

**TOWN OF CRESTED BUTTE, COLORADO, SPECIAL TOWN
COUNCIL MEETING**

Monday, September 26, 2016 at 6:00PM

PUBLIC NOTICE IS HEREBY GIVEN THAT THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO WILL HOLD A SPECIAL MEETING ON MONDAY, SEPTEMBER 26, 2016 BEGINNING AT 6:00PM IN THE TOWN COUNCIL CHAMBERS LOCATED IN THE CRESTED BUTTE TOWN HALL, 507 MAROON AVENUE, CRESTED BUTTE, COLORADO.

I. CALL TO ORDER

II. APPROVAL OF AGENDA

III. SPECIAL MEETING

6:00 A. Presentation by Alex Fenlon on the recommendations of the Short-Term Rental Committee and possible action by the Council.

8:00 B. EXECUTIVE SESSION

For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) Regarding Cypress Equities Pre-Annexation Agreement.

IV. ADJOURNMENT

Posted on September 20, 2016 and published in the Crested Butte News on September 23, 2016.



Staff Report

September 26, 2016

To: Mayor and Town Council
Thru: Dara MacDonald, Town Manager
From: Bob Gillie, Building and Zoning Director
Date: September 22, 2016
Subject: Short Term Rental Committee Recommendations

SUMMARY:

The existence of STRs (short term rentals) within the Town of Crested Butte has been ongoing for over 30 years. The advent of the “sharing economy” has accelerated the number of STRs and their impacts on all communities. Please read the attached Memo titled *Committee Memo 4-2016* to understand the state of the industry and history within the context of Crested Butte as the issue existed in the spring of 2016. The numbers have changed over the course of the past five months. The Town has gone from 170 short term licenses in May to roughly 240 as of today. The sales tax generated from January to July 2015 to 2016 has increased from \$41,800 to \$51,700 or a 23% increase. This is not an accurate representation of actual sales tax because some entities report quarterly and this is only meant to establish the trend.

PREVIOUS COUNCIL ACTION:

Over the past year and a half the Council has had two work sessions regarding Short Term Rentals (aka VRBOs, Rental By Owner and Vacation Home Rentals). The work sessions primarily focused on the Colorado Association of Ski Towns report which was issued in June of 2015. On April 4, 2016 the Council authorized the formation of a committee to make recommendations to the Council. On May 2, 2016 the Council appointed the committee. The committee composition was:

- 2 Property Managers – Steve Ryan and Kat Hassebrock
- 3 Citizens at large – Alex Fenlon, Dan Escalante, and Mary Cooper Ellis
- 2 Council members – Jim Schmidt and Laura Mitchell

The committee was supported by the staff which included Bill Crank, Bob Gillie, Michael Yerman, Lois Rozman and Jessie Earley. Alex Fenlon was appointed by the committee to be the Chair. The committee also heard from Melanie Reese, Karl Fulmer and John Belkin.

The Committee met nine times in May, June and July to consider the issues related to STRs.

The committee was charged with making recommendations regarding the following topics.

1. Neighborhood Impacts (noise, parking, trash)

2. Community Impacts (loss of long term rentals, impacts on community character)
3. Fairness (what rules should apply to STR relative to other short term lodging uses)
4. Process (licensing, fees)

Some of these issues overlap.

A moratorium on the issuance of new STR business licenses was considered by the Town Council to allow time to develop a new rule set. The moratorium was denied at the August 15, 2016 public hearing.

DISCUSSION:

On July 21st the Committee formulated a list of findings and recommendations to forward to the Council for consideration. Following are the committee's recommendations. Additional comments and explanation are in *italics*.

Findings

1. The unfettered licensing of Short Term Rentals at some point is detrimental to the community, housing availability and the culture of Crested Butte.
2. STRs have some positive benefits to the economy based upon providing a transient bed base and its impact on the economy, income and job generation for the local population.
3. It is desirable to find a way to help fund the creation of affordable housing from the STR component.
4. It is desirable to have some standards for safety related to STRs.
5. All STRs within the Town should be licensed and a system put in place to track and regulate STRs within the Town.
6. Deed restricted publically funded housing units should not be able to be rent short term.
7. There are different types of STRs that have different impacts and benefits depending on length of use and number of beds rented.

Recommendations

1. There should be a limit placed on the number of STRs as a percentage of non-deed restricted housing units. The limit should be placed by zones and grouping of zones with some zones being not available for STRs. That grouping should be:
 - Category 1- Historic Residential and mixed use zones: R1C, R2C, R3C, B3 and B4.
A maximum of 25% of non-deed restricted residences in these zones collectively may have STR licenses.
 - Category 2 - Non-historic Residential Zones: R1, R2, R1A, R1B, R1D R1E, and R4.
In the M zone and blocks 55 and 37 of the T zone only short term rentals limited or short term room rentals are allowed. A maximum of 20% of the non-deed restricted residences in these zones collectively may have licenses.

-Category 3- Commercial zones, Deed Restricted Zones and Public/open space zones: T (with the exception of blocks 55 and 37), B1, B2, C, AO, P, R2A. STRs are not allowed in these zones with the exception of those which are licensed as of the adoption date of this ordinance.

All STRs which have a BOLT license as of the date of the adoption of this ordinance may continue to be licensed until such time as the license lapses or is revoked. If no renewal is received in the time specified in a given year, no sales tax is paid in the prior year or a change in ownership takes place a lapse of the license will result. Change of ownership shall be defined as transactions that are subject to the RETT. Attempts to evade change of ownership registration through the use of corporate or other entities shall be cause to revoke the license.

This is likely the most controversial element of the recommendations but also the only recommendation that limits the number of STRs in Town and their effects on the community and character of Crested Butte. Please see the attached map which shows the distribution of STRs across Town. Also attached is a map that shows the composition of the zones by category. This map has not been updated due to a lack of time.

The committee felt that the percentages should be applied to only the non-deed restricted units in the zones. If public funds have been expended to create local housing it was felt that the tenant or owner should not be used by transient renters.

The committee looked at developing the percentages by zone but felt that there were enough similarities in the zones to lump them under the three categories. When the committee made the recommendations it was based on the percentage of STRs in the zones at that time. The historic core zones were slightly over 25% and the new residential zones were closer to 17%. Since the rush of licensing associated with the moratorium threat the percentages are now at 38.5% in the historic core and 21.1% in the new residential areas. The committee voted 4 to 1 to support the cap percentages. The committee felt that those zones that were over the cap would eventually be reduced by attrition through property transfers, violations, inspections and the enhanced fee structure. It is likely that some of the licenses that have been issued since mid- August and were only place holders will fall off once the fee structure is in place.

2. Definitions should be enacted to define the different types and impacts of the STRs.

-Short Term Rental unlimited: A residence available for rent for terms of less than 30 days, more than 60 days a year.

-Short Term Rental limited: A primary residence* available for rent for terms of less than 30 days, but no more than 60 days total per year.

-Short term room rental: A primary residence* where no more than two rooms are rented for terms of less than 30 days for an unlimited number of days per year. (The rental of more than 2 rooms in any residence shall be defined as a bed and breakfast and subject to the conditional use provisions and process outlined in the Crested Butte municipal code.

*A primary residence is defined as the location where a natural person resides for the majority of the year and where the person is registered to vote.

The renting of space within a residence seemed to fall into three different categories. The last two categories have been primarily utilized by locals to augment income and is therefore limited to people whose house is their primary residence.

3. A STR license should be created above and beyond the BOLT license and should be renewable annually. *As of today the only licensing that is done is the BOLT license and it is \$10 per pillow.*
4. Failure to license prior to advertising, renting or renting of a property contrary to licensing requirements should be subject to a significant penalty (A fine of \$2000 and loss of right to license a STR in that location for three years). *It was felt that there needed to be a fairly stiff penalty for not licensing and paying sales tax. In the past this has been fairly common.*
5. The license fees should be increased to fund a full time employee to inspect and regulate STRs and cover all costs related to the administration and regulation of STRs.
 - Short Term Rental unlimited: \$1000 per year.
 - Short Term Rental limited: \$500 per year.
 - Short Term Room rental: \$250 per room per year.

The fee structure is keyed to the above (#3) three types of rentals with the term of use and amount of use determining the impact and resulting fee. The fees are meant to cover the cost of an additional employee to administrate the STR rules, marshal's time, software, web site development, administrative and legal time.
6. The licensing requirements and form should be created to collect information regarding the impact and nexus between STRs and affordable housing. *It is important to determine the effects of STRs on employee generation in order to determine if an affordable housing mitigation fee can be rationalized. A fee or ballot initiated tax cannot be charged without establishing this nexus.*
7. All STRs should have a local contact being capable of physically responding to issues within a 1 hour time limit. *It was felt that it is important to have a local contact to address any issues that may be associated with an STR either from the renters or the neighborhood.*
8. All STRs should be assigned a distinct number that is displayed on a placard placed in each STR and in all advertisements for the property. The placard should be visible to neighbors and display the local contact information. *This is largely an administrative aid to make sure that all STRs are properly licensed and also to inform the neighbors which residences are STRs and who to contact if there are issues.*
9. A STR section of the Town's web site should be created that lists all rules and maps the location of all STRs and their contact information. *This bolsters #8 above.*

10. The maximum occupancy of any STR is 10 people. The occupancy may be adjusted as a result of a physical inspection of the property. The basis for the occupancy determination will be based upon two occupants per legitimate bedrooms plus two additional occupants. An increase above 10 must provide an on-site parking space for each four persons or part thereof in addition to the other parking required in item 10. *The occupancy number of 10 is arrived at by provisions in the International Building Code (310.1) which allows transient accommodations (R1) to be held to residential codes (R3) if the occupancy is 10 or fewer. It was also felt that more than this is problematic for the neighborhood from a parking and noise standpoint. It may be reduced or expanded upon inspection and conformance with the stated rule set.*

11. All STRs must have all the off street parking that was approved with the property in place and usable year round. *Parking is source of major concern however some residences in the historic core do not have off street parking and to eliminate them on that basis would be problematic.*

12. Information should be provided to all STR renters that inform the renter regarding:

- Winter and summer parking rules
- Local contact information
- Refuse and recycling pick-up (including bear proof issues)
- Dog leash laws and poop pick-up provisions
- Wood stove operation if applicable
- Noise restrictions
- Fire extinguisher locations

This provision is designed to inform the renters of community rules and values and hopefully limit the STRs impacts through the dissemination of information as well as inform the renters of safety items.

13. STRs should be inspected bi-yearly (once every two years) or prior to issuance of a new license. The inspection should inspect:

Safety items

- Fire and smoke alarms
- Carbon monoxide detectors if applicable
- Egress from sleeping units and residence
- Fire extinguishers
- Handrails
- Address in place and visible
- Obvious hazards related to electric and mechanical systems

Licensing items

- Availability of off street parking
- Placard in place
- Information for occupants in place
- Review of occupancy limit based on bedrooms

The inspection of STRs is designed to assure the safety of renters and compliance with the licensing provisions. The list is not necessarily comprehensive and should be developed administratively. This is the primary reason for the need for an additional employee. If the rule set is adopted the Town would have to establish a grace period of likely a year for the initial inspections to take place.

14. Provision for appeal of revocation of license should be enacted. *This is a legal requirement.*

STAFF DISCUSSION:

It is imperative that a new rule set be established in the near term if the Council wishes to effect the STR issue prior to licensing for 2017. To not do so would essentially lose a year. It would also be desirable to hire the requested new personnel in November to get ahead of the licensing for 2017. This would require a budget amendment.

RECOMMENDATION:

The Council should listen to the recommendations and decide which if any they would like to move forward with. If there is no consensus the Council should set another meeting to discuss the issue further. If there is consensus then the Town Attorney should be directed to develop an ordinance for first reading at the next available regular Council meeting.

Short Term Rentals – Vacation Home Rentals

Crested Butte, Colorado, May 2016

The Industry and Regulation

With the recent advent of the “sharing economy” the issue of short term rentals is a topic of discussion almost everywhere, from Pitkin to New York City. Short term rental are typically defined as the rental of a housing unit for less than 30 days. The name for this type activity goes by various names including vacation home rental (VHR), and rental by owner (RBO) among other things. The explosion of the industry has drawn the attention of most jurisdictions and has generated interest from the National League of Cities, the Colorado Municipal League and the Colorado Association of Ski Towns. The number of businesses involved nationally in the industry has also exploded (Airbnb, VRBO, HomeAway, Vacasa, Flipkey,...). Not all companies have the same model. Some market only and some handle money. Most jurisdictions do not have any regulations pertaining to short term rentals but many are in the early stages of developing regulations. It is obvious that many of the issues with STRs are universal but each jurisdiction has to apply its own set of circumstances and values to the discussion. Resort communities, such as Crested Butte, have seen more growth and impacts from STRs than larger cities because the demand is greater to visit attractive places and the housing stock is more limited.

The State of the Industry in Crested Butte

History – The existence of short term rentals within the Town of Crested Butte has been sanctioned for at least 30 years. In that time the number of rentals remained fairly constant until the last three or four years when the advent of the sharing economy ushered in a proliferation of short term rentals by owners. Historically short term rentals were managed primarily by local property managers. The trend has been for the owners to manage the properties remotely or have a local contact person who may or may not be a professional property manager.

The requirements for STRs that have been in the code for several decades include:

1. Adequate Parking
2. Business License required
3. Local Management
4. Adequate trash storage and removal
5. Instructions on solid fuel burning device operation
6. There is also a list of zones where STR are allowed. There are zones where they are not.

The Town in the past did not devote much effort to the enforcement of these regulations with the BOLT licensing being handled primarily by the Finance Department. The identification of STR was ramped up in the last 3-4 years but the requirements were still not enforced. In 2016

the Town created a new licensing form that required that the owner or representative sign an affidavit that the property is in compliance with the above as well as smoke and carbon monoxide detectors (see attached form).

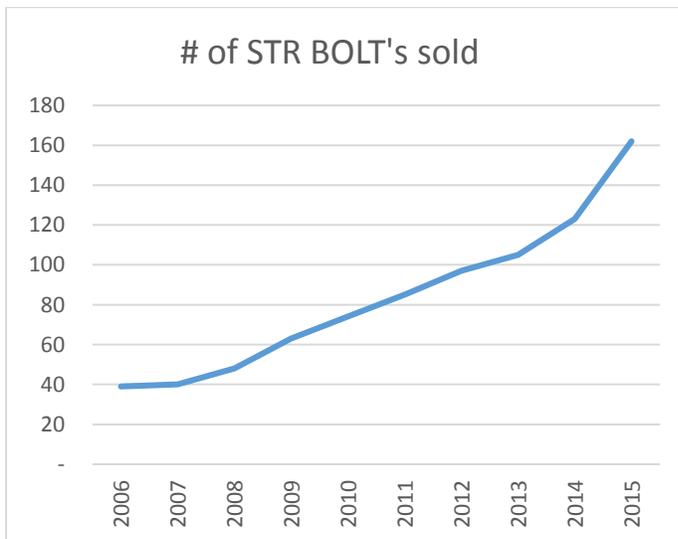
The Numbers

The following numbers are rough approximations. The reason being is that properties are moving in and out of short term status (mostly in) and properties are also changing hands. The last time the Town attempted to do a full census of use types within residential properties was as of December 31, 2012. This serves as the basis to determine the change in use type over the past three years.

Number of units

Currently there are roughly 170 Short Term Rentals within the Town of Crested Butte. In total there are roughly 1122 residential units within the Town. The short term rentals therefore represent 15% of the housing stock. In addition there are 182 2nd homes which are not rented short term. This implies that there are 352 residential units that are not being used as local housing or 31%.

The trend has been that the number of STRs has doubled in the last ten years. The following chart is a little misleading because in 2006 there were about 40 licensed short term rentals but in reality there were probably more like 80 in Town with ½ being unlicensed. The span from 2006 to 2011 was largely an exercise in getting the existing units to be licensed.



The largest increase in STRs has been from 2011 to 2015 when the numbers doubled with 35% of the units coming on line in the last two years with advent of the sharing economy.

	2,006	2,007	2,008	2,009	2,010	2,011	2,012	2,013	2,014	2,015
# of STR BOLT's sold	39	40	48	63	74	85	97	105	123	162

. “Crested Butte is one of the 10 fastest-growing markets in the nation for short-term rentals according to HomeAway, the online Goliath in the vacation rental market.” stated the Denver Post in a February 2015 article.

Use trends

Given that the number of STRs are increasing as a percentage of residential units, what existing uses are being displaced? A comparison of the 2012 census with today's uses would suggest that twenty-three (23) of the current STRs were in long-term use at the end of 2012 and seventeen (17) of the STRs were owner occupied in 2012. This indicates that 3.5 % of the housing stock has moved from full time residents to transient occupants. This does not include the units that are only periodically rented by locals.

Who is doing it?

By sorting the short term rentals by owner's mailing address we have determined that 82.5 % of the short term rentals are owned by out of town owners. This means that roughly 17.5% are owned by locals. Of these locals there are two different types. One group uses the property as their primary residence and moves out periodically and another group has two residences one of which is their residence and one of which is a short term rental.

Out of Town Owners – 137

Local Owners (not primary residence) – 12

Local Owners (primary residence) – 17

What are the rental rates?

A sampling of 159 units from various short term rental web sites give us a feel for what the rental rates are in Crested Butte. Certainly rates vary from high season (July, August, Christmas) to low season (April, May, October, November). Given that there is some variability in the quality and size of units this is a very rough measure of the rental rates.

Average Short Term Rental Rates						
	1 Bedroom	2 bedroom	3 bedroom	4 + bedroom	Minimum	Maximum
Low Season (April-May) Per Night	\$156.78	\$234.53	\$285.87	\$461.12	\$105.00	\$850.00
High Season (July-August) Per Night	\$206.78	\$320.14	\$427.16	\$721.52	\$111.00	\$1,300.00

On a per bedroom basis the rates are generally only marginally higher than those of in-town lodges.

Town Revenues

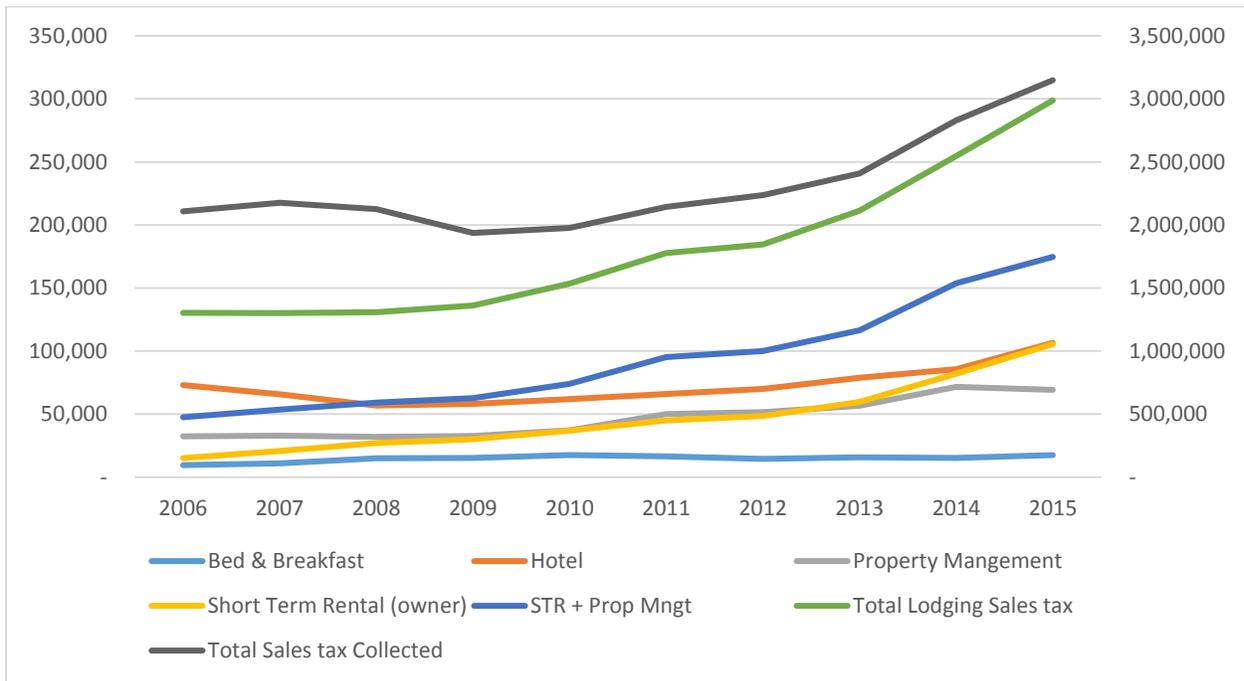
The Town of Crested Butte has made a concerted effort over the past couple of years to try and collect sales tax revenue due from STRs. In regard to this the Town is much better off than most jurisdictions. The limited area of Town and the ability to discern the uses makes this easier than in many larger cities. The finance department has put considerable effort into this. Does the Town collect all revenues due? Probably not since it depends on self-reporting.

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Bed & Breakfast	9,585	10,881	14,922	15,146	17,575	16,595	14,476	15,849	15,372	17,492
Hotel	73,057	65,655	56,836	58,083	61,951	66,008	70,089	78,971	85,701	106,567
Property Mangement	32,382	32,850	32,027	32,685	37,151	50,081	51,518	56,633	71,628	69,165
Short Term Rental (owner	15,174	20,755	27,083	30,100	36,911	45,108	48,568	59,797	82,084	105,539
STR + Prop Mngt	47,556	53,606	59,110	62,785	74,062	95,189	100,086	116,431	153,712	174,703
Total Lodging Sales tax	130,198	130,141	130,868	136,013	153,588	177,792	184,651	211,251	254,784	298,763

The sales tax collection is based on a 4% rate. The \$105,539 of STR collection translates into \$2,638,475.00 of gross sales. If you assume that the property management category also is short term rentals then the combined \$174,703 translates into \$4,367,575 in gross sales. It would not be accurate to assume an average revenue for each unit given the varying occupancy

rates and rental rates but for purposes of discussion if you divide the gross short term rental number by 170 units it averages \$15,520 per year. If you add in the property management sales this number goes to \$25,691.

In 2015 Lodging provided 10% of the Town’s sales tax revenue. Short term rentals by themselves provided 3.4% of total sales tax collection and Short term rental added to Property Management provided 5.6%.



The above graph shows the total lodging sales tax over the last 10 years (green) and its components (blue, orange, yellow and gray). The top line is overall sales tax for the 10 years and the right axis should be read for this line. The yellow (STR) and gray (Property Management) show the greatest increase over the period. The percentage of increase for lodging (118%) has increased much faster than the overall sales tax rate increase (47%).

Summary

The growth of the number of short term rentals nationally and particularly in the Town of Crested butte over the past few years has been rapid. Fifteen percent of the housing stock in Town is devoted to STRs. The vast majority of STRs are owned by out of town owners. The amount of revenue to the individual owners is significant, probably in the area of twice as much as could be expected from a long-term rental without some of the problems and wear and tear associated with long-term rentals. The Town derives around 5% of its sales tax revenue from STRs and there is no doubt a contributing trickledown element to other sales tax generating categories (restaurants, groceries, etc.).

SHORT TERM RENTALS BY ZONE DISTRICT

Crested Butte, Colorado



- Residential Unit
- Short Term Rental (187)
- Short Term Rental - Accessory Dwelling (8)
- Short Term Rental - Post-Moratorium (44)

Zone District and the Percentage of Residential Units in that Zone that are Short Term Rentals

- R1 Residential (44/214 = 20%)
- R1A Residential (1/1 = 100%)
- R1B Residential (2/21 = 10%)
- R1C Residential/Core (59/211 = 28%)
- R1D Residential (1/6 = 17%)
- R1E Residential (11/49 = 22%)
- R2 Residential/Multi-Family (32/138 = 23%)
- R2A Residential/Multi-Family (0/24 = 0%)
- R2C Residential/Multi-Family/Core (36/113 = 31%)
- R3C Residential/Historic/Tourist/Core (10/22 = 45%)
- R4 Residential/Planned Unit Development (16/80 = 18%)
- T Tourist (6/100 = 6%)
- B1 Business Core (3/38 = 8%)
- B2 Business/Highway Related (0/17 = 0%)
- B3 Business/Historic Residential (10/27 = 37%)
- B4 West End Business/Historic Residential (7/13 = 54%)
- M Mobile Home (2/39 = 5%)
- C Commercial (0/35 = 0%)
- A-O Agriculture - Open District (0%)
- P Public (0/3 = 0%)

- Coal Creek
- Zoning Boundaries
- Parcel Boundaries

Residential Units:	
SFR	523
Multi-family	216
Duplex	178
Accessory Dwelling	106
Mobile Home	40
Unit in a Business	96
Residential Unit in a B&B	4
TOTAL	1,163
Deed Restricted / Affordable Housing:	
Deed Restricted Units	154
Affordable Housing	88
TOTAL	242

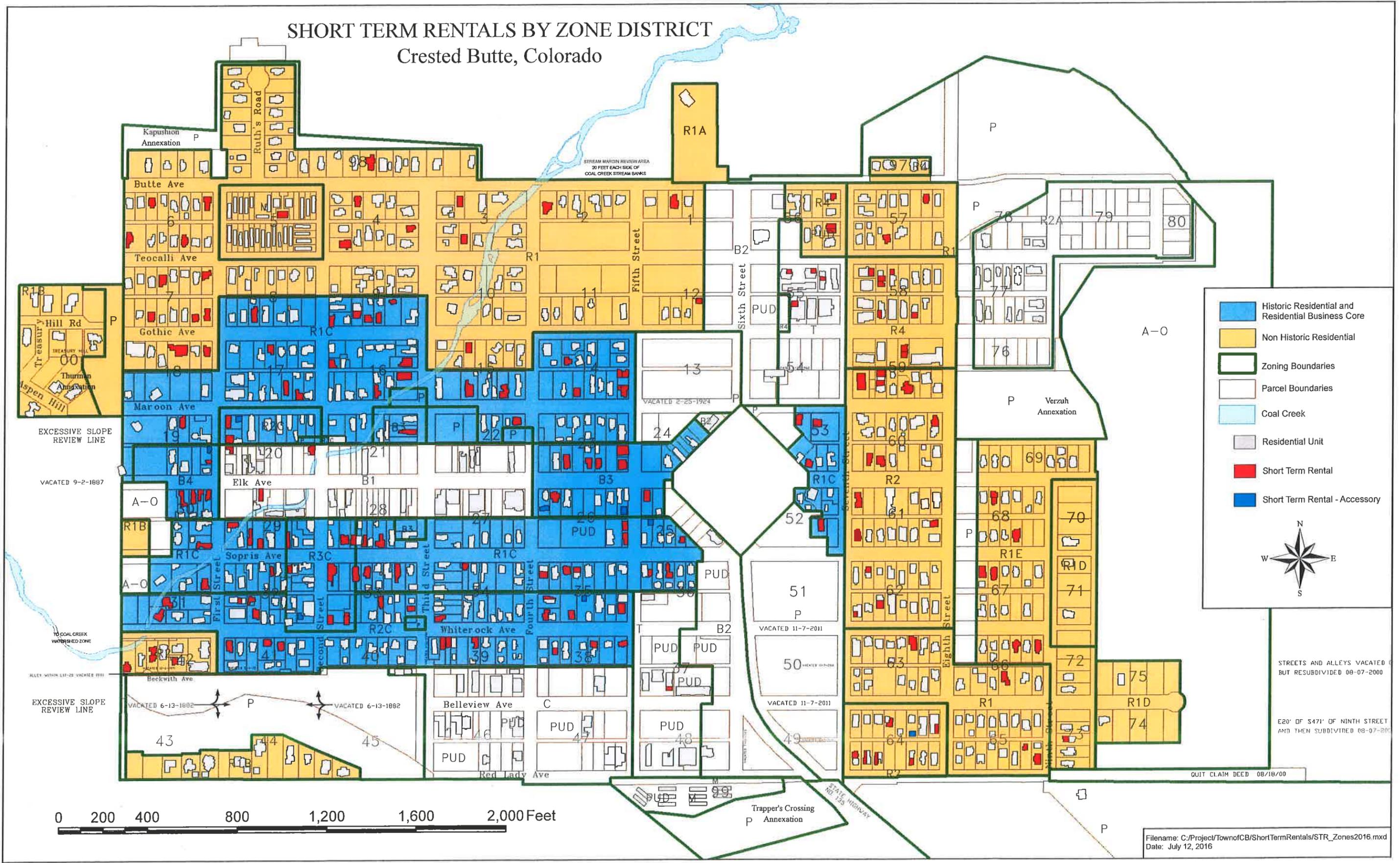


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NOTE: This map is not to be used for survey or legal description purposes

SHORT TERM RENTALS BY ZONE DISTRICT

Crested Butte, Colorado



Legend

- Historic Residential and Residential Business Core
- Non Historic Residential
- Zoning Boundaries
- Parcel Boundaries
- Coal Creek
- Residential Unit
- Short Term Rental
- Short Term Rental - Accessory

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S

0 200 400 800 1,200 1,600 2,000 Feet

DAVID LEINSDORF
ATTORNEY AT LAW

September 22, 2016

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Mayor Glenn Michel and
Town Council
Town of Crested Butte
507 Maroon Ave
Crested Butte, CO 81224

Hand Delivered

Re: Short-term Rentals

Dear Mayor Glenn and Town Council,

I am disappointed that you have scheduled the special meeting on short-term rentals for the same evening as the first presidential debate. This letter will set forth some concerns that I would have expressed in person if the meeting had been held at another time.

For more than 30 years my wife and I have owned a four unit rental property at the northeast corner of First Street and Maroon Avenue. Our property includes a large 4 bedroom unit, two small (750 sf) 2 bedroom units and a tiny one bedroom basement apartment. Our rents appear to be comparable with rents at the new affordable housing complex, approximately \$900 per month, including heat and Town services, for the 2 bedroom units.

At present, our building has excellent, respectful local tenants who appreciate the opportunity to live in Town. That has not always been so. I don't know how many of you own and manage rental property, but I can tell you it is sometimes difficult finding responsible long-term tenants who pay promptly and take care of the property. It's a crap shoot.

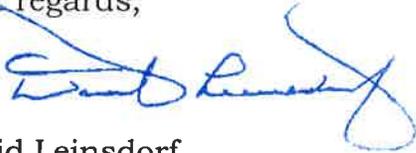
One local tenant inflicted over \$4,500 of damage, several times larger than the damage deposit. The damage, wear and tear were substantial because the unit was being occupied by many more people than the lease allowed, a provision that is impossible to enforce. We were never compensated for the cost of returning the unit to a rentable condition.

In another case our tenants left because the local tenant to whom we had rented an adjacent apartment was hostile and threatening.

Limiting short-term rentals would be a big mistake. The tourists who stay in Town dine in our restaurants, shop in our stores, ski our slopes and trails, hike in the mountains and generally support our local economy in many ways. Restricting the availability of short-term rentals for people who want to visit will hurt our economy and negatively impact the same local workforce you are trying to help.

Thank you for the opportunity to weigh in on this issue.

Best regards,

A handwritten signature in blue ink, appearing to read "David Leinsdorf", with a large, stylized flourish at the end.

David Leinsdorf