



**The Buena Vista Planning & Zoning Commission**  
**August 18, 2021 at 7:00 PM**

**Virtual Regular Meeting and the  
Public Meeting will be held at the  
Buena Vista Community Center.**

**The public can join the meeting virtually via ZOOM. To participate in Public Comment and/or Public Hearings you may connect to the video conference.**

**Conferencing Access Information: <https://zoom.us/j/92196756001>**

**Listen via phone at [1-346-248-7799](tel:1-346-248-7799) Meeting ID: [921 9675 6001](#) Passcode: [BuenaVista](#)**

## **AGENDA**

---

### **7:00 REGULAR MEETING OF THE PLANNING & ZONING COMMISSION**

- I. Call to Order**
- II. Pledge of Allegiance**
- III. Roll Call**
- IV. Agenda Adoption**
- V. Approval of Minutes – July 21, 2021**
- VI. Public Comment**
- VII. New Business**
  1. An ordinance amending certain sections of the Unified Development Code concerning definitions of type of structures and the definition of short-term rental.
- VIII. Staff/Commission Interaction**
- IX. Adjournment**

This Agenda was Posted at Buena Vista Town Hall,  
Buena Vista Post Office, and [www.buenavistaco.gov](http://www.buenavistaco.gov) on August 16, 2021



## Minutes of the Regular Meeting of the Buena Vista Planning and Zoning Commission July 21, 2021

### **CALL TO ORDER**

A regular meeting of the Planning and Zoning Commission was called to order at 7:00 pm, Wednesday, July 21, 2021 **at the Community Center & via Zoom** by Chair Preston Larimer. Also present were Vice Chair Lynn Schultz-Writsel, Commissioners Estes Banks, Thomas Doumas, Craig Brown, Tony LaGreca, and Blake Bennetts.

Staff Present: Principal Planner Mark Doering and Planning Technician Doug Tart.

### **PLEDGE OF ALLEGIANCE**

Chair Larimer led in the Pledge of Allegiance.

### **ROLL CALL**

Tart proceeded with the roll call and declared a quorum.

### **AGENDA ADOPTION**

Larimer called for approval of the agenda. Commissioner Doumas motioned to adopt the agenda as presented, **Motion #1** seconded by Commissioner LaGreca. Motion carried.

### **APPROVAL OF MINUTES**

Commissioner Banks motioned for approval of the July 7, 2021 minutes as amended. **Motion #2** was seconded by Commissioner Doumas. Motion carried.

### **PUBLIC COMMENT**

Public comments opened at 7:02 pm. With no comments, public comment was closed at 7:02 pm.

### **NEW BUSINESS**

Doering presented the draft ordinance for single-room occupancy use and proposed changes regarding multifamily uses.

The Single-room Occupancy use is intended to allow for situations where a common kitchen exists for multiple units that do not contain an individual kitchen, with the building under single ownership.

This new definition would allow for a residential structure with unrelated people to live together with a shared space on a long-term (more than 30 days) basis. This gives the Town an opportunity to create a new use with applicable regulations.

As proposed, a Special Use Permit would be required R-1 and R-2 zone districts, and it would be a permitted-by-right use in the MU-1, MU-2, MU-MS, and H-C districts.

The proposed use standards for all Single Room Occupancy uses would be:

1. The structure shall be under the ownership of a single owner and may not be subdivided or condominiumized to create individual units for separate ownership. Short term rentals are prohibited.
2. All rooms shall meet the applicable building code requirements. Rooms without required egress shall not be used for bedrooms.
3. A change of use shall for the appropriate building occupancy shall be issued to the property prior to occupation of the structure as a single room occupancy, as determined by the building official.
4. Parking shall be provided per Section 16.04.4.3.
5. The structure shall be residential in its design and compatible with the architecture of the existing structure in terms of colors and materials of the existing structure, if any, on the property and/or compatible in mass and scale of the surrounding neighborhood it is proposed to be located.

Linda Barbeau (resides at 425 Cedar St.) commented on the proposed single-room occupancy use. She is proposing the use at her Cedar St. property and stated that the SRO use should allow property owners to have an option for short-term rentals to help offset the costs of offering affordable housing.

Staff is currently trying to get more multifamily housing in town. Multifamily housing is currently permitted in the Mixed-Use Main Street (MU-MS) and Highway Commercial (H-C) zone districts if designed as vertically mixed-use development. Staff is proposing a change allowing small & large multifamily in H-C district that removes the vertical component and would allow apartments as the primary use on property. Along with these changes would be the removal of the site plan review process for small multifamily developments in an effort to streamline the development process.

The vertically mixed-use constraint can be removed for multifamily developments if the following items listed in each use-specific standard are met:

Large Multifamily:

1. Except as permitted herein, in the MU-MS and HC districts, large multifamily dwellings are only permitted as part of a vertically mixed-use building.
2. In the HC district, subject to the approval a special use permit, large multifamily dwellings may be permitted independent of a mixed-use building if short term rental of all dwelling units is prohibited.
3. If pets are allowed in individual units and in a common pet area on the property as established in the site plan review, required parking may be reduced to 70.0% of the minimum parking requirements allowed in Section 16.04.4.3. Those sites restricting pets from individual units shall be required to meet the minimum parking in Section 16.04.4.3.

Small Multifamily:

1. In the R-1 district, small multifamily dwellings are only permitted in the Old Town Overlay east of Highway 24.
2. In the MU-MS district, small multifamily dwellings are only permitted as part of a vertically mixed-use building.
3. In the HC district, subject to the approval a special use permit, small multifamily dwellings may be permitted independent of a mixed-use building if short term rental

of all dwelling units is prohibited. No subdivision of the units or creation of condominiums is permitted for dwelling units permitted under this subsection.

The commission directed staff to make the following proposed amendments to single room occupancy and apartment uses:

1. Single room occupancy uses to require a Special Use Permit for short term rentals. Chair Larimer made the motion, Commissioner LaGreca seconded. **Motion #3** carried.
2. Explore the pet incentive to include all 'typical' household pets and potentially define pets. Commissioner Schultz-Writsel made the motion, Chair Larimer seconded. **Motion #4** carried.
3. Investigate and propose an incentive for additional height allowance for apartments in H-C zone district only. Commissioner Doumas made the motion, Commissioner Schultz-Writsel seconded. **Motion #5** carried.

Chair Larimer motioned for staff to continue discussion until the October 6<sup>th</sup> meeting. **Motion #6** was seconded by Commissioner Brown. Motion carried.

Doering then led an introductory discussion of a new, small-lot single-family zone district (a.k.a. R-1.5). Staff is proposing the smaller lot single-family zone district in an effort to allow for the development of dense predominately single-family home subdivisions than what is currently allowed in the R-1 zone district.

This new zone district would keep character of existing residential areas while offering opportunity for smaller lots. The difference in developable lots resulting from smaller lots would potentially be donated to Town for the development of affordable housing.

As the code currently exists, the only way to achieve this is through the creation of a PUD or to rezone to R-3 (High Density Residential)

The Commission approved of the *intent* of proposal, and staff will bring this back to the commission at a later date.

Commissioner Bennetts asked staff to address rear setback minimums for houses and detached garages and change the wording of 'lot width' to 'lot area' in the proposal.

Staff will provide some visuals to the Commission to aide in the (R-1.5) zone district creation process.

#### **STAFF / COMMISSION INTERACTION**

Doering asked for Commissioners Doumas and Schultz-Writsel to send him the confirmations for the APA Conference.

#### **ADJOURNMENT**

There being no further business to come before the Commission, Commissioner Banks motioned to adjourn the meeting at 10:35 p.m. Chair Larimer seconded. **Motion #7** was unanimously approved.

Respectfully submitted:

---

Preston Larimer, Chair

---

Doug Tart, Planning Technician



**DATE:** August 13, 21

**TO:** Planning and Zoning Commission

**FROM:** Mark N. Doering, Principal Planner

**RE:** An ordinance amending certain sections of the Unified Development Code concerning definitions of type of structures and the definition of short-term rental.

---

### **Background**

The conversation about short-term rentals (STRs) has been going on for a few months. The Planning and Zoning Commission (Commission) and the Board of Trustees have discussed the issue and have held some work sessions and staff and our legal team have wrestled with implementation of potential policy that follows the stated intentions of the Board.

Proposed changes target two chapters of the Municipal Code as it relates to Short Term Rentals. The Commission is mandated by statute to provide a recommendation to the Board of Trustees regarding changes to Chapter 16, or the Unified Development Code (UDC) before the Board of Trustees makes any decision on any changes to that chapter. There are also licensing changes that are proposed for Chapter 6 that do not involve the Commission that will go directly to the Board of Trustees in a Public Hearing on August 24th. While staff had originally intended to present all of the proposed changes to the Commission, it has become clear that the two chapters should be presented separately to avoid confusion in the process. As such, the proposed changes to the UDC are identified to support the proposed changes to the Licensing of STRs in Chapter 6 that will go before the Board of Trustees on August 24<sup>th</sup>.

Please keep in mind that the proposed policies, as a whole, seek to:

- 1) Address some of the externalities that STRs may have on “community feel,” as noted by the Buena Vista community to constituent representatives on the Board.
- 2) Address uncontrolled outside investment that may cause a steep rise in STRs or that ties up potential long-term housing.
- 3) Continue existing business opportunities that have evolved with tourism and short-term accommodations.
- 4) Create a buffer of time to develop a more comprehensive set of policies directed at housing in conjunction with the Chaffee Housing Authority, and as post-COVID economic recovery expands the understanding of evolving trends.

The proposed changes to Chapter 16 clarify definitions for type of structures and Short-Term Rental. Staff are also available to provide details of the proposed Chapter 6 amendments for context for the Commission’s recommendations regarding Chapter 16.

## Staff Recommendation

Staff recommend that the Planning and Zoning Commission recommends for approval the proposed draft ordinance concerning changes to definitions of type of structure, defining rooming units, changing the use from a permitted use in the Mixed Use 2 (MU-2) Zone district to a Special Use Permit and the changes to the definition of Short-Term Rental reflecting those new definitions.

## Attachments

Attachment A – Link to the [Zoning Map](#)

Attachment B – Link to the entire [Unified Development Code](#)

Attachment C – Link to the entire [Comprehensive Plan](#)

Attachment D – Draft ordinance amending certain sections of the UDC concerning definitions of type of structures and the definition of Short-Term Rental

## I. Summary of Requests

Changes to the UDC (Chapter 16) are proposed to clarify definitions and which zone districts STRs are a permitted use, or a use allowed with a Special Use Permit.

Staff request that the Commission review the proposed draft ordinance which has changes to the following sections:

(Section 1) Defines terms including: *Apartment; Mixed-use structure; Residential structure; Rooming unit; and Nonresidential structure*. These are proposed changes that are needed to clarify which types of residential structures are eligible for STR Licensing and which are not. As proposed, hotels, bed and breakfasts, apartments, temporary structures, and sheds (structures that do not get a certificate of occupancy) are not allowed to apply for a STR license.

(Section 2) Amends the definition of Short-Term Rental to reflect rooming units instead of habitable spaces.

(Section 3) Amends the Table of Allowed Uses for STRs in the MU-2 zone district from a permitted use to a use that would require a Special Use Permit from the Planning and Zoning Commission before it could be eligible for applying for a license.

## II. Criteria used for evaluating Amendments to the UDC:

Section 6.4.3. of the UDC provides specific criteria for amending the text of the UDC. The Commission shall consider the requested amendments by evaluating each one using the following criteria:

- i. **Is consistent with the Comprehensive Plan;**
- ii. **Does not conflict with other provisions of the UDC or Town Code;**
- iii. **Is necessary to address a demonstrated community need;**
- iv. **Is necessary to respond to changing policy or conditions;**
- v. **Is consistent with the purpose and intent of the zoning districts in the UDC, would improve compatibility among land uses, or would result in an orderly and logical development pattern; and**
- vi. **Would not result in significantly adverse impacts to the natural environment, including air quality, water quality, wildlife, vegetation, and other natural features of the Town.**

Each criterion is listed in **bold text** and staff's analysis follows each item in plain text.

### i. **Is consistent with the Comprehensive Plan.**

Staff have proposed amendments that address goals and policies identified in the Comprehensive Plan. While there are various elements within the comprehensive plan that may be addressed by the changes, Goal 5 is specifically addressed. Note that all four action items have been carried out in preparation for these changes or are within the current proposal.

*Goal 5:* Prevent potential displacement of resident housing by tourism uses.

*Policy:* Housing opportunities, and particularly affordable housing, should not be displaced by tourist rentals.

*Action Items:*

- Conduct an assessment of long term vs. short term private rentals within Buena Vista to determine the degree to which private homes and apartments are listed with rental agencies.
- Update ordinances and Land Use Code provisions licensing private tourist rentals and regulating their use.
- Consider a short-term lodging tax.
- Establish and continually evaluate a threshold or optimal level for short term rentals within the community.

**ii. Does not conflict with other provisions of the UDC or Town Code.**

There are no conflicts identified with other provisions with the UDC or Town Code with the proposed definitions.

**iii. Is necessary to address a demonstrated community need.**

The proposed changes are intended to help ease an expressed concern of losing ‘community feel’, to set up safeguards against excessive speculation that relies on economic engine of short-term rentals, addresses concerns of conversion of apartments to STRs and to provide room for support businesses and service sector reliant on tourism to expand. There is a demonstrated need for housing in the community and this is one part of a multifaceted approach to addressing this need.

**iv. Is necessary to respond to changing policy or conditions.**

The proposed changes respond to rapid demand for real estate in Buena Vista that often is pulled out of the long-term housing stock by outside interests and displaces long-term residents.

**v. Is consistent with the purpose and intent of the zoning districts in the UDC, would improve compatibility among land uses, or would result in an orderly and logical development pattern.**

The proposed changes are clarifying how mixed-use buildings can be used for STRs, with the definition of mixed-use structure being specific to those zone districts that allow mixed-use structures. Below is the UDC language for the purpose and intent of the Mixed-Use Zone Districts:

**2.4.1 General Purposes of All Mixed-Use and Commercial Districts.** The mixed-use and commercial districts are intended to promote compact, mixed-use and commercial development patterns that provide an opportunity to live, work, create, and shop in pedestrian-friendly environments.

- A. Provide strong multi-modal (e.g., pedestrian, bicycle, automobile, public transportation) connections between diverse uses to create a busier, safer, and more exciting environment for residents, employees, and visitors;

- B. Encourage efficient land use by facilitating compact, higher-density development and minimizing the amount of land that is needed for surface parking while reducing vehicle trips;
- C. Encourage both a vertical and horizontal mix of land uses;
- D. Provide for an interesting and walkable environment;
- E. Accommodate development intensities appropriate to the scale of the area served by the district;
- F. Facilitate efficient vehicular traffic flow by allowing only land uses developed with comprehensively planned access, egress, and internal circulation systems; and
- G. Provide a range of office, retail, service, institutional, and related uses to meet household and business needs along highway corridors.

#### **2.4.2. Mixed-Use One District (MU-1)**

- A. Purpose.** The MU-1 district is intended to allow for a vertical or horizontal mix of residential and commercial land uses. The MU-1 district is intended to provide small, compact mixed-use centers that are walkable and compatible in scale and character with surrounding neighborhoods. The MU-1 district is intended to support a mix of low- to medium-density residential, retail, cultural, entertainment, and office uses that maintain an active street presence.

#### **2.4.3. Mixed-Use Two District (MU-2).**

- A. Purpose.** The MU-2 district is intended to allow for a vertical or horizontal mix of residential and commercial land uses in activity centers along the town's primary transportation corridors and gateways. The MU-2 district is intended to support a mix of residential, retail, cultural, entertainment, and office uses that are consistent with Buena Vista's character and meet both local and regional needs. The MU-2 district accommodates medium- and high-density residential, and is intended to provide for pedestrian-scale development with an active street presence.

#### **2.4.4. Mixed-Use Main Street District (MU-MS).**

- A. Purpose.** The MU-MS district is intended to allow for a vertical or horizontal mix of residential and commercial land uses except single-family dwellings along East Main Street in downtown Buena Vista, and other "main street" developments throughout the Town. The district is intended to maintain a vibrant downtown with shopping opportunities, offices, entertainment, lodging, and civic uses. The MU-MS district is intended for predominantly vertical mixed-use (commercial on first floor and other commercial or residential above), with occasional horizontal mixed-use. The MU-MS district places an emphasis on an active street presence with appropriate character and form.

**vi. Would not result in significantly adverse impacts to the natural environment, including air quality, water quality, wildlife, vegetation, and other natural features of the Town.**

The proposed changes would not have significant adverse impacts to the natural environment over any other types of development, either commercial or residential.

**III. Process**

Staff present the items listed above to the Commission to seek direction for any proposed changes to the draft ordinance relating to the UDC (Chapter 16). The Town is submitting proposed changes for the Commission's review as a UDC amendment as specified in Section 6.4.3. of the UDC for the Commission's formal consideration to make a recommendation to the Board of Trustees. At that time, the Board of Trustees will also review the proposed changes to the licensing requirements in Chapter 6 of the Town's Municipal Code in a separate discussion.

If the proposed changes are approved by the Board of Trustees, those alterations will be implemented to provide better guidance for staff and applicants using Chapter 16 (the UDC) of the code.

**IV. Conclusion**

Based upon the information and materials provided in the staff report, staff support the proposed amendments to the UDC as listed in Attachment D.

1. The Town of Buena Vista is requesting approval of amendments to the UDC; and
2. Notice of the public hearing was posted as required by the Municipal Code; and
3. The application for amendments to the Unified Development Code is consistent with Section 6.4.3. of the Unified Development Code, and
4. The application for amendments to the Unified Development Code is consistent with the Comprehensive Plan.

**THEREFORE**

If the Planning and Zoning Commission accepts staff's conclusion and recommendations as presented in the staff report, it should recommend that the Board of Trustees **APPROVE** the proposed amendments to the Unified Development Code.

**TOWN OF BUENA VISTA, COLORADO**  
**ORDINANCE NO. \_\_\_\_**  
**(SERIES OF 2021)**

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF THE UNIFIED DEVELOPMENT CODE CONCERNING DEFINITIONS OF TYPE OF STRUCTURES AND THE DEFINITION OF SHORT-TERM RENTAL**

**WHEREAS**, the Town desires to adopt additional definitions to provide clarity for the categorizations of certain types of structures; and

**WHEREAS**, the Town desires to clarify the use of structures as short-term rentals, particularly the addition of qualifying mixed use structures for short-term rentals.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BUENA VISTA, COLORADO, THAT:**

**Section 1.** Section 16.07.7.2, Definitions, of the Buena Vista Municipal Code is hereby amended by the following new definitions:

**Apartment.** A structure which is either a small multi-family or large multi-family dwelling in which the individual units are not held in separate ownership.

**Mixed-use structure.** Any structure containing both residential uses and nonresidential uses where no less than twenty-five percent (25%) of the finished floor area contains nonresidential uses.

**Residential structure.** Any structure that is used for, or designed as and capable of being used for, the domicile of persons. Residential structures shall not include any lodging facilities, except for a bed and breakfast or a licensed short-term rental pursuant to this code.

**Rooming unit.** A type of housing accommodation that consists of a room or group of rooms for a rental space, arranged primarily for sleeping and study, and that may include a private bath but does not include a sink or any cooking device.

**Nonresidential structure.** Any structure used exclusively for, or designed as and capable of being used for, office, commercial, industrial, governmental occupation, or hotels, motels and other forms of public lodging and boarding.

**Section 2.** The definition of “Short-term rentals” in Section 16.07.7.2 of the Buena Vista Municipal Code is amended to read as follows:

**Short-term rentals.** A residential structure, or portion thereof, in which the entire structure, or two (2) or fewer *rooming units* ~~habitable spaces~~ *within a single structure*, are made available to paying guests for thirty (30) consecutive days or less or *dwelling units in the residential portion of a mixed use structure, located in the a mixed use zone district, made available to paying guests for thirty 30 consecutive days or less.*; ~~provided that b~~ Bed and breakfasts, ~~and~~ hotels and motels shall not constitute short-term rental properties.

**Section 3.** The following section of Table 3.1 in Section 16.03.3.1.4 of the Buena Vista Municipal Code is amended to read as follows:

<b>Table 3.1: Table of Allowed Uses</b> P = permitted by right S= special use permit A= accessory use T = temporary use												
Use Category	Use Type	R-1	R-2	R-3	MU-1	MU-2	MU-MS	HC	I-1	OSR	AP	Use Specific Standards
Lodging Facilities	Short-term rentals	P	P	P	P	PS	S					3.2.3.1

**Section 4. Severability.** If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any part or parts be declared unconstitutional or invalid.

**Section 5. Safety.** This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

**INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED** this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY (30) DAYS FROM PUBLICATION.**

TOWN OF BUENA VISTA, COLORADO

By: \_\_\_\_\_  
Duff Lacy, Mayor

ATTEST:

\_\_\_\_\_  
Paula Barnett, Town Clerk

(SEAL)