



COLORADO

**Department of
Regulatory Agencies**

Division of Real Estate

Rental Restrictions In Your Community

*Thank you for joining us, the presentation will
begin shortly.*

February 24th – National Tortilla Chip Day

HOA Information & Resource Center

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Disclaimer:

The information provided during this presentation is for educational purposes only and is not meant to provide, nor should it be construed as legal advice.

Any legal questions should be directed to a qualified attorney licensed in Colorado.

What Is the HOA Information & Resource Center?

- What the HOA Information & Resource Center does:

- Provides information to homeowners regarding their basic rights and responsibilities under the Colorado Common Interest Ownership Act (“CCIOA”).
 - Gathers, analyzes, and reports information through complaints and HOA registrations.
 - Creates resource materials.
 - Provides education and forums.
 - Provides a website with information for the public.
 - Registers HOAs pursuant to §38-33.3-401(1), C.R.S.
 - Provides an Annual Report to the Legislature.

- What the HOA Information & Resource Center does not do:

- Is **not** a regulatory program.
- Does **not** mediate/arbitrate.
- **Cannot** provide legal advice.
- Does **not** act as an advocate.
- **Cannot** assess fines or penalties.
- Does **not** enforce an HOA’s failure to register.

- Tenants
- Home Owners
- Board Members
- Community Association Managers

**Who Is This
Presentation
For?**

No matter who you are: landlord, tenant, unit owner, board member, or Community Association Manager, understanding the nature of the rental restrictions that apply to your community is an important first step for many unit owners. For others, like investors, it might be an essential consideration even before a decision to purchase in a certain community is made.

Rental Restrictions In Your Community

Definitions

Before we start today, it will be helpful to define a few of the terms that you will hear in today's presentation:

Short-Term Rentals (STR): a lease for residential property (which is typically furnished) and is available to be rented for a short period of time. There is no universally agreed upon duration for a short-term rental.

Landlord: a person or company who rents land, a building, or an apartment to a tenant.

Lease Agreement: a contract between a landlord and tenant outlining the terms for the rental of property.

Long-Term Rentals (LTR): a traditional lease for a period of months or years.

Tenant: a person or company who occupies land or property rented from a landlord.

DRE Position Statement

The Division of Real Estate has developed position statements on behalf of the Real Estate Commission that is meant to be merely advice - **not** rules or laws.

Commission Position 12 –Short-Term Rentals

Short-Term Rentals: “A short-term rental is typically a furnished residential property (e.g., apartment, townhome, condo, or house) that is suitable or intended for occupancy for dwelling, sleeping, and lodging purposes, and is available to be rented for a short period of time. A short-term rental is considered an alternative to a hotel where the guest may feel more at home...

...Taxes are generally collected from guests for rental periods of 30 days or less. While taxing authorities consider rental periods of 30 days or less as short-term rentals, stays longer than 30 days are not automatically considered a lease.”

https://drive.google.com/file/d/1k_ZYIiOEmLPnP1iPGI7-oG154bXrAusQ/view?usp=share_link

Why Restrict Rentals?

- Safeguard property values
- Ensure safety of the community/reduce crime
- Control HOA insurance costs (liability)
- Lenders might be more hesitant to extend loans in neighborhoods with high STR rates
- Preserve the community feel

CCIOA - Covenants and Use Restrictions

- “The Declaration must contain...Any restrictions on the use, occupancy, and alienation of the units and on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation, or casualty loss to the unit or to the common interest community or on termination of the common interest community”
- C.R.S. § 38-33.3-205(1)(1)

What Do Your Association's Governing Documents Say About Rentals?

- Do your governing documents already place limitations on rentals?
- Are your governing documents silent? Absent specific authorization in the Declaration (i.e. covenants, CC&Rs), an association does not have the power to adopt rules that restrict the use or occupancy of individually owned units.

Amendments To The Declaration

- “Except to the extent expressly permitted or required by other provisions of this article, no amendment may change the uses to which any unit is restricted in the absence of a vote or agreement of unit owners of units to which at least sixty-seven percent of the votes in the association are allocated or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential use.”
- C.R.S. § 38-33.3-217(4.5)

Houston v. Wilson Mesa Ranch Homeowners Association, Inc., 360 P.3d 255 (Colo.App.Div.3. 2015).

- This case provided that for short-term rentals to be prohibited in an HOA, the Covenants, Conditions, and Restrictions (CC&R's) must be amended.
- In other words, this type of prohibition can not be done by a simple board vote (or a change to the Rules and Regulations, for example). It must be put up for consideration by the entire community.
- This does not mean that certain policies cannot be adopted that would address common short-term rental issues, such as noise or trash complaints.

Rentals and the Federal Housing Administration (FHA)

From time to time, the HOA Center is asked about rentals and insurance for FHA approval:

- Board members should review the association's governing documents to determine if there are any specific insurance requirements.
- Additionally, CCIOA requires communities created after July 1, 1992 to purchase and maintain certain insurance policies "to the extent reasonably available."
- CCIOA does not address FHA requirements. Board members might consider consulting with a Colorado licensed attorney or insurance broker to better understand FHA requirements.

Local Ordinances and Fair Housing

If you are buying, selling or leasing property in the State of Colorado, you are required to abide by federal, state, and, in some cases, local fair housing laws.

Some resources can be found at:

For more information on federal fair housing requirements, visit:

https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_and_related_law

For more information on Colorado fair housing requirements, visit:

<https://dre.colorado.gov/division-notifications/recognizing-discrimination-housing>

And finally, to determine if your city or county have implemented specific fair housing protections, you should check with your local government.

Which Controls? Law or Governing Documents?

- Even if rentals are allowed in your community, an HOA may still adopt rules that comply with the floor of a local county ordinance. This might be the case if your Declaration is silent on the matter.
- Associations can have rules and regulations, but can not contradict laws.
- The law applies, but an association can require additional restrictions.

Local Ordinances



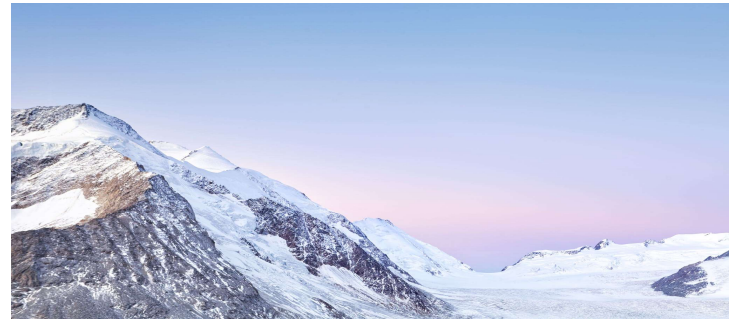
Short-Term Rentals In Denver

“Often facilitated by peer-to-peer websites such as [VRBO.com](https://www.vrbo.com) and [AirBnB.com](https://www.airbnb.com), short-term rentals are residential properties available for rent for a period ranging from 1 to 29 days. Pursuant to the [Denver Revised Municipal Code](#) the City and County of Denver requires hosts to get a license in order to offer a short-term rental in their primary residence, meaning the place in which a person’s habitation is fixed for the term of the license and is the person's usual place of return. A person can have only one primary residence.”

- Source: <https://www.denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Business-Licensing/Business-licenses/Short-term-rentals>

Short-Term Rentals In Summit County

- “...the term ‘short-term vacation rental property’ is defined as a residential dwelling unit, or any room therein, available for lease or exchange for a term of less than thirty (30) consecutive days...”
- Source:
<https://www.summitcountyco.gov/DocumentCenter/View/23986/STR-Regulations?bidId=>



Short-Term Rentals In Colorado Springs

- “A residential dwelling unit, or portion of such a unit, that is rented for less than thirty (30) days at a time, with the exception of dwelling units owned by the federal government, the state or the city, or any of their agencies, or facilities licensed by the state as health care facilities.”
- Source: https://coloradosprings.gov/sites/default/files/inline-images/ordinance_18-112_-_program_adoption.pdf

What Does It Cost To Be A Short-Term Rental Landlord **(as of February 19, 2023)**

- **Denver County** - \$100/year

Source: <https://denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Business-Licensing/Business-licenses/Short-term-rentals/Short-term-rental-FAQ>

- **Summit County** - \$265/year (Resort Overlay Zone)

Source: <https://www.summitcountyco.gov/1250/License-Application>

- **Colorado Springs** - \$119/year

Source: <https://coloradosprings.gov/planning-and-development/page/short-term-rentals>

Note: one-time application fees may apply

Long-Term Rentals in the City and County of Denver

The Denver revised Municipal Code Sections 27-191 through 27-202 have recently been updated. The changes affect LTRs in Denver in two (2) distinct phases:

Phase 1: Effective on January 1, 2023 and applies to a person offering, providing, or operating a "residential rental property consisting of two (2) or more dwelling units on a parcel under that person's ownership" and requires them to first obtain a license for that residential rental property.

Phase 2: Effective January 1, 2024. It requires the same as the first phase, except a license is required for a residential rental property of a single dwelling unit.



Local Ordinances

Many cities and counties across the State have specific laws that affect STRs and LTRs. This is all worth considering **after you determine** if rentals are allowed in your community.

Is licensure required?

Does unit have to be owner occupied? (“the place in which a person's habitation is fixed for the term of the license and is the person's usual place of return”)

Is registration with the local government required?

Do you owe local taxes?

Some Frequently Asked Rental Questions

- **Question:** Can my HOA prohibit short-term rentals?
 - Answer: Likely, yes, but it might require amendments to your governing documents.
- **Question:** Our HOA has short-term rental prohibitions in place. How do we make sure we are enforcing them?
 - Answer: Notice of violation must be given in accordance with HB22-1137. A written policy (or rules and regulations) must be in place concerning short-term rentals. Enforcement cannot be made arbitrarily or capriciously and should be enforced uniformly.

Methods of Rental Regulation In HOA's

- Impose a rental cap in your community
- Lease restrictions
- Suggest owners have tenants acknowledge basic rules and regulations of the HOA (quiet hours, trash removal, # of guests)
- Rental registration/signup with association so that the association has contact information for landlord and tenant.
- Require that unit owners attest that they have provided a copy of the association's governing documents to Tenants.
- Tenant screening (*tread carefully!*)

Pro Tips

1. **Board Members and CAMs:** Review local laws on rentals to understand what is required.
2. **Board Members and CAMs:** Regularly discuss your community's restrictions with unit owners so that your unit owners understand what is permitted and what is required. Consider sharing this information in a newsletter, by mail, by email and/or on your association website. **Be transparent with the community.**
3. **Unit Members:** If you are a landlord, share the Declaration and other governing documents with your tenants.
4. **Unit Members:** If you rent out on a short term basis, be considerate to your community. Include basic rules like the number of persons that are permitted to be in the unit, no parties, no loud noises. Remember, if your short-term (or long-term) tenants continuously cause problems, your board or your fellow community members can push to change the rules, and maybe even limit your rights to rent. Don't spoil what could be a good thing for everyone.

Check Out HOA Resources For
Yourself At:

Web:

<https://dre.colorado.gov/hoa-center>

Send Inquiries Via E-mail To:

dora_dre_hoainquiries@state.co.us



Questions?



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