

**TOWN OF GREEN MOUNTAIN FALLS**

**ORDINANCE NO. 2018-04**

**AN EMERGENCY ORDINANCE AMENDING CHAPTER 6, ARTICLE VIII, OF THE GREEN MOUNTAIN FALLS MUNICIPAL CODE, ADOPTED BY ORDINANCE NO. 04-2017, REGARDING SHORT-TERM RENTAL PROPERTY LICENSES**

WHEREAS, in 2017, by Ordinance No. 04-2017, the Town enacted short-term rental license requirement, but application of that short-term licensing scheme has proven difficult and ineffective;

WHEREAS, among other administrative and procedural changes, the Board of Trustees would like to eliminate the cumbersome density restriction contained in Section 6-156;

WHEREAS, a total of sixty (60) short-term rental licenses in Town at any given time would amount to approximately 10% of the Town's residential properties being licensed for use as short-term rentals;

WHEREAS, the Board of Trustees finds and determines that a limit of 60 short-term rental licenses is reasonable and necessary to protect and preserve the residential characteristics of and quality of life in the Town's residential zone districts; and

WHEREAS, the Board of Trustees also finds and determines these changes must be adopted as an emergency ordinance, effective immediately, during the height of tourism season to alleviate the current state of confusion and uncertainty about short-term residential rentals.

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GREEN MOUNTAIN FALLS, COLORADO:**

Section 1. Chapter 6, Article VIII, of the Town of Green Mountain Falls Municipal Code is hereby amended to read as follows:

**ARTICLE VIII  
LICENSING OF SHORT-TERM RENTALS**

**Sec. 6-149. Purpose and Scope.**

The purpose of this Article is to establish comprehensive licensing provisions for whole residential dwelling units made available for rent for a period of time less than thirty (30) days in duration to ensure minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the use and occupancy, location, and maintenance of residential dwellings available for rent. This Article does not apply to the furnishing of lodging services in hotels, motels, or lodges.

**Sec. 6-150. Applicability.**

All owners of residences within residential zone districts, including but not limited to R-1 and R-2 Districts who rent or lease their entire property for a period of time less than thirty (30) days shall comply in full with all terms and conditions contained in this Article. Nothing in this Article shall require an owner to apply for a special use permit under Section 16-710 of the Green Mountain Falls Municipal Code.

**Sec. 6-151. Definitions.**

For purposes of this Article, the following terms shall have the following meanings:

"Owner" means the record owner of a residential dwelling unit or an authorized agent or designee thereof.

"Rent or lease" means an agreement or act by which an owner gives to a tenant, for valuable consideration, possession and use of his property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property.

"Short-term rental" means the renting or leasing of an entire residential structure for monetary consideration for a period of time less than thirty (30) consecutive days, not including a bed and breakfast, residency unit, boarding or rooming house, or hotel. The definition does not include offering use of one's property to another where no fee is charged or collected.

"Town Manager" means the appointed administrative official of the Town government, or, in the event of a vacancy, his or her designee, whose duties and responsibilities shall conform to the requirements of Section 2-81 of the Green Mountain Falls Municipal Code.

**Sec. 6-152. License required.**

No owner shall allow any person to rent or lease, sublease or occupy any short-term rental as a tenant, renter, lessee, sublessee or otherwise, unless the owner has been issued a valid rental property license by the Town. Licenses are permitted in any zone district in the Town where residential occupancy is permitted, provided however, that no commercial space shall be used for a short-term rental. The short-term rental license must be renewed annually for every premises used as a short-term rental. A short-term rental license may be denied or revoked if the owner is not in compliance with the terms and conditions of license or any other applicable laws.

**Sec. 6-153. Taxes.**

All owners of short-term rentals are required to collect and remit sales and other applicable taxes. Evidence of issuance of a state sales tax license number is required as a condition of the Town Manager's consideration of a short-term rental license application.

**Sec. 6-154. Business license required.**

All owners of short-term rentals are required to possess a current Town business license for each short-term rental property. The business license must be renewed annually. Business license requirements under this Section shall conform to the requirements of Article II of this Chapter.

**Sec. 6-155. License application; procedure; appeals.**

(a) All owners of short-term rentals must obtain a short-term rental license . Conducting a short-term rental without a valid license is a violation of this Chapter 6. A license application shall be provided by the Town, and an applicant shall provide the following information:

- (1) Owner name, permanent address, and property address;
- (2) Maximum occupancy of rental guests;
- (3) Owner representative and contact information;
- (4) Parking plan for guests indicating the manner in which the maximum permitted number of cars shall be parked so as to avoid any conflicts with neighboring properties or public right-of-way;
- (5) Evidence of property and liability insurance;
- (6) Proof of a valid business license;
- (7) Proof of a valid sales tax license number;
- (8) Proof of possession of the licensed premises; or
- (9) If the applicant does not own the property where the licensed premises is located, the applicant must provide written documentation from the property owner allowing short-term rentals on the licensed premises; and
- (10) The license application fee set by the Board of Trustees.
- (11) Other documents as required by the Town on its application form.

(b) Licenses are valid for one (1) year and, subject to the requirements of this Article, may be revoked or renewed.

(c) Before issuing a short-term rental license, the applicant shall notify the Town Marshal and all owners of real property within 150 feet of the proposed short-term rental property who shall be provided an opportunity to make comment on or object to the issuance of the license. The notice shall contain the property location, notice that the full application that may be copied and reviewed at the Town Hall, and notice that comments must be received within fifteen (15) days from the date on which the notice is given. The notice shall be posted on the property and at the Town Hall, and mailed at the applicant's expense.

(d) The Town Manager, after reviewing the license application and any public comments or objection shall approve, approve with conditions, renew, renew with conditions, deny, or revoke the short-term rental license. The Town Manager shall issue the decision within thirty (30) days after receiving a complete application and shall report all decisions at the next regular meeting of the Board of Trustees. A standard condition of approval shall be that the license, as issued, is temporary and conditional until the appeal period, as described in (e) below, has passed, or until any such appeal has been decided, whichever is later.

(e) Either the applicant or a property owner within 150 feet of the proposed short-term rental property may appeal the Town Manager's decision to issue, issue with conditions, renew, renew with conditions, revoke, or deny a short-term rental license. Such appeal shall be filed with the Town Clerk in writing within fifteen (15) days of the decision being reported to the Town Board and shall be heard by the Board of Trustees. The Board of Trustees shall promptly hear and decide all appeals. The decision of the Town Manager (if not timely appealed) or the Board of Trustees (if appealed), is the final decision of the Town for purposes of judicial review.

(g) All permitted short-term rentals are subject to inspection under Section 6-10 of this Chapter. Licenses may be revoked or not renewed by the Town Manager if license conditions and requirements are not met or if more than three (3) violations of license conditions or the requirements of this Chapter are found within any one license year.

(h) A short-term rental license is non-transferable and may be used only for the property for which it is issued. A short-term rental license is not transferrable upon the sale of the property.

#### **Sec. 6-156. Limitations; Renewal.**

(a) An owner shall file with the Town a written application for a short-term rental license at least sixty (60) days prior to rental of the property. For a

property owner operating a short-term rental under a prior Town approval, the property owner shall file a written application for a new license under this Article within sixty (60) days of the ordinance's effective date.

(b) The Town shall issue no more than 60 short-term rental licenses. When the cap is reached, new license applications will be considered in order of the date received.

(c) At least sixty (60) days prior to the anniversary date of a short-term rental license, the licensee shall apply to the Town on forms provided by the Town to renew the license. Absent the timely filing of a renewal application, a license shall expire one year from the date of issuance.

(d) In considering issuance or renewal of a short-term rental license, the Town Manager or the Town Board, as appropriate, shall consider any conviction for a municipal code violation within the past year related to the property to be licensed.

**Sec. 6-157. Local agent required.**

When the owner of a short-term rental property is not a natural person domiciled within El Paso or Teller County, Colorado, the owner shall appoint a natural person who is domiciled within either El Paso or Teller County, Colorado, to serve as the local agent of the owner for service of any notices related to the property or its license. An owner shall notify the Town in writing of any change in the appointment of a local agent within seven (7) days of such change.

**Sec. 6-158. Fees.**

(a) Applicants for short-term rental licenses, or the renewal thereof, shall pay the fee as set by resolution of the Board of Trustees at the time of submitting an application.

(b) A person wishing to appeal a decision of the Town Manager under this Article shall do so in writing to the Town Clerk and shall be the fee as set by resolution of the Town Board.

**Sec. 6-159. Posting requirements**

(a) An owner shall post the license, or a true copy thereof, conspicuously within the rental property for which such license has been issued.

(b) An owner shall display its license number on the face of any advertisement. For purposes of this Section, the term "advertisement" means the act of drawing the public's attention to a short-term rental in order to promote the availability of the short-term rental.

**Sec. 6-160. Safety requirements.**

Each short-term rental shall comply at all times with all applicable building codes, standards and regulations.

**Sec. 6-161. Enforcement**

- (a) It is unlawful to violate any provision this Article.
- (b) The Town may enforce the requirements of this Article by any or all of the following:
  - (a) The Town Manager shall issue a warning letter to persons conducting a short-term rental without a license.
  - (b) The Town Manager may revoke or refuse to renew a short-term rental license for any reason provided in this Article and may prohibit an owner from re-applying for a short-term rental license for one (1) year following revocation or non-renewal.
  - (c) Persons found of violating any provision of this Article shall be punished in Municipal Court as hereinafter provided or, if not hereinafter provided, in accordance with the provisions of Sections 2-136 and 1-72 of this Code; provided, that each separate act in violation of this Article, and each and every day or portion thereof during which any separate act in violation of this Article is committed, continued, or permitted, shall be deemed a separate offense.
    - (1) The Municipal Court may impose a civil penalty according to a schedule adopted by Resolution of the Board of Trustees.
    - (2) The Municipal Court may suspend a portion of the fine if the Court finds mitigating circumstances.
  - (d) Any remedies provided for in this Article shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

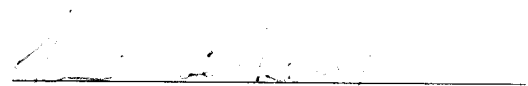
Section 2. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 3. Emergency Declared. The Board of Trustees hereby finds, determines and declares, pursuant to Section 2-33(a) of the Green Mountain Falls Municipal Code and C.R.S. § 31-16-105, that this Ordinance is necessary for the immediate preservation of public property, health, welfare, peace, or safety of the Town of Green Mountain Falls due to the current and immediate need to apply and enforce an effective regulatory scheme for short-term rental licenses

during the height of short-term rental season. This emergency ordinance is required to alleviate confusion and reduce uncertainty for the property owners wishing to conduct short-term residential rental operations this summer.

Section 4. Upon an affirmative vote of  $\frac{3}{4}$  of the members of the Board of Trustees, this Ordinance shall take effect as an emergency measure immediately upon its adoption.

ADOPTED AND ORDERED PUBLISHED the 17<sup>th</sup> day of July, 2018.

  
Jane Newberry, Mayor

ATTEST:

  
Judy Egbert, Interim Town Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Town Attorney



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