

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 interest.

WHEREAS, the Board of Trustees wishes to protect neighborhoods while accommodating an existing and desired activity in the Town of Pitkin,

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 to rent their 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. This ordinance is similiary adopted to assure that short term rental operations, in the Residential District of the Town, preserve and maintain the quality, security and character of a residential neighborhood.
- 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. Property Owner: Owner of property within the Town of Pitkin as documented within the Gunnison County Assessor's s and Recorder's records.
- b. Managing Business: Any business or individual which markets, advertises, operates, or collects monies for the operation of a STR (as defined herein below) for a Property Owner that operates within the Town of Pitkin.
- c. The Town: The Town of Pitkin in the state of Colorado
- d. Town Clerk: The Clerk of the Town of Pitkin
- e. 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.
- f. Short Term Rental (STR): A single family property that is rented in whole or part for any twenty-nine (29) day period or less.
- g. STR Business: The operation of a Short Term Rental.
- h. Designed Occupancy Capacity: The maximum occupancy of a property for which ~~an~~ the OWTS has been designed and constructed to process waste water.
- i. Maximum Occupancy: The maximum number of persons that can occupy a STR Business at any time which is stated in the STR Lodging Business License granted by the Town of Pitkin.
- j. Expanded Use: The addition of more occupant capacity to an existing OWTS than the OWTS supports.
- k. Occupant: Any person residing in a STR.
- l. 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.

- m. Shared OWTS with Separate Owners: An OWTS with components that are shared between two or more different and separate properties that have separate owners.
- n. STR Renting Party: Any person or business that rents a property which is operated as a STR Business.
- o. STR Property: Reference to any specific property used as a STR within the Town of Pitkin, Colorado.
- p. 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 Business.
- q. STR Business License: A license provided by the Town of Pitkin, Colorado, allowing the operation of a Short Term Rental Business within the Town of Pitkin, Colorado.
- r. 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.
- s. Board of Trustees:
- t. Performance Bond: A cash bond posted by the STR Business to The Town, which is held by The Town for compliance the regulations of this ordinance.
- u. Municipal Court: A court established by The Town according to Colorado Statues.

SECTION 4. STR BUSINESS LICENSE REQUIRED:

- (a) Short term rentals are prohibited within The Town unless a license has been duly issued therefore pursuant to this Ordinance and in compliance with any and all applicable Town laws.
- (b) It will be unlawful to operate any short term rental within The Town unless a license has been duly issued therefore pursuant to this Ordinance and in compliance with any and all applicable ordinances and laws of The Town.
- (c) It will be unlawful to allow, or offer to allow through advertisement or otherwise, any person to occupy any property as a tenant or lessee of a short term rental unless such property unit has been licensed pursuant to this Ordinance.
- (d) No person or STR Business will advertise a short term rental unless the advertisement includes the license number and the maximum occupancy permitted in the unit or dwelling. For the purpose of this section, the terms "advertise," "advertising" or "advertisement" mean the act of drawing the public's attention to a short term rental in order to promote the availability of the licensed premises.
- (e) It will be unlawful to advertise sleeping arrangements in a short term rental that exceeds the Maximum Occupancy of the STR Business License.

SECTION 5. APPLICATION FOR LICENSE

(a) An application for a STR Business License shall be submitted to the Town Clerk and shall be signed by the Property Owner to be licensed.

(b) All license applications shall be submitted on a form determined by The Town Board of Trustees, which shall include such information as is reasonably necessary for the Trustees to act on such a application.

The following is the minimal information to be provided with the application but additional information may be requested by the Board of Trustees to determine whether an application meets the requirements of this Ordinance.

- 1) Property Owner's name, address, telephone number and email address
- 2) STR Property's physical address and legal description
- 3) Specify which portions of the property's dwelling or dwelling unit will constitute the licensed premises available for use by renters.
- 4) Property documentation from the Gunnison County Recorder's Office showing the owner's name and legal description.
- 5) Local contact (Local Managing Business or other) name, address, telephone number and email address
- 6) Maximum occupancy.
- 7) Advertised occupancy.
- 8) OWTS capacity documentation
- 9) Parking provisions (including trailers) - This will also include a photo or sketch of this provision
- 10) Sales Tax ID number and name on Sales Tax License
- 11) Life/Safety Self-Certification Form

(c) The applicant shall self-certify that the information on the application is accurate and truthful under penalty of perjury under the laws of the State of Colorado.

(d) All license applications, including applications for renewal of existing licenses, shall be accompanied by the payment in full of all fees and bonds as required by the Town by adoption of a fee resolution.

(e) Applicants and licensees shall inform the Town Clerk in writing of any material change to the information submitted on an application for a license within 15 calendar days of a change.

(f) All applications for licenses will be reviewed by the Town Board of Trustees at a public meeting, determined if the application is in compliance with this Ordinance and either Granted or Denied based upon the assessment of compliance.

(g) A Property Owner may obtain and hold only one STR Business License which is limited to only one property within The Town.

SECTION 6. STR BUSINESS LICENSE NOT TRANSFERABLE

STR Business Licenses issued under this Ordinance are not transferrable.

SECTION 7. TERM OF LICENSE AND RENEWAL

(a) STR Business Licenses issued pursuant to this Ordinance shall be valid for a period of three (3) calendar years from the date of issuance. Licenses must be renewed at the end of its valid period.

(b) Applications for renewals of a STR Business License are subject to all application and licensing and operation requirements set forth in this Ordinance that apply to new licenses.

(c) Any formally established violation of the provisions of this Ordinance and value balance of the associated Performance Bond may be considered during the license renewal review and may result in non-renewal.

SECTION 8. DISPLAY OF STR BUSIESS LICENSE

A copy of the STR Business License will be displayed within STR Property on the inside of the front door.

The STR Business License number shall be prominently displayed in all listings or advertising of the licensed STR Property.

SECTION 9. STR PROPERTY OCCUPANCY

(a) The Maximum Occupancy of a STR Property is determined by its physical location and which District of the Town it resides.

Residential District: 6 persons Maximum Occupancy

Business District: 8 persons Maximum Occupancy

(b) Notwithstanding the Maximum Occupancy stated above, the occupancy of a STR Unit or Dwelling can never exceed the designed capacity of the Onsite Wastewater Treatment System (OWTS).

(1) Determination of the OWTS designed capacity is required with the STR Business License application by either of the following two methods:

(a). A "Title Transfer Inspection" as defined by The Colorado Water Control Commission, Regulation 43 or subsequent controlling regulation from this commission, will be preformed. Information will be collected on the components of the OWTS and determination made on their existing condition.

This information will be reviewed by a Colorado Professional Engineer experienced in designing OWTS(s) and a determination made of the operational capacity of the OWTS, being reference to the design specifications provided in Regulation 43. This operational capacity will then be the OWTS designed capacity for this ordinance.

(b). If the OWTS was designed and constructed after May 2013 and is in compliance with the Town of Pitkin OWTS Ordinance, the original engineering design and Record Drawing documentation may be used to establish the OWTS designed capacity for this ordinance. The designed capacity must be clearly stated in the documentation and the Town may require a Colorado Professional engineer to review the documentation and clearly state the designed capacity.

(2) The applicant for an STR Business License is responsible for all costs involved with determination of the OWTS designed capacity.

(c) The STR occupancy which is advertised cannot exceed the STR Property Occupancy defined within this section of the ordinance. Advertised description of sleeping arrangements within the STR Property must be equal to or less than the STR Property's Maximum Occupancy.

SECTION 10. REFUSAL TO GRANT, SUSPENSION, REVOCATION, NONRENEWAL OF A STR BUSINESS LICENSE

(a) The Town Board of Trustees may refuse to grant an initial license, or suspend, revoke, or not renew any license requested or issued pursuant to this Ordinance if the Trustees determine that any of the following have occurred:

(1) Fraud, material misrepresentation or false statement in the initial application for the license or any renewal application; or

(2) Failure to comply with the terms or conditions of the license, the provisions of this Ordinance, or any other application provision of federal, state, or local law including, but not limited to the Town of Pitkin Ordinances.

(3) Failure at any time to allow STR Property inspection by The Town to verify the Safety Self-Certification or information stated on the STR Business License application or renewal.

(4) The application is not complete and/or is lacking the necessary information.

(c) If the XXXXXX finds that a violation of any provision of this Ordinance exists, the Director, after notice to the licensee, may take any one or more of the following actions to remedy the violation:

(1) Impose a civil penalty according to the following schedule:

(i) Any violation of this ordinance except Maximum Occupancy, \$300;

(ii) Violation of Maximum Occupancy, \$600;

(iii) More than two violation of this ordinance within 45 days, \$1,000.

(2) Revoke the license;

(3) Issue any order reasonably calculated to ensure compliance with this Ordinance.

(e) The Director shall not accept a new application from the same licensee for the same dwelling, dwelling unit or units after revocation of a license:

- (1) For at least three (3) years following the revocation; and
- (2) Unless the applicant demonstrates compliance with all licensing requirements.

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

SECTION 11. PERFORMANCE BOND

(a) Property Owners that operate a STR Business within The Town, are required to post a cash bond with the Town of Pitkin in a maximum amount determined by the Board of Trustees. This bond is held by The Town in a specific account assigned to the STR Business License.

(b) Any fine imposed under Section 10 of this ordinance will be deducted from the Performance Bond and forfeited to The Town.

(c) Any fine imposed under Section 10 of this ordinance which is reversed upon appeal will be returned to the Performance Bond by The Town.

(d) Monies can be added to the Performance Bond only at the initial application for a STR Business License and only at the time of renewal of an existing STR Business License. The Performance Bond cannot contain an amount in excess of the maximum amount determined by the Board of Trustees.

(e) At anytime the STR Business License's Performance Bond has a balance of zero (0) or a negative value, the STR Business License is immediately Revoked.

(f) Any Property Owner that whose STR Business License was revoked by this specific section of this ordinance may not reapply for a STR Business License for a period of three (3) years.

(f) If the Property Owner surrenders or elects not to renew a STR Business License, The Town will remit the balance of the associated Performance Bond to the Property Owner. This action will occur at the next monthly meeting of The Town and be approved by The Board of Trustees.

SECTION 12. SHORT TERM RENTALS

Short Term Rentals with The Town must comply with the following regulation.

(a) *Property Ownership.* A STR property must be owned by an individual or joint couple. For purposes of this Ordinance Property Ownership will not include any corporation, partnership, firm, association, joint venture, trust, or other similar legal entity.

(b) *Owner Occupancy Requirement.* The licensee must occupy or reside in the licensed property for at least six (6) weeks in any given calendar year throughout the term of the license. This regulation only applies to STR Businesses located in the Residential District of The Town.

(c) *Sales and use tax license required.* It shall be unlawful to operate a short-term rental without having first obtained a valid State of Colorado sales and use tax license for the STR Property. The name on the STR Business License and the Colorado sales and use tax license will be the same name.

(c) *Occupancy.* The occupancy of a STR property will not exceed the Maximum Occupancy allowed by the STR Business License.

(d) *Parking.* All STR renter parking must comply with the STR Business License and The Town of Pitkin parking ordinances.

(e) *Safety requirements.* The STR Property Owner is required to submit a Life/Safety Self-Certification Form which defines the safety notifications and equipment that must be present in the STR Property.

(f) *Insurance.* The licensee must provide and maintain fire, hazard and liability insurance within the liability coverage limits set by the Board of Trustees.

(g) *Compliance with other laws.* The STR Property licensed must comply with all applicable federal, state and local laws, including but not limited to, the Town of Pitkin Ordinances.

(h) *Local Contact.* All STR Businesses are required to employ a Managing Business or local contact person that is available 24 hours a day and within forty (40) minutes drive time of The Town. This contact must be empowered to resolve any complaints or issues arising by the STR Business, the STR Renting Party, the Occupant and The Town.

For each STR Business, the property address, the Managing Business or local contact person's name, phone number and email address will be listed on the official Town of Pitkin, Colorado website. Any change of the Local Contact by a STR Business, requires prior notification to the Town Clerk.

(i) *Posting Requirements.* Every short-term rental shall have posted in a prominent location in the STR Property the following information:

- a. The Maximum Occupancy and the Sales Tax ID# for the STR Business.
- b. Contact information for the Managing Business 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. Instructions for the 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.

(j) *Quiet Hours.* All STR Businesses must comply with the Quiet Hours as determined by the Board of Trustees.

(k) *Disruptive Behavior.* All STR Renting Parties must behave in the course of their activities within The Town respectful to the residential nature of The Town.

SECTION 13. STR ORDINANCE ENFORCEMENT

The Board of Trustees will by appointment establish a three (3) member panel that will be responsible for investigation of violations of this ordinance. This panel needs to be objective and will have a diverse view of business activity within The Town. This panel will enforce the compliance to this ordinance and issue citations of violation to the Property Owner of a STR Business.

The Property Owner of a STR Business which is presented with a citation of violation may choose to pay the associated fine of the violation or request review of the citation by the Municipal Court of The Town.

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