

**TOWN OF GREEN MOUNTAIN FALLS**

**ORDINANCE NO. 2022-\_\_\_\_\_**

**AN ORDINANCE REPEALING AND REENACTING CHAPTER 5, ARTICLE VII, 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 a short-term rental license requirement, which was amended in 2018 by emergency ordinance No. 18-04;

**WHEREAS**, regulation and enforcement of the Town's short-term licensing scheme has proven difficult and ineffective; and

**WHEREAS**, the Board of Trustees desires to repeal and reenact the short-term rental requirements and regulations to provide for better administration and enforcement and to preserve the residential character of the Town's neighborhoods.

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

Section 1. Section 5-132 of the Town of Green Mountain Falls Municipal Code is hereby amended to read as follows:

**Sec. 5-131. 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. 5-132. 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 *and in accordance with the Town's Land Use Code*. ~~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. 5-133. Definitions.**

"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. 5-134. 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. 5-135. Taxes.**

All owners of short-term rentals are required to collect and remit sales and other applicable taxes. Evidence of issuance of a *current* state sales tax license number *or proof that the platforms used to advertise and book the licensed premises remit taxes on behalf of the licensee* is required as a condition of the Town Manager's consideration of a short-term rental license application. *The licensee shall remit all sales taxes and fees owed to the Town in a timely manner.*

**Sec. 5-136. 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. 5-137. 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 5. 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;

What if owned by a corporation or business? Trustee request to list names of corporation. (Prevention of a monopoly)

- (4) Parking plan for guests indicating *compliance with the Land Use Code* and 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;

- 2 spaces-tie this to land use code- and/or:

- parking plan that allows for the minimum ROW width (verified with Chief Murphy) before on street parking would be allowed. Per Chief Murphy: "IFC requires 20' unobstructed roadways, excluding shoulders. We would prefer not to allow parking in the ROW since our roads are narrow as it is."

- (5) Evidence of property and liability insurance;

Should a "type" of insurance be specified? Ie. "Commercial general liability" vs. standard residential home insurance policy – or any level of insurance coverage?

- (6) Proof of a valid business license;
- (7) Proof of a valid sales tax license number *or proof that the platforms used to advertise and book the licensed premises remit taxes on behalf of the licensee;*

AirBnB and VRBO both submit state taxes automatically on the owner's behalf. Not sure about other platforms.

- (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 until December 31<sup>st</sup> of each year. The application fee shall be prorated on a monthly basis for any application filed for a license period commencing after January 1<sup>st</sup>. Subject to the requirements of this article, licenses may be revoked or renewed.

Waiting list-process renewals before new applications.

- (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.

Send out application form (shows # of beds, parking spaces, max. occupancy, contact info) along with this letter? That way neighbors would have all the info immediately.

- (d) The Town Manager, after reviewing the license application and any public comments or objection shall approve, approve with conditions, renew, renew with conditions, *or* 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.

Would it make sense for the Board to review applications for approval so that the decision isn't all on one person (Manager)?

- (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.

- (f) All permitted short-term rentals are subject to inspection under Section 5-10 of this Code. 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.

Should inspections be required, at least initially, before approval?

- (g) A short-term rental license is nontransferable 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.

Can we add another tier for folks who are only renting a portion of their property who remain on site? Are there reasons that these should be or not be counted towards the 60 cap?

Can we revoke a license for non use? There should be a “use it or lose it” mechanism. Perhaps if an account has not paid the quarterly tax for 3 or 4 consecutive quarters? 3 would give time for review before the next calendar year renewal period. There should also be a notification mechanism, so the owner is aware.

**Sec. 5-138. Licensing requirements; operating standards.**

- (a) *Before issuing a license, the Town Manager must determine that the applicant has met the following requirements:*
  - (1) *The applicant has applied with all Town Land Use Code requirements as applicable.*
  - (2) *The licensed premises has been inspected by the Town's designated building and fire officials.*

*Do we have buy-in from the fire district on this? We don't have a “building official”. PPRBD has indicated in the past that they won't provide this service for the Town.*

- (3) *The licensee or licensee's emergency contact must be available full time to manage the property during any period in which the property is occupied as a short-term rental. The licensee or emergency contact shall be required to*

*acknowledge a concern or complaint within two (2) hours by phone or in person.*

*(b) All licensees must comply with the following:*

*(1) Maximum occupancy limit **posted in online advertisement must not exceed what has been** established in the licensee's approved license **application.***

*(2) All applicable building code and fire code standards and regulations. **What are these standards – how defined/enforced/inspected?***

*(3) The licensed premises must use wildlife-proof or wildlife-resistant refuse containers as required by Section 6-33.*

***When inspected? Staff will need a checklist for STR inspections, which would be added to the record upon approval/disapproval.***

*(4) The licensed premises must be equipped with an operational fire extinguisher, smoke detector, carbon monoxide detector, and other safety equipment as required by the Town Manager. **When inspected? Upon issuance and/or renewal?***

*(5) The licensee or its occupants may not commit any nuisances as defined in Chapter 6.*

*(6) The licensee must comply with all applicable fire and burning restrictions.*

*(7) The licensee must post a packet containing the following information for guests in a conspicuous location:*

*(i) Floor plan with fire exit routes.*

*(ii) Location of fire extinguishers.*

*(iii) Trash and recycling schedule and information.*

*(iv) Wildlife safety sheet provided by the Town Manager.*

*(v) Wildfire safety information sheet provided by the Town Manager.*

- (vi) *A notice that excessive noise is prohibited between the hours of 10:00 p.m. and 7:00 a.m., as provided in Section 10-271.*
- (vii) *A map clearly delineating guest parking and the licensed premises boundaries.*
- (viii) *Licensee's contact information and contact information of Licensee's local agent.*
- (ix) *Town contact information for purposes of complaints concerning the licensed premises.*

*Any feedback from the attorney on arrival hours? We have had complaints about that.*

*Any discussion/attorney feedback about allowing multiple STRs on one parcel. Recent example is the 10971 and 10969 Iona parcel, which has two homes on it. There are other parcels like this in town.*

- (c) *A licensee must submit any proposal to change an issued license under this Ordinance to the Town Manager.*

*Staff will need to develop a process for changes – this would be for the addition of a bedroom for more guests, for example.*

#### **Sec. 5-139. 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.

*For renewal, do we want the above process (renewal upon acceptance of this ordinance) or can the new rules be “applicable upon the 2023 renewal period”?*

- (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.

*Any thought to different zone districts (ie. licenses in Business or Multi-family districts don't count against Residential license total)?*

- (e) 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.~~ There should be a deadline for renewal after the Dec. 31 deadline, otherwise the license may be revoked.

Right now, the MuniRevs system sends out email reminders of business license renewal – but it doesn't look like there is a template for STR license renewal. It sends on Nov. 18, 58 days before the renewal deadline of January 15.

we need to verify the timing of this so that the actual practice matches up with MR settings – and/or verify how to change MR settings (cost?).

- (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. *Renewal of any license is subject to the laws and regulations effective at the time of renewal, which may be different than the regulations in place when the license was originally issued.*
- (e) *If a licensee, applicant, or duly authorized agent of the licensee or applicant acting on behalf of the same makes a false, misleading, or fraudulent statement in any short-term rental unit business license application, or has misrepresented a material fact in any short-term rental unit business license application, the Town Manager may impose a mandatory suspension and the same is grounds for nonrenewal or for not granting a license.*

#### **Sec. 5-140. 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.

We have had people who want to list a local agent in the Pueblo area, which is not further than some locations in El Paso or Teller Counties. Any discussion on a radius, time of drive, or other criteria for a “local agent”?

#### **Sec. 5-141. 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 application submittal.
- (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~~ pay the fee as set by resolution of the Town Board.

Do we want a fee for an appeal? There is none defined in this draft – if so, define under annual “fee schedule” review?

**Sec. 5-142. 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 *online, in print, or via any other posting* to a short-term rental in order to promote the availability of the short-term rental.

~~**Sec. 5-142. Safety requirements.**~~

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

Not sure why we wouldn't want this provision. Gives another method of enforcement (Pikes Peak Regional Building can inspect if we suspect that work is taking place without a permit) or we can check with El Paso County Health for septic records if any septic provision is specified in this section or land use code.

**Sec. 5-143. 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:
  - ~~(1) The Town Manager shall issue a warning letter to persons conducting a short-term rental without a license.~~
  - (1) *The Board of Trustees, after reasonable notice and a hearing, may revoke any license, based upon a violation of this Article.*
  - (2) 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.

- (3) 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.~~
  - a. ~~The Municipal Court may impose a civil penalty according to a schedule adopted by Resolution of the Board of Trustees. First offense: \$250 fine~~
  - b. ~~The Municipal Court may suspend a portion of the fine if the Court finds mitigating circumstances. Second offense: \$500 fine~~
  - c. ~~Third offense: \$1,000 fine and one-year suspension of the license.~~
- (4) *The above penalties may be in addition to other penalties the Municipal Court sees fit, including a suspension of a portion of the fine.*
- (5) *If the violation involves an immediate threat of health and safety, the Town Manager may, in writing sent or posted in a conspicuous place on the licensed premises, order that all rental activity on the licensed premises cease until further notice from the Town Manager. It shall be unlawful for any person to fail to comply with a Stop Renting Order.*
- (6) *Properties found to be renting without a valid short-term rental license are subject to a \$250 fine for each day the property is rented without holding a valid license.*

*Is this the fine we want to impose for unlicensed rentals?*

- (7) *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. Safety. The Board of Trustees finds that the adoption of this Ordinance is necessary for the protection of the public health, safety, and welfare.

Section 4. Effective Date. This Ordinance shall become effective 30 days after publication.

ADOPTED AND ORDERED PUBLISHED the \_\_\_\_ day of \_\_\_\_\_, 2022, at the Green Mountain Falls Town Hall, 10615 Green Mountain Falls Road, Green Mountain Falls, Colorado 80819.

\_\_\_\_\_  
Todd Dixon, Mayor

ATTEST:

\_\_\_\_\_  
Nate Scott, Town Clerk/Treasurer

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