow the original master plan of having a high density mixed-use commercial center along the high visibility Hwy 50 corridor that would serve the large number of future residents in this area.

We want a mini version of our downtown C-2 district, vibrant and interesting, where people can gather and meet as opposed to the sterile strip malls that sit vacant at night. This concept of high density mixed-use development along the highway is our vision of what a transit corridor could be and should be with a varied streetscape, slowing traffic and encouraging people to get out of the car and walk. This transit corridor model has been encouraged in the Future 50 study on file and was being discussed within the committee formed to rewrite of the land use code.

The Two Rivers Commons is the litmus test for this model, and so far it has been successful. We have had bonafide contracts on the three street-level commercial units and all eight residential units above since early June of this year. It looks like this will be a mix of long-term residents and second home buyers along with active commercial enterprise. Salida's visitors want to be in the action; to park their car, get on their bike and get to know the town. That is what Two Rivers Commons is designed to provide; a place for business, visitors and neighbors to interact socially.

I fear that strict STR rules applied to the Two Rivers Commons or highway 50 corridor or the introduction of a 50% STR rule within a building will introduce a new uncertainty concerning the ability to sell a mixed-use development and may quash this business model before it can prove itself.

Buyers of the residential units described above did their due diligence before entering into contract with assurance from the city that they could use their second homes as STRs. They are now awaiting your decision of the final language for the C-2 zone of the Two Rivers Commons before committing to close.

My impression, after the emergency ordinance was passed, was that council had directed staff to exempt any previous agreements made via PDs or annexations and to include those units that already had bonafide contracts, thereby honoring promises made to the developer and buyers of these units located in 106, 108 and 112 Old Stage Road. I respectfully ask that regardless of the overall ordinance council do just that and exempt or grandfather those units listed above. And, I ask that you consider carefully how you restrict STRs within the Two Rivers Commons and the Highway 50 commercial corridor if indeed you do want future mixed-use development in this area. Thank you.

Sincerely,

Tom Pokorny,
Managing Member, Two Rivers, LLC



Bill Almquist <bill.almquist@cityofsalida.com>

STR - residency priority

Susan Dempsey Hughes <sdhughes@pinonrealestate.com>

Fri, Oct 15, 2021 at 1:47 PM

To: Bill Almquist <bill.almquist@cityofsalida.com>

Hi Bill. Please deliver to council, mayor and staff (and whoever else is working on the residency priority requirements). Thanks!

Hi Bill and Salida City Council and Mayor. I wanted to say a quick thank you for encouraging the communities input on the new STR regulations and for making thoughtful decisions last meeting. And thank you for listening and discussing the residency rule. Seems like there was some discussion about how to prioritize Chaffee County residents. From talking to many community members, coworkers and Local shop owners it seems like most if, not all feel it should be a strict waiting list. Chaffee county residents would go to the top of the waiting list. If there are no Chaffee county residents on the list then it would go to the non-resident at the top of the list. Hopefully that will keep things clean and simple and have less administrative work on your part.

Thanks again and have a great weekend.
Susan

Susan Dempsey Hughes

Pinon Real Estate Group
719-539-8886
www.pinonrealestate.com

Sent from my iPhone

**Bill Almquist** <bill.almquist@cityofsalida.com>

STR 50% requirement

Bill Smith <wfsmith05@gmail.com>

Mon, Oct 18, 2021 at 3:34 PM

To: Bill Almquist <bill.almquist@cityofsalida.com>

Cc: jane.templeton@salidaelected.com, dan.shore@salidaelected.com

Bill:

I appreciate any of your time. Obviously, I know that there is only so much you can do, but this ordinance is a big impact on a lot of people. It has been frustrating both in process and in product.

I understand council will be discussing the 50% issue tonight. As I understand that no discussion or input is allowed. Is there a plan to reach out to the public on these issues and allow them to be part of the discussion at some other time? I know that was originally supposed to happen. Perhaps now that the time crunch has passed we could have that meeting?

I know you are recommending that the 50% rule be scrapped, and that is the right thing to do. I can give a lot better reasons than you are citing, but again, no input is allowed.

I think that there are a number of people who have a lot of experience managing both long term and short term rentals, who are literally invested in the situation who have valuable information. It seems that the intent here is to make sure that there is no public discussion.

If there had been an opportunity to talk about these issues before the ordinance was passed there would not be the problems now of poor drafting/incomplete understanding of the ordinance that require fixing. Before you put together your omnibus of amendments to the ordinance, can we have a public discussion? There may be more things that could be improved on than you have had time to consider.

Cheers,
Bill

[Quoted text hidden]

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Cheers,
Bill