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AGENDA CITY OF OURAY PLANNING COMMISSION REGULAR MEETING

San Juan Room – Ouray Community Center – 320 6th Avenue
October 9, 2018 - 4:00 pm

ADMINISTRATIVE

- Call to Order
- Roll Call
- Review of Minutes from Planning Commission regular meetings of September 11, 2018

CITIZEN COMMUNICATIONS

Action

1. Consideration of an amendment to the Ouray Land Use Code to create Short-term Rental Regulations at Section 7-2 by amending the definitions of a “Lodging Business” and “Short-term Rental” and by the creation of new Section 7-5-J-10, “Short-term Rental Regulations” regulating and establishing a maximum cap for the rental of single-family, duplex or multi-family dwellings for short-term rentals of less than 30 days.

Discussion

1. **Community Plan Update**

ADJOURNMENT

CALL TO ORDER

Chairman Jeff Skoloda called the meeting to order at 4:00 p.m.

ROLL CALL

Planning Commissioners present for roll call were Chairman Jeff Skoloda, Vice Chair Tamara Gulde, Commissioner J. Gary Dunn and Commissioner Tom Tyler. Commissioner Ann Morgenthaler was absent.

Present on behalf of the City of Ouray staff were City Administrator Katie Sickles, Community Development Coordinator Chris Hawkins and Deputy Clerk/Treasurer Beverly Martensen. Mayor Pro Tem Glenn Boyd was present as Council liaison.

APPROVAL OF MINUTES

Vice Chair Gulde moved and Chairman Skoloda seconded the motion to approve the minutes of the August 14th Regular Planning Commission meeting as written. A vote was taken and passed unanimously.

CITIZENS COMMUNICATIONS

There were no citizen communications.

ACTION ITEMS

There were no action items.

DISCUSSION ITEMS

1. Short Term Lodging Regulations

Hawkins reviewed changes to the draft short term rental regulations with the Planning Commission, which included:

- Definition of a lodging unit.
- Inspection requirements for a short term rental unit.
- Signage requirements.
- Parking requirements.
- Requirements for property manager to be in the area.
- Language regarding renting of individual rooms requiring official bed and breakfast designation.
- Safety requirements.
- Trash management.
- Language for violations and penalties.

The Planning Commission discussed and agreed they would like to cap the number of short term rentals permitted in the City. Hawkins will add language allowing the commission to decide on a cap number.

Hawkins indicated the current building inspector may become full time to become the code enforcement officer for the short term rental regulations.

2. Community Plan Update

Hawkins updated the commission regarding progress on the master plan process. He indicated there currently 174 responses to the community plan update survey. The survey will remain open through mid-October and results will be presented at the October steering committee meeting. Hawkins will publish a meeting schedule for the committee with topics and also schedule open houses. He stated the steering committee currently is meeting the last Wednesday of every month.

ADJOURNMENT

At 4:50 p.m. Chairman Skoloda moved and Vice Chair Gulde seconded the motion to adjourn. The motion was unanimously approved.

DRAFT

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TO: City of Ouray Planning Commission
FROM: Chris Hawkins, Community Development Coordinator
DATE: October 2, 2018
SUBJECT: **Short-term Rental Regulations**

Attachments:

Exhibit A: Draft Short-term Rental Regulations

BACKGROUND

Staff has re-drafted the short-term rental regulations based on the direction provided by the Planning Commission at the September meeting and the City Attorney has also edited the proposed regulations (Exhibit A). The biggest changes to the Short-term Rental Regulations are highlighted and discussed in this memo.

Short-term Rental Cap

The Commission consensus was to establish a cap on the number of short-term rental units in the city. The Commission asked for staff to determine the current number of short-term rental units. The number of short-term rental units on the City Monthly Lodging and Occupancy Tax Report ("**Tax Report**") is 124 ("**Current Short-term Rentals**") according to the Administrative Services Department. This number excludes bed and breakfast lodging businesses.

The Planning Commission has to set the cap at least at the current number of legal short-term rental units that are included on the Tax Report. The Planning Commission may want to set the cap at 124 units, or 150 units to allow for some modest increase. The Planning Commission could also establish a higher cap. The Planning Commission should keep in mind that each short-term rental dwelling unit reduces the city population by 2.19 people. The 124 Current Short-term Rentals equates to 272 persons who cannot live in the City, which is substantial since that represents approximately 25% of the current city population. Any increase in the number of allowed short-term rental units over the Current Short-term Rentals should therefore be modest in the opinion of staff.

Staff also added a provision that limits the number of short-term rental units allowed in a multi-family development to 20% of the units so that the whole of a project could not be converted to just short-term rental. The Planning Commission may actually want to prohibit short-term rentals in multi-family development, and simply grandfather existing units that get a permit within the required window.

Condominium-Hotels

Condominium-hotels are condominium projects that are set up to be centrally managed and operated as a lodging business, with incentives for condo unit owners to include their units into a short-term lodging rental pool. Condominium hotels are a lodging business even though all unit owners will not elect to put their units in the centrally managed rental pool. Staff has added condominium-hotels into the definition of a lodging business and the Short-term Rental Regulations do not apply to such development.

City Expenses

A section was added to require short-term rental applicants to pay for the City expenses that may be incurred during the review of an application, such as any City Attorney costs.

Signs

The initial draft of the Short-term Rental Regulations limited the content of signage for the rental units. The City Attorney indicated that any new sign regulations must be content neutral (due to a Supreme Court case), so we cannot just limit signs to the common name of a rental ("Mountain View", "Robin's Rest", etc.). All the City can regulate in any new sign regulations is the allowance of a sign, the size of a sign, material, height, location, lighting, etc. It is therefore best to simply prohibit signs for short-term rental units in order to preserve the residential character of the neighborhoods.

Violations and Revocation

Staff added a section on the Community Development Coordinator or authorized person as the entity to revoke or suspend a short-term rental license. Staff also added the Planning Commission-directed allowance to revoke a license for up to two years for egregious violations of the regulations.

EQR Fees

Staff has added a provision that short-term rental will require the payment of the same EQR Fee as hotels, motels and bed and breakfasts with 1.00 per homeowner-occupied dwelling unit, 0.16 per bed and .02 per kitchen. We believe this higher EQR fee is warranted in light of the more intensive land use and associated water use.

Application Fees

Staff is recommending that the short-term rental license fee be established by the City Council at \$500 per short-term rental unit. This fee is based on our analysis of comparable communities and the amount of City staff time it takes to review applications, conduct inspections, police support, etc. This fee would generate approximately \$62,000 every two years which translates to approximately \$31,000 per year.

Staff Recommendation

Staff recommends that the Planning Commission pass a motion to recommend that the City Council approve the Short-term Rental Regulations, with any changes to the regulations noted in the motion.

Draft Short-term Rental Regulations

7-2 Definitions

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

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

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

10. Short-term Rental Regulations

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

Draft Short-term Rental Regulations

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

- a) License renewals shall not require an additional inspection unless Community Development staff determine a new inspection is required due to changes since the last application, past complaints, or other issues that arise from the license review.
- v. A short-term rental license shall be granted solely to the owner of record of the property for which the license is issued and shall not be transferable to any other person.
 - a) The short-term rental license may list a responsible party to ensure the requirements of this Section are met; however, the property owner shall remain responsible for compliance.
- vi. The Community Development Department may impose reasonable license conditions to ensure the requirements of this Section will be met.
- vii. Short-term rental licenses shall be issued for a period of two (2) years and subject to biannual renewal.
- viii. All existing short-term rentals shall apply for a short-term rental license within seven (7) months of the effective date of this ordinance. Thereafter, short-term rentals without a license shall be considered illegal and the City may pursue enforcement action.

d. Short-term Rental Cap. The number of short-term rental licenses in the City of Ouray shall be limited to _____ [insert number] at any one time.

i. Short-term rentals that are included in the City Monthly Lodging and Occupancy Tax Report as of October 1, 2018 (“Current Short-term Rentals”) shall be given priority for issuance of a short-term rental license prior to the issuance of any new license by the City.

a) Current Short-term Rentals shall submit an application for a short-term rental license by March 29, 2018; if such an application is not submitted by such date, the Current Short-term Rental shall lose its priority status and be treated as any other eligible property in the City.

b) Current Short-term Rentals that submit an application for a property that do not meet the requirements of the Short-term Rental Regulations shall be denied the issuance of a short-term rental license.

ii. Only complete applications will be considered, with licenses issued by the City on first complete application - first considered basis, with Current Short-term Rentals given priority for issuance of a short-term rental license within the cap and application deadlines established by this section.

e. Standards.

i. A short-term rental shall not change the residential character of the property, either by use of colors, materials, lighting, advertising, excessive site improvements, or other actions that change the residential character.

ii. A short-term rental shall not cause a public nuisance through adverse impacts such as lighting, parking, signage, noise, glare, vibrations, or odors.

iii. Signs are prohibited for short-term rental. .

a) Short-term rentals that currently have a sign shall remove all signage as a part of obtaining a license.

Draft Short-term Rental Regulations

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

Draft Short-term Rental Regulations

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