

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 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 No. 4 Series 2015.
- 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 Colorado'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. **Jurisdiction:** This Ordinance No. ___ Series 2017 applies within the Town of Pitkin.~~

~~D.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.~~

Commented [JM1]: I'm not sure the "Jurisdiction" paragraph added anything. Unless other deemed more restrictive, it is presumed that the ordinance affects properties in the Town of Pitkin, Colorado.

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, CO Zoning Code of 2012 shall be referred to hereinafter as the Zoning Code. The Town of Pitkin 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 Town of Pitkin Series 2015, Ordinance 4, shall be referred to hereinafter as the OWTS Ordinance. Terms used in this ordinance shall be as set forth in the ~~Town of Pitkin~~ 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 ~~Pitkin~~ Zoning Code or the ~~Pitkin~~ OWTS Ordinance and the process and requirements set out in this ordinance, the terms and conditions ~~in the Short Term Rental Ordinance~~ Pitkin Zoning Code or the Pitkin OWTS Ordinance shall control.

1. 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.
2. 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.
3. Property Owner: Owner of property within the Town of Pitkin as documented within the Gunnison County Assessor's records.
4. Managing Business: Any business or individual which markets, advertises, operates, or collects monies for the operation of a STR Lodging Business (as defined hereinbelow) for a Property Owner that operates within the Town of Pitkin.
5. The Town: The Town of Pitkin in the state of Colorado.
6. Town Clerk: The Clerk of the Town of Pitkin.
7. 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.
8. Short Term Rental (STR): Rental of a home or structure or part thereof, for any twenty-nine (29) day period or less.
9. STR Lodging Business: A single family property located in the residential or commercial district that is operated as an STR business for lodging.
Short Term Rental Business ("STR") Business: A single family property that is rented in whole or part for any twenty-nine (29) day period or less.

Commented [JM2]: The decision to allow STRs in the residential district is a political one on which I provide no comment. If the TOPCBOT is not restricting STRs from operating in the residential district is it necessary to define these terms? Alternatively, there may be different criteria for approval between the districts, or other restrictions on STRs in the resident district.

10. Designed Occupancy Capacity: The maximum occupancy of a property for which an OWTS has been designed and constructed to process waste water.
11. 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.
12. Expanded Use: The addition of more occupant capacity to an existing OWTS.
13. Shared OWTS with a Common Owner: An OWTS components that are shared between two or more different and separate properties that are owned by a single individual, trust, or corporation.
14. Shared OWTS with a Separate Owner: An OWTS that has components that are shared between two or more different and separate properties that have separate owners.
15. STR Renting Party: Any person or business that rents a property which is operated as a STR Lodging Business.
16. Subject Property: Reference to any specific property used as a STR in the Town of Pitkin, Colorado.

Commented [JM3]: Should there be criterion provided for expanded use? Alternatively, is it necessary as a defined term?

Commented [JM4]: I recommend there be a definition for "occupants" such as those persons residing at a STR. The reference to "or guests" used later is ambiguous, and possibly confusing.

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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 a minimum, the following information must be on file with the Town Clerk to operate a STR in the Town of Pitkin:

- Property owner's name, address, telephone number and email address
- Alternative contact (Local Managing Business or other) name, address, telephone number and email address
- Rental Property's physical address/legal description
- Maximum occupancy
- Advertised occupancy
- OWTS capacity documentation
- Parking provisions (including trailers) - This will also include a photo or sketch of this provision
- Sales Tax ID number, and proof of payment due annually by March 1.

Commented [JM5]: Will there be a proof of ownership requirement, and/or a duty to provide notice of sales of any permitted properties?

Commented [JM6]: Or such other 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 a 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:

1. Name, mailing address, phone number, and email address of property owner, together with proof of ownership.
2. Subject property’s physical address and legal description.
3. ~~Management 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 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. 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.
4. Secondary contact person’s name, local address, and phone number.
5. Sales Tax ID number.
6. Proposed maximum occupant capacity or OWTS design capacity. Maximum occupancy must be equal to or less than the design capacity of the OWTS. If proposing an occupancy other than OWTS design capacity, please provide Documentation must be provided that supports the request. Please note that A property with a shared OWTS with separate owners will not be permitted to operate as an STR. If no information is made available on the OWTS of the subject property the application will be denied.
7. A signed letter from the current Environmental Health Agent that the subject property’s septic records and inspection records are in compliance and up-to-date.
8. Parking provision which shall include parking for large vehicles and trailers. Please include A photo or sketch of this provision must be provided. On street parking by the guests 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. Guests 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 ~~Short-Term Rental~~ STR Property Owner

Commented [JM7]: Management Business is not a defined term.

Commented [JM8]: Is it required that the secondary contact have a local address?

Commented [JM9]: May a shared OWTS with common owner application be permitted. If so, what is the maximum occupancy?

Commented [JM10]: "Guests" and "Occupants" are not defined terms. Are they synonymous in the context of this ordinance?

and approved by the Pitkin Board of Trustees in the Short-Term Rental Permit.

9. 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. 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 ____ days from when the application was submitted.

1. 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.
2. 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.

Once 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 a STR permit fee, set by the Town of Pitkin Board of Trustees, which shall be paid at the time the STR permit is submitted. This fee is non-refundable.

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.

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

Commented [JM11]: Any hearing date should be triggered by the application being determined to be complete, not by when the application was submitted. You may wish to provide a deadline for determination as to whether an application is complete, and what information should be provided to the applicant if the Clerk deems the application incomplete.

Commented [JM12]: As suggested by Trustee Wick, there is no criteria for approval. The BOT should identify the grounds upon which an application should be approved or denied. The BOT might consider different criteria between the resident district and the business district.

Commented [JM13]: There is no language relating to what happens if an application is denied.

- a. Summaries of Town Ordinances and procedures regarding pets, noise, OHV use, speed —limits, and driver’s license requirements for operators of OHVs in Pitkin.

RENEWAL:

The STR permit shall be valid for three (3) years 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 upon the completion of the second year of the three-year 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 ___ days from the receipt of the renewal application to determine whether or not 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.

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 Authorized Agent (enforcement officer) may be contacted. At this time a report must be taken of the incident as set forth by Pitkin’s complaint procedure (Resolution 2017-15). This report will also be filed with the Town Clerk under the Property Owners STR application file, and handled pursuant to the complaint procedure protocol set forth in Resolution 2017-15. 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:

1. Operating a STR ~~Lodging Business~~ without a valid Operating Permit issued by the Town of Pitkin.
2. Failure to post the STR Lodging Business Operating Permit in a conspicuous place at the residence of the property defined in the permit.
3. Advertising or operating a STR Lodging Business with an occupancy exceeding the maximum occupancy allowed by the STR Lodging Business Operating Permit.
4. Failure to pay any required taxes for the operation of the STR Lodging Business.
5. Failure to notify the Clerk in writing within 30 days of any change to the local contact person,

Commented [JM14]: Calendar years, ending December 31, or three years from the date of approval? Calendar years would allow you to approve all renewal permits at the same time, and create less confusion as to when permits expire.

Commented [JM15]: I'm not sure if you want "must be submitted upon the completion of the second year. My suggestion would be "no less than 90 days prior to the expiration of the permit. Otherwise, violations in the third year could be excluded from the renewal review. In addition, if you adopted the calendar year format the renewal application could be due by September 30th in the permit's final year.

Commented [JM16]: What is the property file? I presume it contains the application, and any complaints. Maybe it should also include sales tax records? This should be a defined term.

Commented [JM17]: What is criteria for approval of the renewal application? Is it different from the initial application? What impact should complaints play on the renewal application?

Commented [JM18]: Not well defined

management business, or State of Colorado Sales Tax License.

6. Failure to mitigate violations by Property Owner.

~~Owner's responsibility to mitigate-~~The ~~Property O~~wner 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.

Commented [JM19]: Owner is not defined, "Property Owner" is defined.

SECTION 8. SUSPENSION AND REVOCATION OF PERMIT

The STR ~~Lodging Business is expected to~~shall operate in compliance with all Town of Pitkin Ordinances and Laws of the State of Colorado. 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.

Commented [JM20]: This provision allows a Property Owner a free bite, or bites, of the apple. Violations, if mitigated, do not result in a hearing. At the least, there should be a determination as to whether the complaint was founded. Any complaint, any determination of whether the complaint was founded, and any hearing determinations should remain part of the subject property's file for consideration at renewal.

If, ~~at the~~upon conclusion of the public hearing, the Board of Trustees ~~has reason to believe~~ determines that the operation of the described subject Short-Term Rental property ~~has been more detrimental to the existing neighborhood character than it has been beneficial to the community in fostering its business and economic base,~~ is found to be in violation of this ordinance, then the permit shall ~~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~~s~~.

Violations of this ordinance may also result in a fine of up to \$2,650.00, pursuant to C.R.S. 31-16-101. ~~for suspensions and not more than \$ _____ for revocation.~~

SECTION 9. TRANSFER AND/OR ASSIGNMENT OR SURRENDER

The ~~STR Lodging Business Operating Permit~~ may not be transferred or assigned to any other party. If the property that operates as a STR ~~Lodging Business~~ 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.

Commented [JM21]: As suggested by Trustee Wick, this should be a defined term.

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

Commented [JM22]: What is the time period in consideration here? Most STR will not operate September to May, so what does "ceases operation" mean?

SECTION 10. MODIFICATION OR CHANGES TO ATTACHMENTS

The items displayed as attachments or ~~Annex~~ to this ordinance may be modified or changed as necessary

Commented [JM23]: No idea what this means.

by the Local Board of Health to implement and enforce this ordinance. A two-thirds ($\frac{2}{3}$) 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 ($\frac{2}{3}$) 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 _____.