

# Exhibit A. CDC Amendments

- **Amend Section 200.C.4 as follows:**

## 200 ZONE DISTRICTS ESTABLISHED

### 200.C Zone Districts

The following zone districts are established by this CDC:

#### 4. Overlay Zones

- Skyline Overlay (SO)
- Large-Format Retail Overlay (LFR)
- Entry Corridor Overlay (EC)
- [Airport Overlay \(AO\)](#)
- [Short-Term Rental Overlay \(STR\)](#)

- **Add new Section 238, Overlay Zone: Short-Term Rental Overlay (STR), as follows:**

## 238 OVERLAY ZONE: SHORT-TERM RENTAL OVERLAY

### 238.A Purpose

[The Short-Term Rental Overlay zone is intended to provide areas for short-term rental uses that are complementary to and supportive of the community's downtown and resort areas and minimize potential negative impacts of short-term rentals on the community's housing supply and residential neighborhoods.](#)

### 238.B Subzones

[The Short-Term Rental Overlay zone includes the following zones and subzones:](#)

- [Zone A: Unrestricted](#)
- [Zone B: Restricted](#)
  - [Subzone B1: Sunlight](#)
  - [Subzone B2: Old Town](#)
  - [Subzone B3: Fairway / Clubhouse](#)
  - [Subzone B4: Walton Creek / Whistler](#)
  - [Subzone B5: Walton Creek / Village / Columbine](#)
  - [Subzone B6: Alpenglow](#)
- [Zone C: Prohibited](#)

### 238.C Applicability

[All property located within the Short-Term Rental Overlay zone is subject to the standards of the underlying zone district and the standards of this overlay zone.](#)

### 238.D Standards

- [All short-term rentals and all hosted short-term rentals are subject to the Short-Term Rental License regulations set forth in Article IX, Chapter 12 of the Steamboat Springs Municipal Code.](#)
- [In Zone A:](#)

- a. Short-term rentals are allowed as a By-Right Use.
  - b. Hosted short-term rentals are allowed as a Limited Use subject to the use standard in Section 306.D.4.
2. In Zone B:
- a. Short-term rentals are allowed as a By-Right Use subject to the Short-Term Rental License regulations set forth in Article IX, Chapter 12 the Steamboat Springs Municipal Code.
  - b. Hosted short-term rentals are allowed as a Limited Use subject to the use standard in Section 306.D.4 and are exempt from Subzone caps.
3. In Zone C:
- a. Short-term rentals are prohibited.
  - b. Hosted short-term rentals are allowed as a Limited Use subject to the use standard in Section 306.D.4.

**238.E STR Overlay Zone Map Amendments [NOTE: PC recommended removal of Section 238.E]**

**1. Applicability**

This Section shall apply to all applications submitted by a Qualifying Homeowners Association for amendments to the STR Overlay zone on the Official Zone Map. This Section shall not apply to amendments to the STR Overlay zone that are initiated by the City or private parties other than a Qualifying Homeowners Association and approved per Section 720.

**2. Definitions**

For the purpose of this Section, the following definitions shall apply:

**a. Declaration**

Any recorded instrument that implements a common plan of development or creates a common interest community. Declaration does not include declarations created in connection with a duplex subdivision.

**b. Qualifying Homeowners Association**

A Homeowners Association created by a Qualifying Declaration.

**c. Qualifying Declaration**

i. For single-family and duplex lots, Declarations that apply to real property consisting of all lawfully platted single-family or duplex lots created by the initial plat of any lawfully platted single-family or duplex lot. Declarations applying to property that is a replat or resubdivision of a lawfully platted single-family or duplex lot are not Qualifying Declarations.

ii. For multiple-family units, Declarations that apply to one or more multiple-family buildings.

**3. Procedures**

a. Public notice for STR Overlay zone map amendments shall be required in accordance with Table 703-1 for Zone Map Amendments.

b. Review of STR Overlay zone map amendments shall trigger and be concurrent with a reconsideration of Subzone caps, if applicable.

c. Approval of a STR Overlay zone map amendment shall be concurrent with an amendment to Subzone caps in Article IX, Chapter 12 of the Steamboat Springs Municipal Code, if applicable.

**4. Criteria for Approval**

STR Overlay zone map amendments may be approved upon a finding that the properties included in the STR Overlay zone map amendment application are subject to a Qualifying Declaration that:

- a. Expressly permits or prohibits short-term rentals consistent with the zone map amendment application; and
- b. Were adopted by the Qualifying Homeowners Association and recorded at the Routt County Clerk and Records Office prior to **12 months from effective date of ordinance**. Properties subject to more than one Declaration creating a Homeowners Association may only be rezoned if the Qualifying Declaration and each Declaration creating a Homeowners Association relating to the subject property that was recorded prior to the Qualifying Declaration complies with the criteria for approval; and
- c. The property that is subject to the Qualifying Declaration constitutes a community of interest or neighborhood such that the impacts of short-term rental uses are substantially confined to the property that is subject to the Qualifying Declaration.

**5. Term and Effect of Approval**

- a. STR Overlay zone map amendments shall become effective on the date specified in the ordinance adopted by City Council.
- b. The STR Overlay zone map amendment shall remain in effect for perpetuity or until amended.

- **Amend Tables 300-1, 300-2, and 300-3 as noted in Exhibit B.**
- **Amend Section 302.E.4 and delete Section 302.E.5 as follows:**

**302 COMMERCIAL PRINCIPAL USES**

**302.E Lodging Accommodations Category**

Lodging Accommodations include sleeping or housing establishments intended to be occupied on a short-term, transient basis. Payment for occupancy is typically on a daily or weekly basis, and an average length of stay is 30 days or less.

**4. Short-Term Rental**

A dwelling unit offered, provided, used, or operated as a lodging accommodation to guests in exchange for remuneration for a period of less than 30 consecutive days while the owner or other permanent resident does not reside in the dwelling unit. The term short-term rental shall only apply to periods of time when the owner or other permanent resident is not residing in the dwelling unit.

~~**4. Vacation Home Rental**~~

~~A single family dwelling, excluding a manufactured home, or duplex unit used as a lodging establishment where the owner or other permanent resident does not reside in the dwelling unit. The term vacation home rental shall only apply to periods of time when the owner or other permanent resident is not residing in the dwelling unit. Vacation home rental does not include the permitted temporary use of a single family dwelling or duplex unit as a short term rental.~~

~~*Use Standards:*~~

- ~~a. Overnight parking of vehicles outside of a garage shall:~~
  - ~~i. Not exceed six vehicles; and~~
  - ~~ii. Be located on an all-weather, drivable surface; and~~
  - ~~iii. Have sufficient maneuvering space available outside of the public right-of-way to accommodate arrival and departure of each vehicle; and~~

- iv. ~~Not be located within a public right of way or emergency access easement.~~
  - b. ~~Adequate snow storage area shall be provided to accommodate parking and maneuvering spaces.~~
  - e. ~~The number of occupants staying at a vacation home rental shall not exceed one per 200 square feet net floor area or 16 occupants, whichever is more restrictive.~~
  - d. ~~The vacation home rental owner, operator, or manager shall:
 
    - i. ~~Provide a copy of all vacation home rental rules and regulations to a renting party within ten days of reserving the vacation home rental; and~~
    - ii. ~~Prominently display all vacation home rental rules and regulations on the property.~~~~
  - e. ~~A clearly visible and legible notice shall be posted within the vacation home rental, either on or adjacent to the front door, and shall contain the following information:
 
    - i. ~~The name and 24 hour telephone contact number for the owner, operator, or manager.~~
    - ii. ~~The maximum number of occupants permitted to stay in the vacation home rental.~~
    - iii. ~~The maximum number of vehicles allowed.~~
    - iv. ~~The location of all approved on-site parking spaces and the prohibition of parking within the right of way.~~
    - v. ~~Rules for snow removal.~~
    - vi. ~~Rules and procedures for trash removal, including when trash may be left out and that wildlife resistant containers are required.~~~~
  - f. ~~All vacation home rental advertisements shall include a reference to the approved City vacation home rental license number.~~
  - g. ~~The owner, operator, or manager shall assure that occupants and guests do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of City code or state law pertaining to noise or disorderly conduct by notifying occupants of the rules and responding when notified that occupants are violating laws and rules regarding their occupancy. It is not the intent of this Section that the owner, operator, or manager act as a peace officer or place himself or herself in harm's way.~~
  - h. ~~Outdoor sleeping and tents are prohibited.~~
  - i. ~~Outdoor activities shall be limited to no more than twice the number of permitted occupants.~~
  - j. ~~Commercial kitchens as approved by the Routt County Department of Environmental Health are prohibited.~~
  - k. ~~Food preparation shall be only for occupants and guests.~~
- 5. ~~Vacation Rental~~**  
~~A dwelling unit, in a multiple family or mixed use building, used as a lodging establishment where the owner does not reside in the dwelling unit. The term vacation rental shall only apply to periods of time when the owner is not residing in the dwelling unit.~~

- **Amend Section 306.D.3 and add Section 306.D.4 as follows:**

## 306 ACCESSORY USES

### 306.D Uses Accessory to Residential Uses

**3. Secondary Unit**

A dwelling unit that is ancillary to and located on the same lot as a principal single-family dwelling. In the TND zone district, secondary unit shall include a dwelling unit that is ancillary to and located in an accessory building on the same lot as a duplex. A secondary unit shall not be accessory to a manufactured home.

*Use Standards:*

- a. Secondary units shall not exceed 650 square feet net floor area, excluding stairways and mechanical rooms.
- b. A maximum of one secondary unit shall be permitted per lot.
- c. Secondary units may be located within the principal structure or an accessory structure.
- d. Vehicle access to the principal dwelling unit and secondary unit shall be shared, unless access to the secondary unit can be obtained via an alley. For lots that share a common access with another lot, proof of consent is required from all owners or easement holders of the shared access.
- e. When secondary units are located within a principal structure, the structure shall appear from the street to be a single-family dwelling and not a ~~diplex~~ duplex. There shall be one primary entrance door, with all other entrances appearing as secondary.
- f. The use of secondary units as ~~vacation home rentals~~ short-term rentals is prohibited. Long-term rentals are permitted.
- g. Certificates of Occupancy are required for all secondary units constructed after February 13, 2009. Certificates of Inspection by the Routt County Regional Building Department are required for all secondary units constructed prior to February 13, 2009.

**4. Hosted Short-Term Rental**

The use of one guestroom located within a dwelling unit offered, provided, used, or operated as a lodging accommodation to guests in exchange for remuneration for a period of less than 30 consecutive days while the owner or other permanent resident is residing and present in the dwelling unit.

Use Standard:

- a. The guestroom shall not exceed 400 square feet net floor area.

**• Delete Section 307.A.8 and renumber Section 307.A.9 as follows:**

**307 TEMPORARY USES**

**307.A Definition of Temporary Uses**

A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

~~**8. Short-Term Rental**~~

~~The temporary and limited use of a single-family dwelling or duplex unit as a lodging unit. A short-term rental does not constitute a vacation home rental.~~

~~Use Standards:~~

- ~~a. The use of a single-family dwelling or duplex unit as a short-term rental shall not occur:
 
  - ~~i. More than twice per year; and~~
  - ~~ii. More than 30 days per calendar year.~~~~

~~b. Owners of short term rentals shall provide the Planning and Community Development Department with an up-to-date name, address, and telephone number of a contact person who can respond to the site within four hours to respond to problems.~~

**98. Temporary Event**

A temporary outdoor use, such as a festival or special sale, that takes place on private property or public property other than public parks and rights-of-way.

- **Amend Section 701.A.1 as follows:**

## 701 BUILDING PERMIT REVIEW

### 701.A Residential Structures

1. The Routt County Regional Building Department shall refer all building permit applications for residential construction within the City to the Planning Director for review and approval. For purposes of this Section, residential structure means any single-family dwelling, duplex, or multiple-family residential structure, regardless of whether the structure is intended to be used as the owner's principal residence or leased or sold as a long-term rental, ~~vacation home rental~~ short-term rental, or timeshare.

- **Amend Table 702-1 as noted in Exhibit C.**

- **Amend Table 703-1 as noted in Exhibit D.**

- **Delete Section 706 and reserve as follows:**

## 706 ~~VACATION HOME RENTAL PERMIT~~ RESERVED

### ~~706.A—Applicability~~

~~A Vacation Home Rental Permit shall be required for any vacation home rental use located in a zone district that permits vacation home rentals as Limited Uses Requiring Permits (L-P).~~

### ~~706.B—Procedures~~

- ~~1. Review shall be prior to operation of the use.~~
- ~~2. If a valid objection is filed with the Planning Director prior to approval of a Vacation Home Rental Permit, the Planning Director shall refer the application to City Council for review at a public hearing. City Council shall be the Decision Maker for any Vacation Home Rental Permit that is referred to public hearing due to a valid objection.~~
- ~~3. The Planning Director, after consultation with the City Manager and City Attorney, shall make the final determination of whether an objection qualifies as a valid objection. For the purpose of this Section, a valid objection shall be an objection filed by, or on behalf of, a surrounding property owner that is based on one of the following:
  - ~~a. The applicant's failure to submit a complete application; or~~
  - ~~b. The applicant's failure to meet any of the vacation home rental use standards.~~~~

4. ~~If the Planning Director has reasonable grounds to believe that the information provided in the Vacation Home Rental Permit application is inaccurate, has become inaccurate, or that prohibited activities are occurring at the property, the Planning Director may require an inspection of the property with 24-hour advanced notice to the property owner, property management company, or other agent or local contact person for the property owner.~~

**706.C—Criteria for Approval**

Vacation Home Rental Permits shall be approved upon a finding that the following criteria are met:

1. ~~The proposed use complies with the specific vacation home rental use criteria listed in Article 3.~~
2. ~~The proposed use complies with all other applicable requirements of this CDC.~~

**706.D—Term and Effect of Approval**

1. ~~Approval of a Vacation Home Rental Permit shall be final on the date of the Planning Director's signature on the permit.~~
2. ~~Approval of a Vacation Home Rental Permit shall remain effective for one year from the date of approval.~~
3. ~~Vacation Home Rental Permits may be renewed on an annual basis, upon payment of a renewal fee, subject to continued compliance with the criteria for approval. At the time of renewal, the applicant shall report the number of violations incurred within the preceding 12 months, if applicable. Violations shall include civil penalty violations, noise violations, nuisance violations, and failures to pay sales tax.~~

**706.E—Amendments**

~~Amendments to a Vacation Home Rental Permit may be approved through the annual Vacation Home Rental Permit renewal process. Amendments may include change of ownership, interior or exterior modifications to the property, change in property management company, or any change in 24-hour contact information.~~

**706.F—Violations and Penalties**

~~Violations of a Vacation Home Rental Permit or the application process shall be enforced and subject to penalties in accordance with Section 101.~~

**706.G—Suspension and Revocation**

1. ~~Upon the occurrence of any of the following, City Council shall schedule a public hearing, and the owner shall be required to show cause why the Vacation Home Rental Permit should not be suspended or revoked:~~
  - a. ~~The imposition of a civil penalty for a third violation within one calendar year; or~~
  - b. ~~At the time of annual permit renewal, the City Manager determines that the combination of civil penalties and violations reported in accordance with Section 706.D.3 are sufficient to warrant a show cause hearing.~~
2. ~~If, after the public hearing, City Council determines that the operation of the vacation home rental has been more detrimental to the existing neighborhood character than it has been beneficial to the community in fostering its resort, business, and economic base, then City Council shall:~~
  - a. ~~Suspend the Vacation Home Rental Permit for such period as determined by City Council;~~  
~~or~~
  - b. ~~Revoke the Vacation Home Rental Permit.~~

~~3. If a Vacation Home Rental Permit is revoked, the owner shall not reapply for a Vacation Home Rental Permit at that location for two years.~~

- **Amend Section 720 as follows:** [NOTE: This Section would not be amended per PC recommendation]

## 720 ZONE MAP AMENDMENT

### 720.A Applicability

This Section shall apply to all amendments to the Official Zone Map except applications submitted by Qualifying Homeowners Associations for amendments to the STR Overlay zone as permitted by Section 238.E.

### 720.B Criteria for Approval

Zone Map Amendments may be approved upon a finding that the following criteria are met:

1. The Zone Map Amendment will be consistent with the purpose and standards of the proposed zone district.
2. The type, height, massing, appearance, and intensity of development that would be permitted in the proposed zone district will be compatible with surrounding zone districts, land uses, and neighborhood character and will result in a logical and orderly development pattern within the community.
3. The advantages of the proposed zone district substantially outweigh the disadvantages to the community or neighborhood.
4. The proposed amendment will minimize any adverse impacts on the natural environment, including water quality, air quality, wildlife habitat, vegetation, wetlands, and natural landforms.
5. One of the following conditions exists:
  - a. The proposed amendment substantially furthers the preferred direction and policies outlined in the Community Plan and other applicable adopted plans; or
  - b. The proposed amendment is necessary to respond to changed conditions since the adoption or last amendment of the Official Zone Map; or
  - c. The proposed amendment will correct an error on the Official Zone Map.

### 720.C Term and Effect of Approval

1. Zone Map Amendments shall become effective on the date specified in the ordinance adopted by City Council.
2. The Zone Map Amendment shall remain in effect for perpetuity or until amended.

- **Amend Section 101.D as follows:**

## 101 VIOLATIONS AND ENFORCEMENT

### 101.D General Enforcement Procedures

The following enforcement procedures shall apply to violations to the provisions of this CDC except violations to the provisions of Article 5 Signs, ~~violations related to the operation of vacation home rentals,~~ and violations to open space maintenance requirements.

1. **Non-Emergency Matters**



- a. In the case of violations of this CDC that do not constitute an emergency or require immediate attention, written notice of the nature of the violation shall be given to the property owner, agent, occupant, or to the applicant for any relevant permit. Notice shall be given in person, or by U.S. Mail, or by posting notice on the premises and shall specify the following:
  - i. The CDC provisions allegedly being violated; and
  - ii. Unless a shorter time frame is allowed by this Section, that the individual has a period of 15 days from the date of the receipt of the notice in which to correct the alleged violations before further enforcement action shall be taken; and
  - iii. Any appeal or Variance procedures available pursuant to this CDC.
- b. Written notice given hereunder with respect to a particular owner, property, and violation shall satisfy the requirements of this Section with respect to any repeat violation by the same owner at the same property.
- c. The Planning Director may grant an extension of the time to cure an alleged violation upon a finding that, due to the nature of the alleged violation or other factors, it reasonably appears it cannot be corrected within 15 days.

**2. Emergency Matters**

In the case of violations of this CDC that constitute an emergency raising safety or public concerns, or violations that will create increased problems or costs if not remedied immediately, the Planning Director may use the enforcement powers available under this Article without prior notice. The Planning Director shall attempt to give notice simultaneously with beginning enforcement action or as soon thereafter as practicable. Notice may be provided to the property owner, agent, occupant, or to the applicant for any relevant permit.

**3. Options Upon Noncompliance**

In the event a person fails to comply with a notice of violation or stop work order, or to remedy the violation to the satisfaction of the Planning Director within the required time period, the Planning Director, in consultation with the City Attorney, shall determine whether to subject the violator to one or more of the enforcement methods listed in Section 101.C.

**101.E Enforcement Procedures – Article 5 Signs**

The following enforcement procedures shall apply to violations to the provisions of Article 5 of this CDC:

1. In the case of any sign in violation of the provisions of Article 5, written notice of the violation shall be given to the sign owner or owner of the property or business on which the sign is located.
2. Notice shall be given in person to the property, business or sign owner, or by U.S. Mail, postage prepaid, to the address for such owner as shown in the records of the Routt County Assessor. Notice mailed in accordance with this Section shall be conclusively presumed to have been properly delivered and received.
3. No written notice shall be required with respect to any violation of Article 5 which occurs within 12 months after the sign owner or property owner has once been given written notice of any violation of Article 5.
4. If such sign, business, or property owner fails to repair, alter, or remove the sign so as to comply with Article 5 within 72 hours after the mailing of the notice (if such notice is mailed), within 24 hours after service of such notice (if such notice is personally served), or within such other time

as is specified in the notice, the Planning Director shall proceed with enforcement methods listed in Section 101.C.

5. Signs that are temporarily removed in response to a notice of violation and then re-installed in violation of this CDC shall be considered a continuation of the initial violation for purposes of enforcement.
6. The Planning Director may cause any sign located on public property, including street rights-of-way, that is not brought into compliance with this CDC after the service of the notice to be removed by City officials. Removal of signs by the City shall only be ordered after direct consultation between the Planning Director and City Attorney. Signs removed by the City from public property shall be deemed abandoned property and may be disposed of by the City. The City shall not be liable to the sign owner for damage to or loss of any sign removed pursuant to this Section.

**101.F Enforcement Procedures — Vacation Home Rentals** ~~Reserved~~

- ~~1. Any person with reason to believe a violation to this CDC exists related to a vacation home rental may file a complaint with the Steamboat Springs Police Department.~~
- ~~2. If, after investigation of the complaint, there is probable cause to proceed, the owner, operator, or manager of the vacation home rental shall be summoned into Municipal Court to answer charges.~~
- ~~3. The standard of proof for any prosecutions under this Section 101.F shall be a “preponderance of the evidence” and shall result in a civil penalty upon conviction.~~

**101.G Enforcement Procedures – Open Space Maintenance**

1. City Council may serve written notice upon the party responsible for maintaining open space. Such notice shall include the following:
  - a. The manner in which the person has failed to maintain the open space in a reasonable condition; and
  - b. A demand that such deficiencies of maintenance be cured within 30 days; and
  - c. The time, date, and place of a public hearing to be held within 45 days of the date of notice.
2. At the hearing, City Council may modify the terms of the original notice as to deficiencies and may grant an extension of time within which the deficiencies must be cured.
3. If the deficiencies are not cured within the time period set, the City, in order to preserve the taxable values of the properties within the development or subdivision and to prevent the open space from becoming a public nuisance, may enter upon the open space and maintain the open space for a period of one year. Such entry and maintenance shall not vest in the public any rights to use the open space except if it is voluntarily dedicated to the City by the owners and accepted by the City in accordance with Section 602.L.2.c.
4. Prior to the expiration of the year of City maintenance, City Council shall schedule a public hearing and provide notice to the party responsible for the maintenance of the open space. At the hearing, the responsible party shall show cause why such maintenance by the City shall not continue for the succeeding year. If City Council determines that the responsible party is not ready and able to maintain the open space in a reasonable condition, the City, in its discretion, may continue to maintain the open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

5. The cost of maintenance by the City shall be paid by the responsible party, and any unpaid assessment shall become a lien in the nature of general taxes on such properties. The City shall file a notice of such lien in the office of the Routt County Clerk and Recorder upon the properties affected by the lien and shall certify such unpaid assessments to the County Treasurer for collection, enforcement, and remittance of general property taxes.

**101.H Penalties**

1. Violations of this CDC shall be subject to the penalty provided by Chapter 1, Section 1-15 of the Municipal Code.
2. In cases of demolition or alterations to Historic Resources, Historic Landmarks, or Contributing Properties without approval or beyond the scope of an approved permit, or the failure of the owners of Eligible Resources to adhere to the required historic preservation review process, the City Council may impose one or more of the following penalties and sanctions in addition to the penalty provided by Chapter 1, Section 1-15 of the Municipal Code:
  - a. Moratorium on development or redevelopment of the Historic Resource, Historic Landmark, or Contributing Property for up to five years.
  - b. Requirement to reconstruct, repair, or rehabilitate the Historic Resource, Historic Landmark, or Contributing Property.
  - c. Charging up to triple the permit fees for future work on the Historic Resource, Historic Landmark, Contributing Property, or Eligible Resource.
  - d. Issuance of a stop work order or a court ordered injunction regarding the Historic Resource, Historic Landmark, Contributing Property, or Eligible Resource.
  - e. Assessment of the costs and expenses, including reasonable attorney's fees incurred by the City in enforcing the provisions of this CDC, against the owners of the Historic Resource, Historic Landmark, Contributing Property, or Eligible Resource.

~~3. In cases of violations of Vacation Home Rental Permits, penalties shall be imposed in accordance with Table 101-1 in addition to any other penalties permitted by this CDC and the Municipal Code.~~

~~**Table 101-1. Penalties for Vacation Home Rental Violations**~~

| <del>Violation Within Any 12 Month Period*</del>  | <del>Penalty</del>      |
|---|-------------------------|
| <del>First Violation</del>  | <del>\$250 fine</del>   |
| <del>Second Violation</del>   | <del>\$500 fine</del>   |
| <del>Third and any Subsequent Violation</del>   | <del>\$1,000 fine</del> |
| <del>*Each calendar day that there is a failure to comply with additional criteria and each calendar day a prohibited activity takes place may be considered by the Municipal Court as a separate and distinct offense.</del> |                         |

~~4. Any person operating a vacation home rental without a valid Vacation Home Rental Permit shall, upon conviction, be guilty of a misdemeanor resulting in the imposition of a fine of \$1,000 for each day of operation without a permit. The property being operated as a vacation home rental shall not be eligible for a Vacation Home Rental Permit for two years after conviction.~~

- **Amend Section 103 as follows:**

# 103 LEGAL NONCONFORMING USES

## 103.A Purpose and Intent

- 1. **Purpose**
  - a. Limit the number and extent of nonconforming uses.
  - b. Prohibit the enlargement of nonconforming uses.
  - c. Prohibit re-establishment of nonconforming uses after abandonment.
  - d. Further the goals and policies of the Community Plan and other adopted plans.
- 2. **Intent**

The intent of this Section is to apply standards that will eliminate legal nonconforming uses as speedily as possible.

## 103.B Determination of Legal Nonconforming Use

- 1. The Planning Director may determine that a nonconforming use is a legal nonconforming use and may allow the use to continue upon a finding that the use meets the following criteria:
  - a. The nonconforming use was lawfully established prior to the effective date of this CDC; or
  - b. The nonconforming use was lawfully established prior to the effective date of any amendment to this CDC that renders the use nonconforming; or
  - c. The nonconforming use was registered according to the requirements of the ordinances in effect prior to the effective date of this CDC; or
  - d. The use was lawfully authorized by a permit or regulation existing prior to the effective date of this CDC or the effective date of an amendment to this CDC, subject to the limitations as prescribed by the permit or regulation; and
  - e. Since the effective date of the ordinance that renders the use nonconforming, the use did not terminate under the provisions of Section 103.D.
- 2. The Planning Director's determination of whether or not a nonconforming use is legal shall be based on evidence submitted by the property owner.
- 3. The burden of proof for demonstrating that a nonconforming use is a legal nonconforming use shall be upon the property owner. All evidence and documentation that the property owner wishes to be considered shall be submitted to the Planning Director within one year of the effective date of the ordinance that made the use nonconforming, or within 60 days of written notification by the Planning Director concerning the status of the use as illegal or nonconforming, whichever date is later. Acceptable evidence and or documentation may include:
  - a. Public records such as sales tax receipts, property tax receipts, records from the County Assessor's office, and records from the Department of Planning and Community Development, aerial photography, and surveys.
  - b. Signed and notarized letters from surrounding property owners containing information about the use.
  - c. Any other evidence that documents the existence and the scope of the use at a given point in time, in a form acceptable to the City Attorney.
- 4. If the Planning Director determines that the use is legal nonconforming, the Planning Director shall document the scope of the use at the time the ordinance became effective rendering the use nonconforming. The Planning Director may require submission of a detailed site plan to document and define the scope of the use.

### 103.C Continuance

A legal nonconforming use shall be allowed to continue according to the following:

- a1. The legal nonconforming use shall not be enlarged to occupy a greater site area or building floor area than it occupied on the effective date of the ordinance rendering the use nonconforming, except as provided in Section 103.E.
- b2. The legal nonconforming use shall not be relocated in whole or in part to any other lot or portion of the lot where the use is located.
- e3. The legal nonconforming use shall not be extended or enlarged by the addition of signs visible from any location off the premises.

### 103.D Termination

The legal nonconforming status of a use shall be terminated immediately upon any of the following:

1. A legal nonconforming use is replaced by a conforming use in the applicable zone district; or
2. A legal nonconforming use has been abandoned or discontinued for a period of six consecutive months regardless of any intent to resume operation of use, or a seasonal (six months or less) legal nonconforming use has been abandoned or discontinued for one season regardless of any intent to resume operation of use, [or an intermittent legal nonconforming use has been abandoned or discontinued for a period of twelve consecutive months regardless of any intent to resume operation of use](#); or
3. The structure housing a legal nonconforming use has been officially condemned; or
4. The structure housing a legal nonconforming use is removed from its previous site or relocated on the same or any other site; or
5. The structure housing a legal nonconforming use is destroyed or damaged to an extent in excess of 50 percent of current reconstruction cost or such structure is damaged or destroyed and not restored within 12 months. The Planning Director may grant an extension to the 12-month time period if a structure is of a large scale and requires changes to become compliant with the Building Code. In such cases, the applicant must apply for a building permit within 12 months, and the only changes permitted to the structure shall be those necessary to bring the structure into compliance with the Building Code.

### 103.E Expansion

#### 1. One-Family and Two-Family Residential Uses

Any structure used for a legal nonconforming one-family or two-family residential use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities and is not located within Subzone D of the Airport Overlay zone. Such expansions are subject to the limitations stated in Section 103.D.

#### 2. Multiple-Family Residential and Nonresidential Uses

- a. In Subzone D of the Airport Overlay zone, any nonresidential use or a structure used for a legal nonconforming multiple-family residential or nonresidential use may only be enlarged or increased in accordance with Section 709.A.3.a.
- b. With the exception of properties located within Subzone D of the Airport Overlay zone, any legal nonconforming multiple-family residential or nonresidential use or structure used for a legal nonconforming multiple-family residential or nonresidential use may be enlarged or increased with approval of a Development Plan and Conditional Use upon a finding by City Council that:

- i. The use will not expand beyond the lot owned or leased by the legal nonconforming use as of the date it became nonconforming; and
- ii. The proposed modification will not result in further infringement of the provisions of this CDC and will comply with all standards (other than use standards), including but not limited to lot coverage, floor area ratio, setbacks, height, open space, and parking requirements, unless varied by City Council; and
- iii. The use is not an industrial use in a residential zone district.
- iv. The use is permitted in the Airport Overlay zone, if applicable.

**103.F Change to Different Nonconforming Use**

A nonconforming use shall not be changed to another nonconforming use except where the new nonconforming use is approved as a Conditional Use upon a finding by City Council that:

1. The new nonconforming use more closely meets the intent of this CDC; and
2. The impacts of the new nonconforming use to the surrounding properties is less than that of the existing nonconforming use.