

**ORDINANCE NO. \_\_**  
**SERIES 2017**

**AN ORDINANCE ENACTING PROVISIONS REQUIRING THE LICENSING OF  
BUSINESSES, AND THE LEVY OF AN ANNUAL BUSINESS LICENSE FEE ON ALL  
PERSONS DOING BUSINESS WITHIN THE TOWN LIMITS OF THE TOWN OF  
PITKIN, COLORADO.**

*WHEREAS*, C.R.S. Section 31-15-501(c) empowers Colorado municipalities to license, regulate and tax, subject to any law of this state, any lawful occupation, business place, amusement or place of amusements and to fix the amount, terms and manner of issuing and revoking licenses issued therefore;

*WHEREAS*, C.R.S. Section 31-16-101 grants the Board of Trustees of the Town of Pitkin the power to provide for enforcement of ordinances adopted by it by a fine of not more than two thousand six hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment;

*WHEREAS*, C.R.S. Section 31-15-501 (1) (a) grants the Board of Trustees of the Town of Pitkin power to prohibit businesses that are offensive or unwholesome or that are carried on in an offensive or unwholesome manner from operating within the limits of the Town.

*WHEREAS*, pursuant to C.R.S. Section 31-15-103, the Board of Trustees of the Town of Pitkin, has determined, that the establishment of the licensing requirements contained herein are necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the Town of Pitkin and the inhabitants thereof;

*WHEREAS*, the Board of Trustees of the Town of Pitkin further finds that the fee required by this ordinance is not unreasonable or confiscatory, is not invidiously discriminatory against any taxpayer or group of taxpayers and does not discriminate against businesses or people;

*NOW, THEREFORE, BE IT ORDAINED* by the Board of Trustees of the Town of Pitkin, Colorado; that

**Section 1. Title and Authority**

The Town of Pitkin Board of Trustees, who also serve as the Town of Pitkin Local Board of Health, will enact the process defined in this ordinance and will at to enforce the processes and standards set forth herein.

**Section 2. Scope and Purpose**

1. Declaration: This ordinance is adopted to regulate the licensing of businesses within the Town of Pitkin, Colorado
2. Purpose: The purpose of this ordinance is to create a business licensing protocol for the licensing of businesses and provide a protocol to ensure compliance with the Zoning Code and OWTS Ordinance.

3. Severability: If any provision of this Ordinance is declared unenforceable by a court with jurisdiction to issue such declaration, such provision shall be deemed severed from the ordinance and shall not preclude enforcement of the remainder of the provisions of this Ordinance.

### **Section 3: Interpretations and Definitions**

The Town of Pitkin, Colorado Zoning Code of 2012, or any subsequent adopted ordinances amending the Town of Pitkin, Colorado Zoning Code or zoning ordinances which replace and repeal the Town of Pitkin, Colorado Zoning Code of 2012 shall be referred to hereinafter as the Zoning Code. The Town of Pitkin, Colorado Series 2015, Ordinance No. 4, or any adopted ordinances amending the Town of Pitkin, Colorado Series 2015, Ordinance No. 4, or ordinances which replace and repeal the Town of Pitkin, Colorado Series 2015, Ordinance 4, shall be referred to hereinafter as the OWTS (On-site Wastewater Treatment System) Ordinance.

Terms used in this ordinance shall be as set forth in the Zoning Code or the OWTS Ordinance, or otherwise provided hereinafter, provided, however, if there are any conflicts, contradictions, or differences between the process and requirements set out in the Zoning Code or the OWTS Ordinance and the process and requirements set out in this ordinance, the terms and conditions in the Zoning Code or the OWTS ordinance shall control.

1. “Business” includes all activities engaged in or caused to be engaged in with the object of gain, benefit, advantage or profit, direct or indirect. It includes, but is not limited to, deriving compensation from activities within the Town including the sale, supply or distribution of commodities, services or related transactions.
2. “License” shall mean a license to conduct Business within the Town limits issued pursuant to this Ordinance.
3. “Licensee” shall mean any individual, firm, partnership, joint venture, corporation, estate or trust, or any group or combination acting as a unit, who has received a license under the provision of this Ordinance.
4. “Person” includes any individual, firm, partnership, joint venture, corporation, estate or trust, or any group or combination acting as a unit, in the plural as well as the singular number.
5. “Patron” shall mean a person who is a customer, client, or paying guest; giving financial support, to the Business.
6. “Place of Business” shall mean the real-property for which a License has been issued pursuant to this Ordinance.
7. “Local Responsible Party” shall mean the Person who is named responsible for the operation of the Business in addition to or in lieu of the Business Licensee.
8. “Business License- C1” shall be the license required for any business operating in the commercial district in accordance with [Section 7.B. of] the Pitkin Zoning Code.

9. "Business License- R1" shall be the license required for any business operating as an accessory use in the residential district in accordance with *[Section 10.A. of]* the Pitkin Zoning Code.
10. "Business License- R2" shall be the license required for any business operating as a conditional use in the residential district in accordance with *[Section 8 of]* the Pitkin Zoning Code.
11. "Conditional Use" shall mean any license permitted only after written request to the Board of Trustees, and acceptance by written approval made by the Board of Trustees; (pursuant to *[Section 8 of]* the Pitkin Zoning Code)
12. "Accessory Use" shall mean any use permitted in the residential district provided it is incidental to and on the same premises as a permitted use (pursuant to *[Section 10 of]* the Pitkin Zoning Code).
13. "Incidental" shall mean accompanying but not a major part of; does not generate additional noise, fumes, odor, or traffic that exceeds that of the owner or employee(s).
14. "Maximum Occupant Capacity" shall mean the total number of overnight occupants that the OWTS was designed to accommodate.
15. "Change of Use" shall mean any substantial expanded use or modification of the OTWS system, but not limited to any addition of bedrooms or bathrooms; or conversion of a property from residential to commercial usage or visa versa.

#### **Section 4: License term; fee**

1. The Board of Trustees hereby determines that business licenses shall be valid for a period of one (1) year; from January 1 of each year until December 31 of the same year, *[Alternatively; "for a period of X years, from January 1 of each year until December 31 of the X year"]* unless revoked or suspended by the Town Board of Trustees. Licensing under this section shall commence January 1, 2018.
2. It shall be the duty of the Licensee on or before the first day of December each year to obtain renewal thereof. Applications that are received after this date incur a \$25.00 late fee. A Licensee that wishes to cease operating a Business prior to the expiration of the Business License shall notify the Town Clerk of their decision in writing and surrender their Business License. No part of the Business License Fee will be refunded.
3. A fee of \$50.00 to \$150.00, depending on the class of Business License, shall be assessed the first year, and each year thereafter. A Business which begins operating after September 30 of any year shall only pay one-half (1/2) of the annual license fee.
4. This fee may be amended from time to time by resolution of the Town Board.

#### **Section 5: General Provisions**

1. It is unlawful for any person to do business within the Town Limits, without first having obtained a business license from the office of the Town Clerk. Any person engaged in business (except those activities in Section 9.2 or those persons exempted by subsection 2 of this Action,) without having first secured a license therefore as provided in this Article, is guilty of a violation of this Ordinance.
2. Persons exempt from the provisions of this Ordinance are the employees of a licensee, minors, churches or established religious organizations, nonprofit organizations employing less than three (3) persons, charitable organizations, hospitals, governments and any persons exempt under federal or state law from obtaining a business license.
3. No license is transferrable. A separate license for each Place of Business is required. However, the location of any licensed Business or its Local Responsible Party may be changed without a fee, subject to the terms and conditions of the Zoning Code, provided that ten (10) days' notice thereof is given to the Town Clerk. Failure to notify the Town Clerk of such a change shall constitute a violation of this ordinance.
4. Each license shall be numbered, shall be posted in a conspicuous place on the licensed premises at all times and shall contain the following:
  - a. Licensee's full name and contact information
  - b. Physical address of Business
  - c. Name of business, and if not named, the nature of the business; i.e. "retail store"
  - d. Business' Sales Tax number and Local Marketing District Tax number, when applicable
  - e. Maximum Occupant Capacity -when overnight lodging is available.
  - f. Local Responsible Party's full name, phone number, street address, mailing address and email address; if applicable.
5. Businesses that have obtained a Business License from the Town of Pitkin will be listed under "Local Businesses" on the Town website. These will appear in alphabetical order according to their classification (i.e. C1, R1, R2) and will include the contact information of the Licensee and Local Responsible Party where applicable, if indicated on the application.

## **Section 6: Application & Renewal Requirements & Determinations**

The Business License application must contain all of the information required in Section 5.4. and 6.1, collectively. Incomplete Business License applications will not be considered. For questions regarding acceptable documentation please contact the Town Clerk.

1. Application Requirements:  
The Board of Trustees hereby determines that there shall be three (3) classes of Business Licenses granted within the Town of Pitkin; in accordance with the Pitkin Zoning Code. Application requirements for each type of business license are as follows:

a. “C1” Business License: Commercial Use of a property - \$150/year

Applicant must provide:

- i. Sales Tax (and other applicable tax) ID
- ii. Maximum Occupant Capacity -when overnight lodging is available. Maximum occupancy must be less than or equal to the OWTS design capacity. A Place of Business that shares an OWTS with a separate owner will not be permitted. A Place of Business with a shared OWTS with a common owner shall be permitted as long as the combined occupancy of both buildings does not exceed the OWTS capacity the system serving both properties. Adequate documentation is required to certify OWTS capacity.
- iii. Basic Fire and Safety inspection (?)
- iv. Proof of Insurance (?)
- v. No application fee is required for the C1 Business License.

b. “R1” Business License: Accessory Use of a property - \$50/year

- i. Sales Tax (and other applicable tax) ID
- ii. No application fee is required for the R1 Business License.

c. “R2” Business License: Conditional Use of a property - \$75.00/year

In addition to the requirements of item a. and b., “R2” application provisions must include:

- i. On-site parking sufficient for the volume of patrons. For lodging businesses, this number must include one parking place for each bedroom where overnight occupancy is available.
- ii. A Local Responsible Party: Applicant must provide for a local responsible party. Contact’s full name, phone number, street address, mailing address, and email address must be provided.
- iii. An application fee of \$150.00 must be paid at the time of the application submission. This fee is non-refundable and does not include the cost of the business license.
- iv. Only one Business License will be issued per ‘person’ for R2 businesses.

2. Approval:

- a. Applications for “C1” or “R1” Business Licenses that have met the requirements set forth in Section 6.1. will be approved by the Town Clerk, who will issue the License upon receipt of the Business License Fee.
- b. Applications for “R2” Business Licenses that have met the requirements of Section 6.1(c) will be referred to the Town of Pitkin Board of Trustees. The Town will hold a hearing regarding the R2 Business Licence application. Official notice will be posted in three (3) prominent locations within the Town of Pitkin and mailed to all adjacent property owners no less than 20 days prior to the hearing. Written objection must be submitted in writing to the Town Clerk no less than 48 hours prior to the hearing. The Board of Trustees has authority to impose

site-specific requirements and conditions on the Licensee or Place of Business for “R2” Licenses.

3. Denial:
  - a. Applicants that are denied will be notified in writing by the Town Clerk. Notification shall include the basis for denial.
  - b. Applicants that are denied may reapply with requested or additional documentation within fifteen (15) days of notification without paying the application fee a second time, when applicable.
4. Renewal:
  - a. Renewal applications shall be provided by the Town Clerk. Applicants for renewal must certify that the information provided therein is up-to-date, accurate and complete.
  - b. There is no fee for renewal applications, but the renewed license shall not be issued until after the payment of the Licensing Fee.
  - c. A Business License that has been revoked is not eligible for renewal.
  - d. A Business License that has been suspended must have met the conditions of its reinstatement prior to seeking a renewal.

### **Section 7: Licensee Requirements**

Each Licensee shall be required to comply with the following; failure to do so constitutes a violation of this Ordinance.

1. Ascertain and at all times comply with the laws and regulations applicable to such licensed businesses;
2. Inform Patrons of all applicable laws and regulations pertaining to the activity for which they are on the premises;
3. Refrain from all illegal or unlawful practices or conditions which do or may negatively affect the public health, safety, morals, or welfare of the inhabitants within the Town of Pitkin;
4. Refrain from operating the licensed Business or Premises after expiration of its license or during the period its license is revoked or suspended;
5. Refrain from making available or advertising --either in written or verbal form-- an occupancy in excess of the OWTS capacity of the Place of Business, where overnight lodging is available. *This is considered a Change of Use and is only permitted upon the completion of the provisions in Pitkin’s OWTS Ordinance and Regulation 43.4(B)(8).*

### **Section 8: Enforcement Provisions and Penalties**

1. The power to administer this Ordinance shall be vested in the Town Clerk, who is authorized to do the following:

- a. Require and collect applications, renewals, and license fees and issue receipts therefore;
  - b. Adopt all forms for applications, renewals, exemptions and licenses and prescribe the information to be provided on such forms;
  - c. Send a written request for information to any business owner within the Town limits regarding business use of their property. Any business owner shall comply with the request for information within thirty (30) days of the date of the Town Clerk's request, including signing an affidavit to be supplied by the Town Clerk, certifying under penalty of perjury that all information provided to the Town is complete and accurate. Failure of any business owner to comply with this section shall constitute a violation of this Ordinance and subject the business owner to the penalties set forth herein. If, after a review of the information obtained under this subsection, the Town Clerk determines that the business owner is required to obtain a business license pursuant to this Ordinance, such business owner shall apply for a business license within 10 days of the Town Clerk's determination.
  - d. Create a "Business Licensee" folder that is specific to the Place of Business. File all pertinent documentation under the applicable Licensee, which must include-- but is not limited to-- the application and supplemental documentation, payment receipts, and documented complaints.
  - e. Recommend enforcement of this Ordinance by the Board of Trustees or Authorized Town Agent.
2. The Zoning Administrator may review the business to ascertain whether or not there are Zoning Code violations. However, the granting of a Business License does not mean that a business is sanctioned by the Town of Pitkin, or that the business or its premises are in compliance with Town law. The granting of a Business License does not preclude the Town of Pitkin from enforcing the Town of Pitkin Zoning Code, or any other applicable law, regulation or ordinance as to the Business or its premises.
  3. In the event of an unresolved violation of this Ordinance, The Town Board will hold a properly noticed hearing at the next regularly scheduled Board of Trustee meeting or special meeting. The Board of Trustees may revoke or penalize any license based upon a violation of this Ordinance.

Revoked licenses must be surrendered to the Town Clerk immediately. A revoked license will not be eligible for a renewal and the the Licensee shall not be permitted to reapply for a Business License for the same calendar year.

Penalties shall include *but are not limited to* the following:

- a. Unlicensed Operation: The Town may seek an injunction to restrain any person from engaging in business within the Town who does not obtain a business license, or has his or her license revoked or suspended;
- b. Failure to mitigate complaints: The Town Clerk will, after receipt of three (3) documented and verified complaints specific to the Place of Business, inform the Mayor. In accordance with Section 8.3. of this Ordinance a hearing will be held. The purpose of the hearing is to ascertain whether the mitigation or abatement

efforts for each complaint were intentional and effective. The determination of a failure to resolve documented and verified complaints constitutes a violation of this Ordinance and subjects the Licensee to penalty, suspension, or revocation of the Business License.

A violation of any part of this Ordinance is punishable by the above penalties, suspension, or revocation. Additionally, violations are punishable by a maximum fine of two thousand six hundred fifty dollars (\$2,650.00), ninety (90) days in jail, or both. Each day of a violation is a separate offense.

The foregoing remedies shall be in addition to all other remedies and penalties provided for by local ordinance or available by law.

### **Section 9. Other Provisions:**

1. Penalty provisions in this Ordinance shall apply to offenses committed on or after the effective date of this Ordinance.
2. The following activities are allowed without a License, provided that the activity or use does not constitute a nuisance or hazard to public health, safety, welfare and/or property or violate any other law of the Town, and nothing herein shall prohibit occasional ticket sales or fundraising without the use of a display apparatus by a nonprofit organization:
  - (a) Entertainment for which no fee is charged.
  - (b) Free distribution of information, flyers, pamphlets, brochures or petitions.
  - (c) Individual or group yard sales at any one (1) location not exceeding three (3) consecutive days in duration and totaling not more than eight (8) days per year.
  - (d) Long-term (thirty or more consecutive days) lease agreement between a homeowner and tenant for the rental of a residence.
3. Any business operating within the Town of Pitkin at the time of the adoption of this Ordinance that is not otherwise exempt under Section 6.1 shall be required to apply for a Business License. The public hearing requirement for R2 businesses operating prior to the adoption of this Ordinance are hereby waived and the Business Licensee File shall be noted thusly. However, all other requirements of this Ordinance shall be met.



READ, ADOPTED, AND ORDERED PUBLISHED ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2017.

TOWN OF PITKIN, COLORADO

\_\_\_\_\_  
Rachel New, Mayor

ATTEST:

\_\_\_\_\_  
Sara Gibb, Clerk/Treasurer

PUBLISHED THE \_\_\_\_ DAY OF \_\_\_\_\_, 2017 BY THE AUTHORITY OF THE  
TOWN CLERK OF PITKIN, COLORADO.