

**3.2.3 Conditional Use Permit:**<sup>36</sup>

Conditional Uses are land uses that have potential for causing adverse impacts on other uses because of such factors as location, method of operation, scale or intensity of activity, or traffic generated. Because of their unusual or special characteristics, Conditional Uses require review and evaluation so that they may be located properly with respect to their effects on surrounding properties and Archuleta County at large.

**3.2.3.1 Purpose and Intent:**

Conditional Uses may be permitted subject to such conditions and limitations as Archuleta County may prescribe. The intent is to ensure that the location and operation of the Conditional Use is in accordance with the development objectives of the County (per the Community Plan) and will not be detrimental to other uses or properties. Where conditions cannot be devised to achieve these objectives, or it is not possible to mitigate adverse impacts, applications for Conditional Use Permits shall not be approved. All Conditional Uses shall meet the environmental, infrastructure, and site development standards as detailed in Section 5 of these regulations.

**(1) The Planning Commission** shall be the primary decision-making body for Conditional Use Permits (CUP).

- a. Should an Applicant disagree with a determination or conditions of approval of the Planning Commission, the Applicant may appeal for a Public Hearing before the Board of County Commissioners, with payment for any difference for a Board Conditional Use Permit.

~~**(2) Administrative Conditional Use Permit:** For certain relatively routine uses, the Director may approve a Conditional Use administratively (as shown in Table 3).~~

- ~~a. Should an Applicant disagree with a determination or conditions of Administrative approval, the Applicant may appeal for a Public Hearing before the Planning Commission, with payment for any difference for a regular Conditional Use Permit.~~
- ~~b. The Director may refer any Administrative CUP to the Planning Commission for final determination.~~

**(2) Board Conditional Use Permit:** For certain uses with potential for causing greater adverse impacts (as shown in Table 3), the Board of County Commissioners will make the final determination, with recommendation by the Planning Commission.

**3.2.3.2 Submittal Requirements**

The applicant shall submit a complete application and sufficient printed or digital copies of associated materials as determined by the Director and the non-refundable application fee for the proposed Conditional Use Permit to the Planning Department. Except where detailed in specific Development Standards, the Conditional Use Permit application shall include:

- (1)** A vicinity map, locating the subject parcel within Archuleta County (8-½" by 11").

<sup>36</sup> Amended June 2018 (Res. 2018-18)

**3.2.7 Vacation Rental Permit (VRP):**

Vacation Rental is a Residential Use of a dwelling—in whole or in part—on a short-term rental basis (less than 30 days at a time). Temporary structures (recreational vehicles, tents, yurts, tipis, park model tiny homes, etc.) may not be used for Vacation Rentals. Meals are not provided, although guests may have full access to kitchen facilities. *It is unlawful to rent or offer to rent any Dwelling Unit as a Vacation Rental unless and until a Vacation Rental Permit has been approved.* Vacation Rentals are land uses that have potential for causing adverse impacts on others because of such factors as proximity to other homes, method of operation, scale or intensity of activity, or parking and traffic generated. Because of these characteristics, Vacation Rental Permits require review and evaluation so that Vacation Rentals may be located and operated with proper respect for their effects on surrounding neighbors, properties, and Archuleta County at large.

**3.2.7.1 Purpose and Intent**

Vacation Rentals may be permitted subject to such conditions and limitations as Archuleta County may prescribe. The intent is to ensure that the location and operation of the Vacation Rental is in accordance with the development objectives of the County (per the Community Plan) and will not be detrimental to other uses or properties. Vacation Rentals must meet all building, zoning, environmental, infrastructure, and site development standards as detailed in Section 5 of these regulations. Where conditions cannot be devised to achieve these objectives, or it is not possible to mitigate adverse impacts, applications for Vacation Rental Permits shall not be approved.

**(1) Planning Department.**

- a. The Development Director may approve VRPs administratively (as shown in Table 3).
- b. The Director may refer any VRP Application to the Planning Commission for final determination.
- c. Should an Applicant disagree with a determination or conditions of Administrative approval, the Applicant may appeal for a Public Hearing before the Planning Commission.

**(2) The Planning Commission.**

- a. For Vacation Rentals with the potential for causing greater adverse impacts, the Planning Commission will make the final determination, with recommendation by the Development Director.
- b. Should an Applicant disagree with a determination or conditions of approval of the Planning Commission, the Applicant may appeal for a Public Hearing before the Board of County Commissioners.

**3.2.7.2 Submittal Requirements**

The Applicant shall complete the online application process in the approved system including sufficient details, digital copies of required materials, and payment of the non-refundable application fee, as provided for in the current County Fee Schedule. The application shall include:

- (1)** Property Details and Contact information for Property Owner, Caretaker (or Property Manager), and Applicant (if other than Owner);

**(2)** Recorded Property Ownership Deed;

**(3)** Proof of Ownership – If “Grantee” on the Deed is a Trust or Corporate Entity, the Applicant must submit documents that identify all individuals who have authority to make decisions regarding the property;

**(4)** Agent Authorization Documents – If there is a formal Property Management Contract, it must be submitted;

**(5)** Proof of Neighbor and Owner’s Association Notification – Proof that the completed Vacation Rental Notification Form (provided by the Planning Department or found online) has been sent. This shall be documented by submitting Certificates-of-Mailing (not Certified Mail) proving the notification was sent *at least two weeks before the date of application*. Notice must be sent to:

- a. All adjacent property owners of any parcel touching your parcel or units in a shared building for condos (contact the Planning Department for assistance with this list);
- b. Any Owner’s Associations for the dwelling;

**(6)** Parking Plan Site Map – An *aerial map* of the dwelling to be used for the rental including markings for all available on-site guest parking spaces. An improvement location certificate or other survey will also suffice, but not a hand-drawn sketch;

**(7)** Water Treatment/Sewer Documents – A public sewer bill or On-Site Water Treatment System (OWTS) Permit documenting how wastewater will be managed at the property and limits to capacity, if applicable;

**(8)** Proposed Advertisements – Advertisements (or proposed draft advertisements and pictures) must be reviewed for compliance as part of the application process;

**(9)** Proposed Rules for Renters – Proposed rules that will be provided to rental guests will be reviewed for the following:

- a. County ordinances, including parking, noise, and applicable fire ban ordinances,
- b. Neighborhood rules, restrictions, and covenants for the home, if applicable,
- c. Non-Emergency Phone numbers for sheriff, medical, fire protection district etc.;

**(10) Sales/Lodging Tax Payment Method** – Documents that show how Colorado Sales and Lodging Taxes will be paid must be submitted;

**(11) Proof of Property Taxes Paid** – Proof that all personal and real property tax accounts with Archuleta County Treasurer are not in arrears must be submitted;

**(12) Vacation Rental Disclosure Form** – The completed Vacation Rental Disclosure Form (provided by the Planning Department or found online) must be reviewed, initialed, signed, and submitted to document property owner understanding and compliance with performance standards found in Section 5.5.6;

**(13) Payment of Appropriate Fees** – The Development Director will assign the appropriate fee, in accordance with the current County Fee Schedule, after the application documents are fully reviewed.

### **3.2.7.3 Review Procedure**

Upon determination of a Complete Application, the Development Director shall approve, approve with conditions, or deny the application, basing this decision upon the facts presented in the application and in due consideration of the criteria for review.

**(1)** The Development Director shall make the final determination without a public hearing, unless appealed or referred to the Planning Commission.

**(2) Conditions.** The Development Director, Planning Commission, or Board of County Commissioners may require or recommend conditions or stipulations, which may include property and room configurations, as well as operational and/or maintenance considerations, in addition to standard development and use regulations which apply within a particular zone district or for a similar “permitted use.”

**(3)** The Development Director, Planning Commission, or Board of County Commissioners may specifically require or recommend the permit be granted only for a defined period, after which time the approved use shall expire unless renewed subject to all of the requirements of this Section.

### **3.2.7.4 Review Criteria**

Before acting on a Vacation Rental Permit application, the Development Director, Planning Commission, or Board of County Commissioners shall consider the following criteria and factors with respect to the proposed use:

**(1)** The relationship and impact of the Vacation Rental on the

development objectives of Archuleta County.

- (2) The effect of the Vacation Rental on light and air, distribution of population, transportation facilities, utilities, schools, parks and recreation facilities, and other public facilities.
- (3) The effect of the Vacation Rental upon traffic, with particular attention to congestion, vehicular and pedestrian circulation, safety and convenience, traffic flow and control, access, maneuverability, and removal of snow from the roads, side-walks, and parking areas.
- (4) The effect of the Vacation Rental upon the character of the area in which the dwelling is located, including the scale of the proposed Vacation Rental in relation to surrounding uses.
- (5) The adequacy of the design features of the site and dwelling to accommodate the proposed Vacation Rental, including but not limited to accessibility, service areas, parking, loading, lighting, etc.
- (6) The effect of the Vacation Rental upon the natural resources and wildlife habitat areas.
- (7) Such other factors and criteria as the Development Director, Planning Commission, and Board of County Commissioners deems applicable to the proposed Vacation Rental.

#### **3.2.7.5 Necessary Findings:**

Before acting on a Vacation Rental Permit application, the Development Director, Planning Commission, or Board of County Commissioners shall make the following findings:

- (1) That the location of the proposed Vacation Rental, the proposed access to the site, and the conditions under which the Rental would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
- (2) That there are adequate and available utilities and public services to service the proposed Vacation Rental, without reduction in the adequacy of services to other existing uses. These utilities and public services may include, but are not necessarily limited to sewage and waste disposal, water, electricity, law enforcement, and fire protection.
- (3) That the proposed Vacation Rental will be compatible with adjacent uses, including but not limited to site design and operating factors, such as the control of any adverse impacts including noise, dust, odor, vibration, exterior lighting, traffic generation, hours of operation, public safety,

community character, etc.

#### **3.2.7.6 Approval and Effect:**

**(1)** Unlike other Use Permits, a Vacation Rental Permit shall NOT run with the land in perpetuity. New property owners must apply for their own Vacation Rental Permit after transfer of property ownership is completed. It is unlawful to rent or offer to rent a Vacation Rental until and unless the VRP is *approved*.

**(2)** The Planning Department will conduct a Validation Inspection to verify the accuracy of the information submitted during the application process, as well as the compliance or continued compliance with conditions of approval, applicable building codes, land use codes, zoning restrictions, and other standards for Vacation Rental operations.

**(3)** The dwelling will be inspected within forty-five (45) calendar days after the approval of a new VRP.

**(4)** The dwelling will be re-inspected within forty-five (45) calendar days after the approval of a renewal VRP.

**(5)** The dwelling may be re-inspected within fourteen (14) calendar days after a complaint is received regarding violations of these Land Use Regulations to determine complaint validity.

**(6)** New conditions may be applied after any Validation Inspection. If any conditions or standards are not met or maintained, it shall be considered a violation of these Land Use Regulations and the VRP shall be subject to the provisions of Section 1.4 (Enforcement).

**(7)** An approved Vacation Rental Permit shall be effective from the date of approval for one (1) year, unless otherwise determined by the Development Director, Planning Commission, or Board of County Commissioners at the time of issuance. Renewal applications (including all required documents and payment) must be submitted before the VRP expiration date or the permit will be considered Closed.

**(8)** A Closed permit requires the completion of a New Vacation Rental Application and will be subject to all standards and criteria in place on the date of application submittal.