

ORDINANCE NO. 044, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING THE CITY OF FORT COLLINS LAND USE CODE
REGARDING SHORT TERM RENTALS

WHEREAS, on December 2, 1997, by its adoption of Ordinance No. 190, 1997, the City Council enacted the Fort Collins Land Use Code (the "Land Use Code"); and

WHEREAS, at the time of the adoption of the Land Use Code, it was the understanding of staff and the City Council that the Land Use Code would most likely be subject to future amendments, not only for the purpose of clarification and correction of errors, but also for the purpose of ensuring that the Land Use Code remains a dynamic document capable of responding to issues identified by staff, other land use professionals and citizens of the City; and

WHEREAS, the renting of dwelling units for periods of less than thirty days ("Short Term Rental" or "Short Term Rentals") is an ongoing activity in the City that has been permitted to date as an allowable residential use pursuant to the Land Use Code conditioned upon the person conducting the rental obtaining appropriate City sales and use and lodging tax licenses; and

WHEREAS, in response to community concerns regarding Short Term Rentals, Council at its June 9, 2015, work session directed City staff to investigate and conduct public outreach regarding Short Term Rentals; and

WHEREAS, Council conducted four subsequent work session on October 27, 2015, February 23, 2016, July 26, 2016, and January 10, 2016, during which Council evaluated and provided feedback on City staff research into Short Term Rentals within the City and in other jurisdictions, proposals for Short Term Rental regulations, and the results of public outreach; and

WHEREAS, City staff has conducted extensive public outreach since 2015 regarding proposed regulation of Short Term Rentals including community open houses, online surveys, and outreach to the Visit Fort Collins Board and the Fort Collins Board of Realtors; and

WHEREAS, City staff conducted outreach with the Fort Collins Affordable Housing Board regarding Short Term Rentals in October 2015, January 2016, and November 2016; and

WHEREAS, City staff conducted outreach with the Fort Collins Human Relations Commission regarding Short Term Rentals in May 2016; and

WHEREAS, City staff conducted outreach with the Fort Collins Commission on Disability regarding Short Term Rentals in February and October 2016; and

WHEREAS, the Fort Collins Planning and Zoning Board at its December 15, 2016, regular meeting considered the proposed Land Use Code changes regarding Short Term Rentals and recommended adoption of the changes with the exception of the proposed parking requirement exception for Short Term Rentals located within the Transit Overlay District; and

WHEREAS, public outreach showed both support and concern for Short Term Rentals;
and

WHEREAS, the City wishes to protect neighborhoods while accommodating an existing
and desired activity; and

WHEREAS, by utilizing existing zoning code provisions and applying additional
requirements on Short Term Rental activities, neighbors, renters, and traditional lodging
establishments can all be protected from unregulated activity; and

WHEREAS, limiting Short Term Rental activity by zone, inspecting properties, requiring
minimum parking, and tax remittance will address concerns and provide a framework for Short
Term Rental activity without jeopardizing neighborhood quality; and

WHEREAS, in addition to input from the public presented to Council by City staff,
Council has received extensive direct public input, in the form of correspondence and public
comment at Council meetings, both in opposition to, and in support of, the adoption of Short
Term Rental regulations; and

WHEREAS, the changes to the Land Use Code set forth in this Ordinance are the result
of the extensive research, public outreach, and discussion described above, and the public
hearing process associated with adoption of this Ordinance; and

WHEREAS, pursuant to Colorado Revised Statute §31-23-301, the City has been
specifically granted the power to regulate the use of buildings for trade, industry, residence, or
other purposes for the purposes of promoting health, safety, morals, or the general welfare of the
community.

WHEREAS, Council is concurrently considering Short Term Rental licensing regulations
for adoption into the Code of the City of Fort Collins and the requirement for licensing is
incorporated into the Land Use Code amendments set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and
findings contained in the recitals set forth above.

Section 2. That based upon the information the City Council has received relevant to
its consideration of the Land Use Code amendments set forth herein from work sessions,
discussions with City staff, written and oral comments submitted by members of the public, and
information and discussion during the public hearing process associated with adoption of this
Ordinance, the Council makes the following additional determinations and findings:

- A. Short Term Rentals provide financial benefits to owners of such rentals and benefits
to renters in the form of amenities and location.

- B. Short Term Rentals could impact the neighborhoods in which they are located with respect to parking, noise, and neighborhood livability regarding persons from outside a neighborhood transiently visiting.
- C. Owners who occupy Short Term Rentals as their principal residences can provide greater oversight and accountability during periods rentals are occurring as opposed to Short Term Rentals not occupied by their owners as principal residences.
- D. Additional oversight of Short Term Rentals will help to ensure the health and safety of renters, and management of impacts to the surrounding neighborhood.

Section 3. That the Land Use Code changes adopted herein are necessary to address the impacts of Short Term Rentals while at the same time recognizing the benefits of Short Term Rentals and reasonably allowing Short Term Rentals to continue operating with certain restrictions. The Land Use Code changes adopted herein are in the best interests of the citizens of Fort Collins and are adopted for the purposes of promoting the health, safety, morals, and general welfare of the community.

Section 4. That Section 3.2.2(K)(1) of the Land Use Code is hereby amended by the addition of a new subsection (k) which reads in its entirety as follows:

- (k) Short term non-primary rentals and short term primary rentals: The minimum number of off-street parking spaces required are as follows:

Number of Bedrooms Rented	Number of Off-Street Parking Spaces
1-2	1
3-4	2
5-6	3

The number of additional off-street parking spaces required for more than six bedrooms rented shall be calculated in the same manner used in the above chart (e.g. 7-8 bedrooms rented requires 4 off-street parking spaces).

Short term rentals licensed pursuant to the Code of the City of Fort Collins § 15-634 and for which the license application was submitted prior to June 30, 2017, are exempt from compliance with these parking requirements so long as such license remains continuously valid. Subsequent licenses issued pursuant to § 15-634 shall comply with these parking requirements.

Section 5. That Section 3.8.3(10) of the Land Use Code is hereby amended to read as follows:

3.8.3 - Home Occupations

A home occupation shall be allowed as a permitted accessory use, provided that all of the following conditions are met:

...

(10) A home occupation shall not be interpreted to include the following:

(j) short term primary rentals and short term non-primary rentals.

...

Section 6. That Division 3.8 of the Land Use Code is hereby amended by the addition of a new subsection 3.8.34 which reads in its entirety as follows:

3.8.34 - Short Term Rentals

- (A) **Applicability.** These standards apply to short term primary rentals and short term non-primary rentals.
- (B) **Purpose.** The purposes of these standards are to mitigate the impacts of short term rentals on the neighborhoods in which they are located, to maintain and enhance neighborhood livability, to ensure the health and safety of renters of short term rentals, and to ensure the compatibility of short term rentals with the allowed uses in the applicable zone districts.
- (C) **Location.** Subject to subsection (F) below, the allowable locations of short term primary and non-primary rentals are determined by the zone districts and their respective list of permitted uses as described in Article Four.
- (D) **Off-street Parking.** Refer to § 3.2.2(K)(1)(k) for minimum off-street parking space requirements.
- (E) **Licensing.** The licensing of short term rentals is governed by the Code of the City of Fort Collins Chapter 15, Article XVIII. No dwelling unit shall be used as a short term primary rental or short term non-primary rental unless a license is first obtained pursuant to Chapter 15, Article XVIII.
- (F) **Nonconforming Use.** A dwelling unit utilized as a short term primary or non-primary rental that is located in a zone district where such use is prohibited, and such short term rental was a lawful use as defined in (3) below prior to March 31, 2017, is considered a nonconforming use. Such nonconforming use shall correspond to the type of short term rental conducted, either primary or non-primary, prior to the above date.
 - (1) In addition to complying with the nonconforming use regulations in Land Use Code Division 1.5, the owner of the dwelling unit must obtain a license pursuant to the Code of the City of Fort Collins § 15-634 and continuously maintain such license to maintain nonconforming use status. Failure to apply for such license by June 30, 2017, shall be considered

abandonment of the nonconforming use. Should such license be revoked, not be renewed, or lapse for any period of time, the nonconforming short term rental use shall be considered abandoned or otherwise terminated.

- (2) Should ownership of a dwelling unit licensed pursuant to § 15-634 be transferred, and such license was continuously valid until the transfer of ownership, the new owner must comply with the following in order to continue the nonconforming use: (1) apply for a license pursuant to § 15-634 within thirty days of the transfer of ownership; (2) comply with the parking requirements contained in § 3.2.2(K)(1)(k) of this Code; and (3) continuously maintain any license issued pursuant to § 15-634. Should any license issued to the new owner be revoked, not be renewed, or lapse for any period of time, the nonconforming short term rental use shall be considered abandoned or otherwise terminated.
- (3) To be considered a lawful use, a dwelling unit must have, prior to March 31, 2017, been actually utilized as a short term primary or non-primary rental pursuant to valid sales and use and lodging tax licenses issued for such dwelling unit in accordance with Chapter 25, Art. IV, of the Code of the City of Fort Collins.

Section 7. That Section 4.2(B)(1)(e) of the Land Use Code is hereby amended by the addition of a new subparagraph 2 which reads in its entirety as follows:

(e) **Residential Uses:**

...

2. Short term primary rentals.

Section 8. That Section 4.5(B)(1)(e) of the Land Use Code is hereby amended by the addition of a new subparagraph 2 which reads in its entirety as follows:

(e) **Residential Uses:**

...

2. Short term primary rentals.

Section 9. That Section 4.6(B)(1)(e) of the Land Use Code is hereby amended by the addition of a new subparagraph 3 which reads in its entirety as follows:

(e) **Residential Uses:**

...

3. Short term primary rentals.

Section 10. That Section 4.8(B)(1)(a) of the Land Use Code is hereby amended by the addition of a new subparagraph 4 which reads in its entirety as follows:

(a) **Residential Uses:**

...

4. Short term primary rentals.

Section 11. That Section 4.9(B)(1)(a) of the Land Use Code is hereby amended by the addition of a new subparagraph 7 which reads in its entirety as follows:

(a) **Residential Uses:**

...

7. Short term primary rentals.

Section 12. That Section 4.10(B)(1)(e) of the Land Use Code is hereby amended by the addition of a new subparagraph 3 which reads in its entirety as follows:

(e) **Residential Uses:**

...

3. Short term primary rentals.

Section 13. That the table contained in Section 4.16(B)(2)A of the Land Use Code is hereby amended to read as follows:

<i>Land Use</i>	<i>Old City Center</i>	<i>Canyon Avenue</i>	<i>Civic Center</i>
A. RESIDENTIAL			
...
Short term primary and non-primary rentals	BDR	BDR	BDR

...
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Section 14. That Section 4.17(B)(1)(e) of the Land Use Code is hereby amended by the addition of a new subparagraph 3 which reads in its entirety as follows:

(e) **Residential Uses:**

...

- 3. Short term primary and non-primary rentals.

Section 15. That Section 4.18(B)(1)(e) of the Land Use Code is hereby amended by the addition of a new subparagraph 3 which reads in its entirety as follows:

(e) **Residential Uses:**

...

- 3. Short term primary and non-primary rentals.

Section 16. That Section 4.19(B)(1)(e) of the Land Use Code is hereby amended by the addition of a new subparagraph 3 which reads in its entirety as follows:

(e) **Residential Uses:**

...

- 3. Short term primary and non-primary rentals.

Section 17. That Section 4.20(B)(1)(e) of the Land Use Code is hereby amended by the addition of a new subparagraph 3 which reads in its entirety as follows:

(e) **Residential Uses:**

...

- 3. Short term primary and non-primary rentals.

Section 18. That the table contained in Section 4.21(B)(2) of the Land Use Code is hereby amended to read as follows:

<i>Land Use</i>	<i>I-25/SH 392 (CAC)</i>	<i>General Commercial District (C-G)</i>
A. RESIDENTIAL		
...
Short term primary and non-primary rentals	BDR	BDR
...

Section 19. That Section 4.22(B)(1)(e) of the Land Use Code is hereby amended by the addition of a new subparagraph 2 which reads in its entirety as follows:

(e) **Residential Uses:**

...

2. Short term primary and non-primary rentals.

Section 20. That the table contained in Section 4.24(B)(2) of the Land Use Code is hereby amended to read as follows:

<i>Land Use</i>	<i>Riverside Area</i>	<i>All Other Areas</i>
A. RESIDENTIAL		
...
Short term primary and non-primary rentals	BDR	BDR

...
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Section 21. That Section 4.26(B)(1)(e) of the Land Use Code is hereby amended by the addition of a new subparagraph 2 which reads in its entirety as follows:

(e) **Residential Uses:**

...

2. Short term primary and non-primary rentals.

Section 22. That Section 4.27(B)(1)(e) of the Land Use Code is hereby amended by the addition of a new subparagraph 3 which reads in its entirety as follows:

(e) **Residential Uses:**

...

3. Short term primary and non-primary rentals.

Section 23. That Section 4.28(B)(1)(e) of the Land Use Code is hereby amended by the addition of a new subparagraph 2 which reads in its entirety as follows:

(e) **Residential Uses:**

...

2. Short term primary rentals.

Section 24. That the definition “*Bed and breakfast*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Bed and breakfast shall mean an establishment operated in a private residence or portion thereof, that provides temporary accommodations for a fee to overnight guests, a morning meal limited to guests only, and that is occupied by the operator of such establishment. A bed and breakfast may provide accommodations to individuals or multiple separate parties concurrently on both a reservation and walk-in basis. The term party as used in this definition shall mean one or more persons who stay at a *bed and breakfast* as a single group pursuant to a single reservation and payment.

Section 25. That the definition “*Dwelling*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Dwelling shall mean a building used exclusively for residential occupancy and for permitted accessory uses, including single family dwellings, two-family dwellings, ~~and~~ multi-family dwellings, and short term primary and non-primary rentals. The term *dwelling* shall not include hotels, motels, homeless shelters, seasonal overflow shelters, tents or other structures designed or used primarily for temporary occupancy with the exception of short term primary and non-primary rentals. Any dwelling shall be deemed to be a principle building.

Section 26. That the definition of “*Hotel/motel/lodging establishment*” contained in Section 5.1.2 of the Land Use Code is hereby amended to read as follows:

Hotel/motel/lodging establishment shall mean a building intended and used for occupancy as a temporary abode for individuals who are lodged with or without meals, in which there are five (5) or more guest rooms. The terms *hotel/motel/lodging establishment* shall not include homeless shelters, seasonal overflow shelters, and short term primary and non-primary rentals.

Section 27. That Section 5.1.2 of the Land Use Code is hereby amended by the addition of three new definitions which read in their entirety as follows:

Primary residence shall mean the dwelling unit in which a person resides for nine or more months of the calendar year. Under this definition, a person has only one primary residence at a time.

Short term non-primary rental shall mean a dwelling unit that is not a primary residence and that is leased in its entirety to one party at a time for periods of less than 30 consecutive days. The term party as used in this definition shall mean one or more persons who as a single group rent a short term non-primary rental pursuant to a single reservation and payment. The term short term non-primary rental shall not include the rental of a dwelling unit to the former owner immediately following the transfer of ownership of such dwelling unit and prior to the former owner vacating the dwelling unit. Short term non-primary rental is a distinct use from short term primary rental under the Land Use Code.

Short term primary rental shall mean a dwelling unit that is a primary residence of which a portion is leased to one party at a time for periods of less than 30 consecutive days. The term party as used in this definition shall mean one or more persons who as a single group rent a short term primary rental pursuant to a single reservation and payment. A carriage house that is not a primary residence is deemed to be a short term primary rental if it is located on a lot containing a primary residence. A dwelling unit of a two-family dwelling that is not a primary residence is deemed to be a short term primary rental if the connected dwelling unit is a primary residence and both dwelling units are located on the same lot. The term short term primary rental shall not include the rental of a dwelling unit to the former owner immediately following the transfer of ownership of such dwelling unit and prior to the former owner vacating the dwelling unit. Short term

primary rental is a distinct use from short term non-primary rental under the Land Use Code.

Introduced, considered favorably on first reading, and ordered published this 7th day of March, A.D. 2017, and to be presented for final passage on the 21st day of March, A.D. 2017.



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Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read "W Winkelman", is written over a horizontal line.

City Clerk

Passed and adopted on final reading on the 21st day of March, A.D. 2017.



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Mayor

ATTEST:

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