

ORDINANCE NO. __

Series 2017

AN ORDINANCE OF THE TOWN OF PITKIN, COLORADO, RELATING TO THE OPERATION OF A-SHORT-TERM RENTAL LODGING BUSINESSES WITHIN THE TOWN OF PITKIN

WHEREAS, Colorado Revised Statutes (2009), 31-15-101, et seq., authorizes a municipality to enact regulations that promote the health, safety and welfare, and improve order, comfort, and convenience of the municipality and inhabitants thereof, and

WHEREAS the Board of Trustees finds that identifying such rights and responsibilities would benefit the health, safety, and welfare of the Town's residents, and therefore is in the Town's best interests.

NOW, THEREFORE, be it ordained by the Board of Trustees of the Town of Pitkin, Colorado, that, effective 30 days after approval by the Board of Trustees, the following restrictions and requirements be effective for any property owners who wish to rent their residence **property** in Pitkin on a short-term basis:

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 processes defined in this ordinance and will act to enforce the processes and standards set forth herein.

SECTION 2. SCOPE AND PURPOSE

- A. **Declaration:** This ordinance is adopted to regulate short term rental operations in the Town of Pitkin, Colorado, and to harmonize such operations with Town of Pitkin, Colorado OWTS Ordinance.
- B. **Purpose:** The purpose of this ordinance is to establish policies for the operation of short term rental lodging businesses, as defined hereinafter, within the Town of Pitkin. The Board of Trustees recognizes that transient use of residences may have impacts on the residential nature of the community, especially within the Residential district. Of these impacts, the possible adverse consequences to the Town of Pitkin's OWTS (Onsite Wastewater Treatment Systems) is a principle concern. This ordinance is intended to provide reasonable guidelines to preserve the residential nature of the community and protect its water, while recognizing the opportunity to provide affordable housing alternatives to the general public.
- C. **Severability:** Should any section, clause or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this ordinance as a whole, or any part thereof other than the part declared to be invalid.

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 of 2012 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 Series 2015, Ordinance No. 4 or ordinances which replace and repeal the Town of Pitkin Series 2015, Ordinance No. 4, shall be referred to hereinafter as the OWTS Ordinance.

Terms used in this ordinance shall be as set forth in the Zoning Code 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 OWTS Ordinance shall control.

- a. ~~Business District: Zoned area within the Town of Pitkin as identified in the Zoning Code that limits use to either commercial business or single family homes defined in the Pitkin Zoning Ordinance.~~
- b. ~~Residential District: Zoned area within the Town of Pitkin as identified in the Zoning Code that limits use to single family homes only and no multi family homes or commercial business, as defined in the Pitkin Zoning Ordinance.~~
- c. Property Owner: Owner of property within the Town of Pitkin as documented within the Gunnison County Assessor's records.
- d. Managing Business: Any business or individual which markets, advertises, operates, or collects monies for the operation of a STR (as defined hereinbelow) for a Property Owner that operates within the Town of Pitkin.
- e. The Town: The Town of Pitkin in the state of Colorado
- f. Town Clerk: The Clerk of the Town of Pitkin
- g. Local Board of Health: The Town of Pitkin Board of Trustees serves as the Local Board of Health for the Town of Pitkin. This is defined in Ordinance No. 4 Series 2015.
- h. ~~Short Term Rental: Rental of a home or structure or part thereof, for any twenty nine (29) day period or less.~~
- i. Short Term Rental Business ("STR²): A single family property that is rented in whole or part for any twenty-nine (29) day period or less.
- j. Designed Occupancy Capacity: The maximum occupancy of a property for which an OWTS has been designed and constructed to process waste water.
- k. Maximum Occupancy: The maximum number of persons that can occupy a STR Lodging Business at any time which is defined in the STR Lodging Business Operating Permit granted by the Town of Pitkin.

- l. Expanded Use: The addition of more occupant capacity ~~than existing design~~ to an existing OWTS **than the OWTS supports.**
- m. **Occupant: Any person residing in a STR.**
- n. Shared OWTS with a Common Owner: An OWTS **with** components that are shared between two or more different and separate properties that are owned by a single individual, trust, or corporation.
- o. Shared OWTS with a Separate Owner: An OWTS ~~that has~~ **with** components that are shared between two or more different and separate properties that have separate owners.
- p. STR Renting Party: Any person or business that rents a property which is operated as a STR.
- q. Subject Property: Reference to any specific property used as a STR in the Town of Pitkin, Colorado.
- r. **Property File: File containing complete application materials, sales tax records, complaints filed against the subject property, and any other documents related to the property's operation as a STR.**
- s. **STR Operating Permit: A permit provided by the Town of Pitkin, Colorado, allowing the operation of a Short Term Rental Business within the Town of Pitkin, Colorado.**
- t. **Multi family dwelling: housing where multiple separate housing units for residential inhabitants are contained within one building. Multi family dwellings are not allowed to operate as STRs.**

SECTION 4. SHORT TERM RENTAL PERMIT REQUIREMENTS

It is unlawful to operate a STR within the Town of Pitkin without a permit. Permits are issued for three (3) years and are non-transferable. The STR permit issued by The Town of Pitkin, Colorado must be posted at the property of issuance in a conspicuous place. At minimum, the following information must be on file with the Town Clerk to operate a STR in the Town of Pitkin:

- a. Property owner's name, address, telephone number and email address
- b. ~~Alternative~~ **Local** contact (Local Managing Business or other) name, address, telephone number and email address
- c. **Secondary contact person's name, local address, and phone number**
- d. Rental Property's physical address/legal description
- e. Maximum occupancy
- f. Advertised occupancy
- g. OWTS capacity documentation
- h. Parking provisions (including trailers) - This will also include a photo or sketch of this provision

- i. Sales Tax ID number, ~~and proof of payment due annually by March 1 or other such date based upon when annual tax payment reports are available.~~

SECTION 5. APPLICATION PROCESS

The Short-Term Rental Permit Application Form (~~“STR Application”~~), as adopted in a resolution by the Town of Pitkin Board of Trustees, shall be completed, signed and dated by the owner, swearing or affirming under penalty of perjury that the application’s contents are accurate. There shall be an STR application fee, set by the Town of Pitkin Board of Trustees, which shall be paid at the time the STR application is submitted. This fee is non-refundable. Applications can be requested from the Town Clerk. The minimum STR Application requirements, as appear on the application, are as follows:

- a. Name, mailing address, phone number, and email address of property owner, together with proof of ownership.
- b. Subject property’s physical address and legal description
- c. Managing Business or local contact person’s name, local address and phone number. All Short-Term rentals shall designate a local contact person and provide their local address and phone number, email address, and cell phone number. The local contact person may be a property manager, rental agent or other person employed or engaged by the applicant to manage, rent or supervise the short-term rental property. The property manager or local contact person must be available 24 hours a day, and must reside within a forty (40)-minute drive of the rental property during periods in which the property is being operated as a Short-Term Rental. **For each STR, the Managing Business or local contact person’s name and phone number will be listed on the official Town of Pitkin, Colorado website.** The designated local contact person may be changed by the applicant from time to time. To effect such change the applicant shall notify the Town Clerk and all adjacent property owners by mail. Such change shall be enacted on all pertinent documents of the STR.
- d. Secondary contact person’s name, local address, and phone number. **For each STR, the secondary contact person’s name and phone number will be listed on the official Town of Pitkin, Colorado website.**
- e. Sales Tax ID number
- f. Proposed maximum occupant capacity or OWTS design capacity. Maximum occupancy must be equal to or less than the design capacity of the OWTS. Documentation must be provided that supports the request. A property with a shared OWTS with separate owners will not be permitted to operate a STR. **If ~~no~~ insufficient information is made available on the OWTS of the subject property the application will be denied.**
- g. A signed letter from the current Environmental Health Agent that the subject property’s septic records are in compliance and up-to-date.
- h. Parking provision which shall include parking for large vehicles and trailers. A photo or sketch

of this provision must be provided. On street parking by the occupants of the Short-Term Rental property shall be located on or adjacent to the rental property. Parking shall not block any alley or traffic portion of the street. Occupants must be informed of all Parking Regulations of the Town of Pitkin. Trailers or other utility vehicles shall be parked on the rental property or in such other location as provided by the STR Property Owner and approved by the Pitkin Board of Trustees in the Short-Term Rental Permit.

- i. A written acknowledgement that the subject property is equipped with rental-appropriate homeowner's insurance and safety equipment (fire extinguisher, CO and smoke detector).

~~A Separate STR Application is required for each short term rental.~~ Only one STR Permit may be issued per property owner. The Permit shall be issued only to the owner of the subject property and no other party may apply representing the property owner. The owner is responsible for compliance with the provisions of this section.

SECTION 6. APPLICATION, RENEWAL, AND COMPLAINT PROCEDURE

APPLICATION:

Upon determination by the Town Clerk that the application is complete, a public hearing shall be scheduled at the next regularly scheduled Town Meeting no less than 21 days from when the application was submitted deemed complete.

- a. The Town Clerk shall mail a copy of the notice of hearing to all adjacent properties of the subject property. After completion of the public hearing, the Town Clerk shall notify the list of adjacent property owners that the application has been approved or denied. If approved, this information shall include the name and phone number of the local contact person or property manager, secondary contact person, and any additional conditions placed upon the short-term rental property.
- b. The Town of Pitkin Board of Trustees shall render its decision at the public hearing based on the completed application and attachments, or continue the public hearing for cause. The minimum criteria that will be used as basis for the approval or denial of the STR Application and issuing a STR Permit are:
 1. Review the proof of property ownership in the application
 2. Conform the applicant is not currently a holder of a STR Permit as an individual or acting as a Trustee of a Trust or Officer of a corporation, or member of a limited liability corporation or partnership.
 3. Review of how the requested Maximum Occupancy was determined by the applicant and the supporting documentation. Conform the Maximum Occupancy is equal to or less than the OWTS capacity.
 4. Confirmation of Advertised Occupancy is equal to or less than the Maximum Occupancy.
 5. Review the local contact and/or Managing Business for STR Permit compliance issues with other STR Permit holders they represent.

~~Once~~ If approved, the clerk will issue the applicant a Short-Term Rental Business Permit. The Permit

will be issued for a period of three (3) years. There shall be an STR permit fee, set by the Town of Pitkin Board of Trustees, which shall be paid at the time the STR permit is submitted **issued**. ~~This fee is non-refundable, whether application is approved or denied.~~

If denied, applicants may choose to reapply. A new application fee is required.

Posting Requirements. Every short-term rental shall have posted in a prominent location in the subject rental unit the following information:

- a. The Short-term Rental Business Operating Permit which shall contain the maximum number of occupants permitted to stay in the property and the Sales Tax ID# for the party responsible for remitting taxes for the business.
- b. Contact information for property manager or local contact person, including name, phone number and physical address.
- c. 911 contact information and the direct dial telephone number of the Gunnison County Sheriff's Department Dispatch office.
- d. Information on proper use of a septic system.
- e. **Summaries of Town Ordinances and procedures regarding pets, noise, OHV use, speed limits, and driver's license requirements for operators of OHVs in Pitkin.**

~~Recommended Posting: In addition to the posting requirements identified in the section above, The Town of Pitkin, Colorado suggests the property owner should also include a posting in a prominent location in the subject rental unit the following information:~~

RENEWAL:

The STR permit shall be valid for three **calendar years, including the year in which it was approved** and may be renewed upon completion of the renewal application and the payment of the renewal fee, set by resolution by the Board of Trustees. Requests for a renewal permit must be submitted no less than 90 days prior to the expiration of the permit. The Board of Trustees will review the property file, and any officially documented complaints therein, at the next regularly scheduled town meeting no less than 21 days from the receipt of the **completed** renewal application to determine whether the renewal will be granted.

The Owner shall detail in the Renewal Application any change in circumstances that would require an update to the information on file. Additionally, activities that potentially increases maximum occupancy and/or the load on the On-Site Wastewater Treatment System must be reported and included in the renewal application. This includes any change of the floor plan, site plan, or local contact person of the subject property.

No application fee is required for renewal applications.

The STR ~~License~~ Renewal Application (~~the "Renewal Application"~~) shall be adopted by resolution of the Town of Pitkin Board of Trustees.

COMPLAINT:

Any person offended or aggrieved by actions taking place at the location of a short-term rental shall first contact the property manager or local contact person, who must respond to the situation in a meaningful way within sixty (60) minutes. If the situation persists and/or the local contact is not responding with reasonable action, the Town of Pitkin, Colorado Authorized Agent (~~enforcement officer~~) or designee may be contacted. At ~~this~~ **that** time a report must be taken of the incident as set forth by Pitkin's complaint procedure (Resolution 2017-5 or any subsequent adopted complaint procedure.) This report will also be filed with the Town Clerk under the **Property File for the subject property**, and handled pursuant to the complaint procedure protocol set forth in Resolution 2017-15 or any subsequent adopted complaint procedure. A person's right to contact law enforcement or other agency to report criminal or other dangerous activity is in no way abridged by this Ordinance. Persons are always encouraged to contact law enforcement when they deem there to exist a danger to themselves or the Pitkin community.

SECTION 7. UNLAWFUL ACTS

Prohibited Activities: In addition to the other prohibitions set forth within this ordinance, or other Town of Pitkin Ordinances, the following activities are expressly prohibited at any property operated as a Short-Term Rental:

- a. Operating a STR without a valid Operating Permit issued by the Town of Pitkin.
- b. **Operating more than one STR as a single property owner, trustee of a trust, Officer of a corporation, member of a limited liability corporation, or partnership.**
- c. Failure to post the STR Lodging Business Operating Permit in a conspicuous place at the residence of the property defined in the permit.
- d. Advertising or operating a STR Lodging Business with an occupancy exceeding the maximum occupancy allowed by the STR Lodging Business Operating Permit
- e. Failure to pay any required taxes for the operation of the STR Lodging Business
- f. Failure to notify the Clerk in writing within ~~30~~ **five (5) business** days of any change to the local contact person, ~~management~~ **managing** business, or State of Colorado Sales Tax License.
- g. Failure to mitigate violations by Property Owner.

The Property Owner shall, upon notification that occupants ~~and/or guests~~ of their Short-Term Rental have created unreasonable noise or disturbances, engaged in disorderly conduct or otherwise violated provisions of this ordinance, the Town of Pitkin Ordinances or state or federal law pertaining to noise, or disorderly conduct, take steps to immediately terminate such activities, and to prevent a recurrence of such conduct by current and/or future occupants or guests. Furthermore, the failure to take reasonable steps to mitigate such unreasonable noise, disturbance, disorderly conduct or other prohibited activities documented or otherwise addressed by official complaint or law enforcement complaint shall be a violation of this ordinance subject to the penalties set forth hereinafter.

SECTION 8. SUSPENSION AND REVOCATION OF PERMIT

The STR Lodging Business shall operate in compliance with all Town of Pitkin Ordinances and Laws of the State of Colorado. **All documented complaints and any subsequent determination of whether the complaint was founded will become part of the property file.** If after written notice of a violation of the

provisions in Section 7 the property owner continues to operate the business in non-compliance, a Show Cause Hearing will be held to determine if suspension or revocation of the STR permit for the property in question is necessary. **Any hearing determinations will become part of the subject property file.**

If, upon conclusion of the public hearing, the Board of Trustees determines that the operation of the subject Short-Term Rental property is found to be in violation of this ordinance, then the permit may be suspended for such period as determined by the Board of Trustees. The Board of Trustees may also revoke the permit. Upon revocation, the owner may not reapply for a STR Business Operating Permit at that location for one (1) year.

Violations of this ordinance may also result in a fine of up to \$2,650.00, pursuant to C.R.S. 31-16-101.

SECTION 9. TRANSFER AND/OR ASSIGNMENT OR SURRENDER

The STR Operating Permit may not be transferred or assigned to any other party. If the property that operates as a STR is sold or traded or gifted and property title transferred to a new owner, the new owner must make application to receive a STR Lodging Business Operating Permit.

~~A Property Owner that ceases operation of a STR Lodging Business must surrender the STR Lodging Business Operating Permit to the Town Clerk for cancellation.~~

SECTION 10. MODIFICATION OR CHANGES TO ATTACHMENTS

~~The items displayed as attachments to this ordinance may be modified or changed as necessary by the Local Board of Health to implement and enforce this ordinance. A two-thirds (2/3) favorable vote from all members of the Local Board of Health is required. If any board member(s) must recuse themselves from voting on a specific Application, then the two-thirds (2/3) favorable vote of the remaining Local Board of Health members is required.~~

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED this ____, day of

_____, 2017, on first reading, and introduced, read, and adopted second and

final reading this ____ day of _____, 2017.

Rachel New, Mayor

(SEAL)

ATTEST: _____

Sara Gibb, Town Clerk

Published in the Gunnison Country Times on _____.

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