NOTES FROM CITY ATTORNEY RE. STR’s and ADU’s

Short term rentals/nightly rentals all refer to rentals of residential dwellings for less than 30 days. Cities can still outright prohibit short term rentals entirely, whether the rental is for an entire home or an accessory dwelling unit. What a city cannot do is enforce a short term rental ban by looking at websites (air bnb/VRBO/etc.) to find where short term rentals are located within the city and then citing them based on the website. Instead, the City has to have documented evidence, in addition to and separate from the website listing, to enforce the short term rental regulation. (UCA 10-8-85.4)

As to ADUs, internal ADUs that are part of a single-family residence that is occupied as the primary residence of the owner of record permitted by state law. So you can restrict all detached ADUs (detached garages, casitas, etc.). You can also prohibit internal ADUs unless the owner of the property also resides at the home. There are a few other regulations you can impose (prohibit separate utility meters, require one additional parking spot if they have fewer than 4 spots, require an ADU permit/license). UCA 10-9a-530(4). You can also prohibit the use of internal ADUs, regardless of whether the property is owner-occupied or not, for short term rentals.

So, you can prohibit detached ADUs, require internal ADUs to be within an owner-occupied residence, and you can ban or allow with regulations short term rentals of any home or ADU. You cannot prohibit long-term leases/rentals (30+ days).

HOAs can restrict rentals of HOA lots/units, with some restrictions, but HOAs can no longer prohibit the construction of internal ADUs that comply with city code, nor can HOAs prohibit the rental of an internal ADU that complies with city code.

Fractional ownership. You probably heard about the legislation that was targeted at Park City. State legislature adopted SB 271 regarding fractional ownership, called in the code "co-ownership." Cities cannot adopt or enforce any code regulating fractional/co-owned homes differently than other types of residential units. HOAs can regulate co-ownership, but Cities are more restricted. Co-ownership does not exempt anyone from rules or a ban on short-term rentals, so you could still prohibit co-owned homes from being used for rentals of 30 days or less.

SUMMIT COUNTY, CO

* neighborhood overlay vs resort overlay
* Must renew every year
  + Complaints may result in non-renewal
* Property owner must hold STR license
* Transfer of ownership = new license
* ADU cannot be an STR
* Type I –
  + people who have a primary resident on site who is a member of the local workforce
    - resides and employed in county 9+ months for min 30 hours/week
    - must prove address in county, place of work and hours worked.
    - 18+ years old
    - Self-employed – does their work serve Summit County
    - Retiree – can qualify if worked in Summit County for 10 continuous years prior
  + max 2 renters per bedroom + 2
  + No more than 35 bookings per year
  + No limit on number of licenses given
* Type II –
  + Same occupancy rates
* Responsible agents
  + Available 24/7
  + Must be able to respond within 24 hrs
    - If not, violation of ordinance
  + Owner responsible for keeping responsible agent info current with city
  + Agent responsible for sharing info. – including water restrictions, fire info, etc.
* Application includes
  + Owner and agent contact info.
  + Self compliance affidavit
  + Documentation of all owners and % ownership if applicable
  + Document water/sewer supply and capacity – especially if hot tub being filled
  + Parking plan
  + Waste disposal/trash collection
  + Compliance statement with Good Neighbor Guidelines and that Guidelines will be available to all renters and posted
* Health and safety measures
  + Only bedrooms for sleeping
  + Inspection done for roof, floors, walls, foundations, ceilings, stairs, handrails, guardrails, doors, porches
    - Locking/safety measures for hot tubs?
    - Mirror inspections – no two way?
    - Surveillance check – are there cameras in ok places?
  + Smoke detectors, CO2, and fire extinguishers
  + Wood burning fireplaces cleaned annually – present invoice at renewal?
  + Functioning toilet, sink, bathtubs/showers – and in place for privacy
  + Appropriate # of waste cans
  + Outdoor fire pits?
  + Electrical panels labeled
  + Reliable cell service
  + Recreational vehicles
  + Septic pumped every 3 years
    - Pumping required to obtain license then every 3 years – present invoice
* Misc
  + 1 parking spot per bedroom up to 5 spots – not on roads, or blocking ingress/egress - posted
  + City noise ordinance – post quiet hours
  + Complaint with dark sky
  + If pets allowed, occupants aware of barking and pet waste disposal
  + Snow removal
  + Complain link for non-emergencies

AUSTIN

* Similar types to Summit County
* ADA requirements
* Specific noise ordinance requirements for STR
* Max number of renters – no matter what
* Cannot use as an adult oriented business

MIAMI

* Evidence of insurance coverage
* Bonded
  + If 3 violations in 12 month period – forfeit bond
* HOA approval
* Occupancy doesn’t include children under 3
* Occupancy includes those “overnight” from hours of 10 pm to 7 am
* Cannot renter to a registered sex offender if rental within 2500 feet of school

FORT WORTH

* Not allowed in residential zoning
  + Only mixed use, form-based, commercial and industrial
* Application for STR is also for appropriate tax collection
* Cannot be used for “special events”

JACKSONVILLE

* City must see copy of lease agreement – blank one kept on file
* Max 16 people – 2/bedroom+2 – 24 months and under don’t count
* 1 parking spot per 4 applicants
* Waste removal requirements – renters put out? Management put out?
* Fire department inspection
* Florida State Statute- cannot rent to sex offender within 1000 ft of school, childcare, park or playground

HONOLULU

Inconclusive

LAS VEGAS

* 3 problems STR’s face
  + #1 Noise
  + #2 Parking
  + #3 Trash
* Special events not allowed
* Owner occupied homes that are 3 bedrooms or less, at least 660 feet from another STR
* No “room” rentals
* Fractional ownership cannot be considered unless own at least 25% or is the owner of record
* Excludes children under 12
* 16 people max
* Conduct code:
  + No alcohol to minors
  + Illegal possession or consumption controlled substances
  + Violence or disturbance of peace
  + Noise
  + Vandalism
  + Litter in public right-of-way
  + Urinating or defecating in areas visible to public
* Font size requirement for postings
* $500,000 minimum liability insurance