

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO AMENDING TITLE 6 OF THE PITKIN COUNTY CODE TO ADOPT LAWS PERTAINING TO THE LICENSING AND REGULATION OF SHORT TERM RENTAL OF LODGING UNITS AND RESIDENTIAL PROPERTIES**

**ORDINANCE NO. 028-2022**

**RECITALS**

1. Pursuant to 30-35-301 C.R.S., the Board of County Commissioners (“BOCC”) of Pitkin County, Colorado, a Home Rule County, is authorized to make and publish ordinances for carrying into effect or discharging the powers and duties conferred by law.
2. Pursuant to Section 2.8.1 of the Home Rule Charter (“HRC”), the BOCC is authorized to take official action by Ordinance for certain matters where action is prescribed pursuant to the Colorado Revised Statutes as amended.
3. In 2020, the Colorado Legislature adopted an amendment to the County General Police Powers Statute and delegated to counties the ability to license and regulate lodge units rented for short-term stays.
4. This Regulation is established in order to license and regulate short term rental activity in unincorporated Pitkin County.
5. Authority to enact these regulations is specifically found in House Bill 20-1093, codified at C.R.S. § 30-15-401 (1)(s), which delegates to the counties of the State of Colorado the ability to license and regulate residential Dwelling Units used as Lodging Units for Short Term Stays.
6. To implement this delegation of authority these regulations are adopted to establish a system of registration, licensing, tax collection, and regulation of Short Term Rental activity for the health, safety and welfare of the citizens and property owners of Pitkin County.
7. These regulations do not apply or pertain to hotels, motels, lodges, resort cabins, guest ranches, country inns or bed and breakfast establishments as these are defined in the Pitkin County Code and the Land Use Code Chapter 11 in particular.
8. These regulations shall be adopted as Section 6.50 of the Pitkin County Code and may be referred to as the “Pitkin County Short Term Rental Code”.
9. The BOCC finds that the expansion of short term rental activity has been accompanied by many unintended negative impacts within different County communities. The consequence of making more beds available for short term rental reduces potential housing stock for the local work force as well as increases the number of visitors to the community causing an increase in demand for

services. The BOCC finds as the number of people that can be accommodated increases, demands on County transportation infrastructure, housing infrastructure, recreation infrastructure, the back country, water resources, and other services also increases. This consequence is detrimental to the health, safety and welfare of residents and visitors alike. This resulting increased demand for services and resources has been generated by a pattern of changing residential land uses to de facto commercial uses without any review or constraint or analysis as to the compatibility of this change or its sustainability within the community.

10. The BOCC finds that some of the detrimental impacts caused by short term rental activity can be mitigated by restricting the number of short term rental licenses that are available and limiting the number of nights licensed properties may be rented during the one year license term. The Board also finds that impacts associated with traffic generation through the servicing of rental properties can be reduced by establishing a minimum stay of four days.

11. The potential occurrence of short term rentals in the Rural and Remote Zone District is of particular concern to the BOCC. This concern is grounded in three different aspects of rental operations in this zone district. First, there is a general absence or limited availability of emergency services or at least not the potential delivery of emergency services that most individuals would expect to find. Second, there is no real ability to guarantee that renters and guests to these properties will appreciate the nature of these remote areas and will unnecessarily be placed at risk as a result of unpreparedness for a back country excursion. Third, the spread of commercial activity and its associated impacts within the zone district are inconsistent with the objectives of the Rural and Remote Zone district.

12. The nature of properties within this zone district and the character of the zone district is articulated within the Pitkin County Land Use Code (LUC). The intent of the zone district as stated in section 3-40-20 of the LUC is as follows:

“The RR (Rural and Remote) zone district is intended to: (i) conserve and protect the natural environment and its resources, while allowing for limited recreational uses and limited residential development, (ii) preserve the small scale, low-density backcountry character and lifestyle, (iii) retain undeveloped areas, and (iv) allow for the transfer of development rights to areas that are more appropriate for development. This district accommodates only small new structures and very limited types of development.”

“Areas within the RR Zone District should exhibit some or all of the following characteristics:

(1) Location more than one-half (1/2) mile from winter-maintained public roadways, (2) Absence of traditional utility service districts, such as electric, gas and phone, (3) Limited availability, or absence of rapid, traditional Pitkin County emergency services, (4) Little or no development existing in the surrounding area, (5) Presence of natural hazard areas or important environmental or historic resource areas, (6) Location within subalpine or alpine ecosystems, and/or location at or above the nine thousand (9,000) foot elevation, and/or (7) Location adjacent to U.S. Forest Service or Bureau of Land Management owned properties.”

13. The Board recognizes that all properties located in the Rural and Remote Zone district are defined by similar characteristics which are requisites to zoning properties Rural and Remote. The

Board also recognizes not all properties are exactly the same and there may be circumstances which should allow an application to proceed.

14. The Board finds that Rural and Remote applications may proceed directly to this Board for final determination if the Licensing Authority first recommends that adequate emergency services are available to the property, adequate provisions can be made for the safety of the renters and guests considering the remote quality of the property, and that the rental activity and the activities associated with servicing the property will not be injurious to other properties or owners, public and private, or to the qualities inherent to areas in the Rural and Remote Zone District in the area of the rental property.

15. The BOCC finds that the amendments incorporated into the Ordinance and Code Amendment of Title 6 of the Pitkin County Code during the fourth reading and public hearing do not constitute changes that amend significantly in substance the Ordinance and Code Amendment, as described by the Home Rule Charter, which would require a fifth reading of the Ordinance and Code Amendment.

16. The BOCC finds that adoption of this Ordinance is necessary for the preservation of the public health, safety and welfare of the citizens of Pitkin County and therefore declares this legislation to be effective 90 days after adoption.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts an Ordinance Amending Title 6 of the Pitkin County Code to Adopt Laws Pertaining to the Licensing and Regulation of Short Term Rental of Lodging Units and Residential Properties in a form substantially similar to that attached and authorizes the Chair or the Chair's designee to sign the Ordinance upon the satisfaction of the County Attorney as to form, and to execute any other associated documents necessary to complete this matter.

INTRODUCED AND FIRST READ ON THE 15TH DAY OF DECEMBER 2021 AND SET FOR SECOND READING AND PUBLIC HEARING ON THE 26TH DAY OF JANUARY 2022, SET FOR A CONTINUED SECOND READING AND NOTICED PUBLIC HEARING ON MARCH 9, 2022, SET FOR A SECOND CONTINUED SECOND READING AND NOTICED PUBLIC HEARING ON APRIL 13, 2022, SET FOR A THIRD READING AND NOTICED PUBLIC HEARING ON MAY 11, 2022 AND SET FOR A FOURTH READING AND PUBLIC HEARING ON JUNE 22, 2022.

NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE ORDINANCE PUBLISHED IN THE ASPEN TIMES WEEKLY ON THE 13TH DAY OF JANUARY, 2022; ON THE 24TH DAY OF FEBRUARY, 2022; ON THE 28TH DAY OF APRIL, 2022; ON THE 2ND DAY OF JUNE, 2022.

NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE ORDINANCE POSTED ON THE OFFICIAL PITKIN COUNTY WEBSITE ([www.pitkincounty.com](http://www.pitkincounty.com)) ON THE 13TH DAY OF JANUARY, 2022; ON THE 17TH DAY OF FEBRUARY; ON THE 24TH DAY OF FEBRUARY, 2022; ON THE 21ST DAY OF APRIL, 2022; ON THE 28TH DAY OF APRIL, 2022; ON THE 26TH DAY OF MAY, 2022; ON THE 9TH DAY OF JUNE, 2022.

ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE 22<sup>nd</sup> DAY OF JUNE, 2022.

POSTED BY TITLE AND FULL TEST ON THE OFFICIAL PITKIN COUNTY WEBSITE ([www.pitkincounty.com](http://www.pitkincounty.com)) ON THE 30TH DAY OF JUNE, 2022.

PUBLISHED BY TITLE AND FULL TEXT, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY ON THE 7TH DAY OF JULY, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS

By Julia Ely  
Julia Ely  
Deputy County Clerk

By: Patti Clapper  
Patti Clapper, Chair

Date: Jul-07-2022

APPROVED AS TO FORM:

MANAGER APPROVAL

John Ely  
John Ely, County Attorney

Phylis Mattice  
Phylis Mattice for Jon Peacock, County Manager

## **Pitkin County Code – Title 6: Health and Safety**

### **6.50 Short Term Rental Code**

#### **6.50.010 Purpose and Intent**

This Regulation is enacted in order to license and regulate short term rental activity in unincorporated Pitkin County. Authority to enact these regulations is specifically found in House Bill 20-1093, codified at C.R.S. § 30-15-401 (1)(s), which delegates to the counties of the State of Colorado the ability to license and regulate residential Dwelling Units used as Lodging Units for Short Term Stays. To implement this delegation of authority these regulations are adopted to establish a system of registration, licensing, tax collection, and regulation of Short Term Rental activity for the health, safety and welfare of the citizens and property owners of Pitkin County.

These regulations do not apply or pertain to hotels, motels, lodges, resort cabins, guest ranches, country inns or bed and breakfast establishments as these uses are defined in the Pitkin County Land Use Code.

Any Dwelling Unit or Lodging Unit that is operated and rented as a short term rental pursuant to a federal permit or on property of the United States, or used in a coordinated system of short term rentals that meet this qualification, is exempt from this Code.

These regulations may be referred to as the “Pitkin County Short Term Rental Code.”

#### **6.50.020 Defined Terms**

**Bed and Breakfast;** the provision of short term room and board in a dwelling unit as an incidental use to that of its continued occupancy as a principal residence.

**Board;** the Board of County Commissioners

**Dwelling Unit;** a building or portion of a building that is designed for or can be used as a residence or sleeping place of one or more people.

**Licensing Authority;** individual or office in the County administration vested with the responsibility to administer and enforce this Code. The Licensing Authority may delegate tasks associated with administration and enforcement of this Code.

**Lodging Unit;** all or part of a dwelling unit or a structure, facility or shelter, or any part thereof that might be used for habitation, or is accessory to a dwelling unit, that is rented as a lodging accommodation.

**Owner’s Agent;** any person or entity authorized to represent and act on behalf of a property owner.

**Short Term Stay or Rental;** any dwelling unit or lodging unit rented, offered, leased, provided, exchanged or operated as a lodging accommodation for compensation for a period less than 30 consecutive days.

**6.50.030      Effective Date and Unlawful Acts**

This Code is effective upon the terms of the adopting ordinance of the Board of County Commissioners.

Upon the effective date it shall be unlawful for a property owner or the owner's agent to rent or advertise for rent, offer, lease, provision, or exchange a dwelling unit or any other structure, facility or shelter, or any part thereof that might be used for habitation, of any type, for a term of less than 30 days unless the owner has a license from Pitkin County to conduct such activity.

The issuance of a license under this Code does not override any zoning restrictions, terms of development approvals, or restrictive or private covenants that affect the use of the property. Licenses are not available for employee, affordable or other managed or covenant restricted housing.

The issuance of a license shall not confer an entitlement or vested right in the continuation of the license.

All advertisements for short term rental must include within the advertisement the license number associated with the property for rent.

Licenses are not transferable from one individual to another.

**6.50.040      Licensing Authority**

The Licensing Authority is the individual or office within the County vested with the responsibility to administer and enforce this Code. The Licensing Authority is appointed by the County Manager with consultation with the Board.

The Licensing Authority shall:

1. Receive and determine applications and issue licenses under this Code.
2. Adopt all forms to be used with these processes and request relevant and necessary information to be provided in applications.
3. Submit all applications to interested County Officials, as needed, for their review and comment as to compliance by the applicant with all County Codes and regulations which they have the duty to enforce and to the general appropriateness of granting an application.

4. Investigate and determine the eligibility of any applicant and property for a license as required by this Code.
5. Notify any applicant of the determination of their application and, upon the applicant's request, state in writing the reasons therefor and deliver it to the applicant.
6. Impose appropriate restrictions on any short term rental license issued under this Code consistent with the requirements of this Code.
7. If determined to be appropriate, to refer an application to the Board at any time for any reason for the Board's determination.

**6.50.050      Licensing Procedure, Criteria and Requirements**

**6.50.051      Licenses.**

The Licensing Authority shall issue licenses on behalf of the Board. Actions of the Licensing Authority issuing or denying licenses may be appealed by any interested party to the Board within 10 days of the licensing action. Such appeals are handled de novo without limitation to the record of the Licensing Authority action. Licenses are not transferable including to any other owner of the property or subsequent purchaser of licensee's interest.

Records of all applications and actions taken regarding any application or license shall be maintained by the Licensing Authority.

Notice of an application shall be mailed to all adjoining property owners for comment 15 days prior to a determination of an application. Mailed notifications are not required for renewal applications unless during the previous license term there have been violations of any County Codes, the terms of the previous license or unresolved complaints concerning the rental activities.

**6.50.052      Application procedure.**

All applications for licensing shall include the following:

1. Property owner's name(s) and signed application submitted by an owner or someone acting on the owner's behalf who is responsible for the contents of the application, the address of the property to be licensed.

2. Size of the residence to be rented and whether the entire residence is available for rent or only a portion.
3. Number of bedrooms and bathrooms in the residence available for rent and in total.
4. Size of the property on which the residence is located and its zoning designation.
5. Maximum number of renters or guests intended to occupy the rented residence.
6. Identity and contact information of any third party managers or agents having control of the property while it is rented and having the ability to respond to complaints and problems associated with the property.
7. All previous notices of code violations, warnings, or complaints concerning the property.
8. Source of water for the residence and if the residence is on a sewage collection system or an on-site wastewater treatment system.
9. Number of nights in the license term that are available for rental and if rental activity is year round or if it is seasonally or otherwise limited.
10. Affirmation of the Applicant/owner of the presence in the residence of working smoke and carbon monoxide detectors and fire extinguishers.
11. Any additional information that the Licensing Authority believes might be useful in determination of the application.
12. History of short term rental activity for the property demonstrating its use for short term rental between the period of May 11, 2017 and May 11, 2022.

#### **6.50.053 License Application Evaluation Criteria**

All applications for licenses will be evaluated against the following criteria and obligations as well as all other provisions of this Code:

1. Compliance with all County Codes, including but not limited to building, zoning, environmental and energy codes. All licensed properties must also comply with the pertinent local Fire District's Code and Regulations.
2. Current registration for sales tax collection.
3. Presence of working smoke and carbon monoxide detectors and fire extinguishers.
4. Sufficient potable water and functioning septic or wastewater collection system.



5. Appropriate limitation of number of renters or guests for the size of the residence and the number of bedrooms and bathrooms. The number of renters and guests must not exceed two per bedroom or such lower number as appropriate for the condition of the property.
6. Appropriate limitation in the number of nights available for rental.
7. Availability of the owner or manager of the property during times the property is rented to address any issues relating to the residence or complaints concerning the residence. Statement of the Applicant affirming how much time during the year they will be on the property.
8. Satisfactory measures taken to address any safety concerns with the residence.
9. Adequate parking plan for renters and guests.
10. The degree the rental operation may negatively impact or is detrimental to the character of the community and neighborhood of the property.
11. Licenses are not available for employee, affordable or other managed or covenant restricted housing.
12. License applications for properties in the Rural and Remote Zone District will be determined by the Board after the Licensing Authority has recommended that the property has adequate emergency services available, adequate provisions can be made for the safety of the renters and guests considering the remote quality of the property, and that the rental activity and the activities associated with servicing the property will not be injurious to other properties or owners, public and private, or to the qualities inherent to areas in the Rural and Remote Zone District in the area of the rental property.

Decisions made by the Licensing Authority in regard to Rural and Remote applications may be appealed to the Board by either the applicant or any member of County staff within 5 days of determination.

13. No more than one short term rental license shall issue for any single property or parcel.

14. Licenses shall only issue for properties that have been previously used for short term rental during the period between May 11, 2017 and May 11, 2022.

#### **6.50.054 Reasons for Denial of an Application**

A Short Term Rental license application may be denied for the following reasons in addition to other grounds established in this Code:

1. The initiation or investigation by the County of any code compliance or enforcement proceedings as set forth in any of the County Codes.

2. If the applicant has had a prior short-term rental license suspended or revoked or has been cited for violating any provision of this Code or if the property's maintenance and safety has been called into question.
3. If the applicant is delinquent in the payment of any outstanding fees, fines or taxes owed concerning the property.
4. If there are any private governing documents, including, without limitation, conditions, covenants and restrictions that are valid and enforceable which restrict the use of the property for short term rental purposes as defined in this Code.
5. If the applicant fails to provide any of the requested or required application information described in this Code.
6. Failure to satisfy any of the criteria described in this Code.

#### **6.50.055 License Requirements**

All properties licensed for short term rental activity shall comply with the following ongoing requirements. These requirements are necessary for maintaining the license issued under this Code. Failure to comply with these requirements may result in a fine, suspension or revocation of the license or any other remedy provided at law or equity. These specific requirements may be augmented by the Licensing Authority at any time.

1. Licensee must display a copy of the license on the inside of the front door of the residence.
2. Licensee will continue to periodically inspect the adequacy, location and functionality of smoke and carbon monoxide detectors and fire extinguishers in the residence.
3. Licensee must maintain a current list of management personnel and contact information with the Licensing Authority.
4. Licensee must maintain current contact information for themselves with the Licensing Authority.
5. Licensee must maintain the residence in a state of compliance with all Pitkin County Codes and Regulations and any terms of the license issued through this Code.
6. Licensee must insure that the licensed property is maintained in a neat, orderly and safe condition at all times during the term of any license issued through this Code.
7. Licensee must insure that the renters and their guests do not cause excessive noise or other disturbances, disorderly conduct, or violation of any applicable law or regulation

pertaining to the rental of the property or adversely affect any of the other residents in the vicinity of the licensed property.

8. Licensee must insure that renters and guests do not park on County roadways or in any manner that would impede traffic on County roadways or access easements for other properties.
9. Licensee must limit number of renters and guests to no more than that allowed under the license.
10. Licensee must remain current with all sales tax and property tax obligations relating to the licensed property.
11. If the licensed property is sold or otherwise conveyed or transferred, the Licensing Authority must be informed immediately.
12. Licensee must place within the residence on the inside of the front door and on the outside of a prominent kitchen cabinet a notice to the renters and guests advising not to engage in any activity which would disturb the neighborhood, instructions for disposal of trash, location for parking vehicles, local animal control regulations including excrement pick up and leash requirements and the means for accessing Pitkin Alert emergency messaging system. The notice shall also have contact information for the owner and/or management personnel. The content of this notice shall also be contained in the lease document.
13. Either the licensee or management personnel must be available to immediately respond to any emergency during any rental period. The owner or any manager or agent must respond to complaints within 24 hours of notice and have the authority to address any complaints.
14. Licensee or manager must advise renters and guests of any fire bans or restrictions as they become ordered.
15. Licensee must insure that all fireplaces and wood stoves are cleaned and maintained.
16. Licensee must provide trash receptacles and recycle bins and bear proof collection containers for trash pick-up.
17. Licensee must test and treat any hot tubs, spas and pools at least weekly or as required by environmental health or state regulations.
18. Licensee must update all contact information and all representations regarding the residence and its rental that were provided in the application if there are any changes to that information.

19. Licensee shall maintain records of rental activity to be shared with the Licensing Authority, consistent with the requirements of the Licensing Authority, and comprised of, at a minimum, the number and dates of the nights rented, the number of guests for each rental day/night, the frequency of maid/concierge services, the number of service people retained to maintain the rented residence and their vehicle trips to the residence, payment of sales tax and rental rates, and other general records needed for the Licensing Authority to determine the intensity of rental activity and impacts associated with the rental activity.
20. The duration of each rental period must be a minimum of four (4) nights.
21. No property shall be rented for more than 120 nights during any one year license term.

**6.50.060      Term of License, Renewal and Fees**

The term of all licenses and renewals shall be for one year.

A licensee shall submit a renewal application no sooner than 30 days before the expiration of the license. Renewal applications may be processed administratively in the same manner as an original license provided there have been no violations of the terms of the previous license or any Pitkin County Codes or Regulations or the license issued under this Code and there are no unresolved complaints concerning rental activities.

If violations have occurred, then the renewal application shall be determined by the Board. Renewal applications shall contain a description of all previous violations and complaints and their outcome or resolution. The Licensing Authority shall not accept an application for renewal of a license after 30 days following the expiration of a previously issued license.

If more than 30 days have passed since the expiration of a previously issued license, then a new license application must be made.

Fees charged for license applications and renewal applications shall be set by the Licensing Authority from time to time with consultation with the Board. The fees will be designed to sufficiently cover the costs of the administration and enforcement of this Code.

**6.50.070      Inspection**

By signing and submitting a license application, and subsequently being granted a license, the owner(s) of the property consent to inspections of the property by Pitkin County personnel and individuals accompanied by Pitkin County personnel for the purpose of determining compliance with County Codes, Regulations and Laws. No inspection will be made without first giving the licensee, their agent or manager, 48 hours notice of the inspection.

#### **6.50.080      Signs**

Advertising signs, logos or realtor signs shall not be permitted on any licensed property unless the property is listed for sale. The only sign permitted on a licensed property relating to the rental operation shall be for address identification.

#### **6.50.090      Violations, Enforcement and Penalties**

Any complaint received regarding the short term rental of property will first be referred to the licensee or licensee's agent for response and correction. The Licensing Authority will follow up with any complaining party, the licensee or their agent for compliance or resolution.

Any repeat complaint or unaddressed notice of violation of Pitkin County Codes, Regulations or the requirements of any license issued under this Code shall be referred to either the Licensing Authority or the Pitkin County Attorney's Office and investigated, if appropriate. Upon investigation, if it is determined there are grounds to believe a violation may have occurred, a hearing on the violation will be presided over by the Pitkin County Hearing Officer for a determination of whether a violation has occurred. Upon the Hearing Officer's determination that a violation has occurred, the Board shall determine the appropriate action to be taken regarding the license. The consequence of a violation may be no action regarding the license, the suspension of the license for a set time, or the revocation of the license. If a violation is determined to have occurred, the costs of enforcement of this Code, including any hearings required, will be paid by the licensee. If the licensee disagrees with the determination of the Hearing Officer, an appeal must be requested within 5 business days of the determination and shall be heard by the Board at the same time as the imposition of a penalty regarding the license.

Any violation of this Code or licensing requirements will also be subject to a fine against the licensee of up to \$1,000.00 per occurrence. Each day a violation exists shall be considered a separate occurrence subject to a separate penalty. The imposition of a fine shall be governed by Article 15, Title 30 of the Revised Colorado Statutes. Determination of fines shall be done by the Pitkin County Court. Citations, summonses and complaints may be served by any law enforcement officer having jurisdiction within Pitkin County or any agent of the Licensing Authority. A penalty assessment procedure shall be established consistent with § 16-2-201, C.R.S. A graduated fine shall be imposed as part of the penalty assessment of \$100.00 for the first offense; \$500.00 dollars for the second offense and \$1000.00 dollars for all subsequent offenses during a license term. All fines and forfeitures for the violation of this Code shall be deposited with the County Treasurer.

In addition to the provisions of this Code, all other remedies in law or equity may likewise be pursued against the licensee, property owner(s) or principal resident at the discretion of the Board.