

**ORDINANCE NO. 2
SERIES OF 2022**

**AN ORDINANCE OF THE BOARD OF TRUSTEES
OF THE TOWN OF CARBONDALE, COLORADO, ENACTING TEMPORARY
REGULATIONS RELATED TO THE LICENSING OF SHORT-TERM
RENTALS**

WHEREAS, in response to growth pressures and concerns related to the scarcity of affordable and workforce housing, the Town of Carbondale (“Town”) has determined that there is a need to protect the limited supply of workforce housing by regulating the conversion of long-term residential rental properties to short-term rentals and the purchase of homes for the purpose of short-term rentals; and

WHEREAS, short-term rentals contribute to the local economy and support tourist-oriented businesses; and

WHEREAS, short-term rentals also allow local homeowners to supplement their income and provide flexibility in renting second homes and portions of their primary residence; and

WHEREAS, the Board of Trustees of the Town has determined that uncontrolled and unregulated short-term rentals may also have a direct effect on quality and character of the community and individual neighborhoods and properties in Carbondale; and

WHEREAS, the Board of Trustees desires to assure a safe and quality experience for residents, businesses and visitors to Carbondale; and

WHEREAS, the Board of Trustees invited public input and held numerous and extensive public conversations and work session discussions to determine appropriate methods of regulating short-term rentals in Carbondale; and

WHEREAS, the Board of Trustees heard and considered the statements of Town Staff and any members of the public who wished to speak, and reviewed and considered all other information presented; and

WHEREAS, following extensive dialogue by the Board of Trustees, the Board has developed a comprehensive strategy to address this matter; and

WHEREAS, the Board of Trustees finds that:

1. Protection of the health, safety and the general welfare of the residents of Carbondale is a basic and valid responsibility of local government.
2. An initial phase of regulations related to the licensing of short-term rental units in the Town of Carbondale will provide data regarding current

inventory of short-term rental units and will allow further discussion and analysis by the Board of Trustees and Town Staff in order to develop a more comprehensive regulatory framework over the coming year.

3. The regulations set forth herein will not infringe on current operations of existing short-term rentals, but limit the creation of additional short-term rentals while the next phase of regulations is researched and discussed by the Board of Trustees.
4. These amendments to the Municipal Code do not discriminate against any individual or group of people and such restrictions allow for reasonable accommodations for all individuals as may be required by Federal and State law.
5. The enactment of this Ordinance is necessary to accomplish the goals set forth herein; and,

WHEREAS, the phased licensing process to be established pursuant to this Ordinance is intended to both gather data for town officials and to provide initial guidance for short-term rental owners and management, and more permanent regulations are anticipated to be issued prior to the expiration of any licenses issued hereunder. It is also presently anticipated that, upon enactment of such future regulations, all renewals and future licensees will likely be required to comply with those future requirements, and that any short-term rental that cannot fulfill such requirements will not be eligible for future licensing or renewal.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARBONDALE, COLORADO, that the following amendments to the Town of Carbondale Municipal Code are hereby approved and adopted.

Section 1: All of the recitals set forth above are adopted as findings of fact.

Section 2: A new Article of the Carbondale Municipal Code, to be known as Chapter 6, Article 10, and entitled "Short-Term Rental Licenses," is hereby adopted and enacted, which shall read as follows:

ARTICLE 10 - Short-Term Rental Licenses.

Sec. 6-10-10 - Purpose and Intent

The purpose of this Article is to establish license requirements for short-term residential property rentals within the Town of Carbondale.

Sec. 6-10-20 - Definitions.

The following words and phrases, as used in this Article, shall have the following meanings:

Applicant means a natural person with an ownership interest in a property to be utilized as a Short-Term Rental, including a natural person matching the name of an owner or co-owner on the current vesting deed for the property, or a person with a demonstrated controlling ownership interest in any entity or trust that holds record title to the property.

Short-Term Rental means a privately-owned residential dwelling or portion thereof that is rented for the purposes of lodging for any period less than thirty (30) consecutive days.

Primary Residence means a privately-owned residential dwelling in which the owner resides for at least 183 days per year.

Local Contact Person means the owner, person designated by the owner, or the owner's authorized agent or representative who shall be available twenty-four (24) hours per day, seven (7) days per week for the purposes of (1) responding within sixty (60) minutes to property code violations and/or complaints regarding the condition, operation or conduct or occupants of the Short-Term Rental, and (2) taking remedial action to resolve such violations and/or complaints.

Section 6-10-30 - License required.

- (a) It shall be unlawful for any person or entity to operate a Short-Term Rental without first applying for and procuring a license from the Town of Carbondale. New licenses shall be subject to ongoing compliance with all applicable Town regulations concerning the licensing and occupancy of Short-Term Rentals.
- (b) In order to operate on or after August 1, 2022, all current Carbondale Short-Term Rentals must be licensed no later than July 31, 2022. To qualify for a license, to establish eligibility to hold a license, an Applicant must: (1) provide proof of ownership of the property (and, if the property

is owned by an entity or trust, the Applicant's controlling ownership interest in the property); (2) provide either (a) proof that the Short-Term Rental was operational on or before March 8, 2022 or (b) proof that the Applicant's primary residence is located on the same property as the Short-Term Rental; and (3) provide proof that all applicable Carbondale sales and lodging tax was paid on the Short-Term Rental for which a license is sought for rentals prior to March 8, 2022.

- (c) Until planned subsequent regulations are approved, no additional Short-Term Rental licenses will be issued except for those properties which are either the Applicant's primary residence or are located within the Historic Commercial Core (HCC) zone district as defined in Chapter 17 of this Code (the Unified Development Code) and the Town's Zoning Map. Future applications for other Short-Term Rental licenses (i.e. those not licensed by July 31, 2022 and that are not the Applicant's primary residence) will not be accepted by the Town for processing until subsequent regulations are adopted by the Town and all licensed properties will be required to comply with such subsequent regulations. All Applicants for licenses after August 1, 2022 shall: (1) provide proof of ownership of the property (and, if the property is owned by an entity or trust, the Applicant's controlling ownership interest in the property); and (2) proof that the property is either: (a) the Applicant's primary residence; or (b) is located within the HCC zone district at the time of the application.

Section 6-10-40 - Conditions of Short-Term Rental licenses.

- (a) *Occupancy.* All Short-Term Rentals shall have a maximum occupancy equal to two persons per bedroom plus an additional two persons per property. Children under the age of five shall not count toward this occupancy limitation. The number of bedrooms that may be occupied within

each Short-Term Rental shall at all times be limited to the number bedrooms for which fees have been paid pursuant to this Article.

- (b) *Private Covenants.* The Town is not a party to and does not enforce most private covenants and agreements. Applicants should therefore review all covenants and agreements that apply to the property they wish to license as a Short-Term Rental because such documents may restrict or prohibit Short-Term Rentals. The Town's issuance of a Short-Term Rental license shall have no legal effect upon any such restrictive covenants or agreements applicable to a property.
- (c) *Community Housing Units not Eligible for Licenses.* No housing which is part of the Town's Community Housing Program shall be eligible for a Short-Term Rental license.
- (d) *Ongoing Licensee Obligations.* Each Short-Term Rental licensee shall have an ongoing obligation to ensure that all of the information provided to the Town in connection with a license application is kept up to date at all times.
- (e) *License Numbers.* Each license issued by the Town shall have a local license number for each Short-Term Rental. All advertisements for Short-Term Rentals shall expressly specify the license number for the property listed.
- (f) *No Transfer or Assignment.* Each license issued pursuant to this Article shall be personal to the licensee, and no license issued under this Article shall be transferable or valid as to any person or entity other than the named licensee. If Short-Term Rentals will continue after the date of a change of ownership of a licensed property, a new license will be required by the Town.
- (g) *Local Management Required.* Short-Term Rentals must at all times have a designated Local Contact Person whose contact information is on file with the Town, which person shall be responsible for

ensuring compliance with provisions of this Code associated with such Short-Term Rental, including but not limited to compliance with all applicable sales and lodging tax requirements, maintenance of parking areas, removal of snow and ice, garbage disposal, and other property maintenance requirements. The Local Contact Person must be available twenty-four (24) hours per day, seven (7) days per week and able to respond within sixty (60) minutes to any Municipal Code violations and/or complaints regarding the condition, operation, occupancy or conduct of the occupants of the Short-Term Rental, and to take remedial action to resolve such violations and/or complaints.

- (h) *Compliance.* Except as otherwise set forth in this Article, all provisions of the Municipal Code, including but not limited to all provisions related to health, sanitation, garbage and refuse, animals, motor vehicles, noise abatement, and other nuisances, shall remain fully applicable to all properties licensed for Short-Term Rentals, and compliance with all such provisions shall be deemed a condition of all Short-Term Rental licenses.

Section 6-10-50 - Application procedure.

- (a) All license applications shall be filed with the Town Clerk on forms supplied by the Town Clerk.
- (b) The Town Clerk may issue a new Short-Term Rental license upon all of the following conditions:
 - (1) The Applicant has submitted a complete application form and provided all required information regarding the Short-Term Rental unit, including, but not limited to, where applicable, proof of the Applicant's ownership interest in the property, proof of past payment of all applicable sales and lodging tax to the Town, proof that the property to be rented is the Applicant's personal residence or is located within the HCC zone district, proof of the total number

of bedrooms being rented, and information concerning the required Local Contact Person.

- (2) The Applicant has paid a license fee of \$75.00 per bedroom, up to a maximum of \$300.00 per license, for a Short-Term Rental on a property that is owner-occupied, and \$150 per bedroom, up to a maximum of \$600.00 per license, for a Short Term Rental on a property that is not owner-occupied, and has also paid all other applicable taxes and fees owed to the Town, including any outstanding taxes or fees related to any of the Applicant's or property owner's other properties and purposes within the Town.
- (3) A Short-Term Rental Inspection Worksheet has been completed and complied with by the Applicant
- (4) All other applicable requirements of this Article have been met.

(d) The Town Clerk may deny an application if:

- (1) The information in the application is incomplete, inaccurate or false.
- (2) The Applicant seeks authorization for a license at a prohibited location.
- (3) The Applicant seeks authorization for a license and the Applicant's current license is suspended or revoked.
- (4) The Applicant is not qualified to hold a license under the provisions of this Article.

(c) All licenses issued under this Article shall expire on December 31, 2023 unless the Town promulgates new regulations prior to such time that provide for renewal or extension of existing licenses.

Section 6-10-60 - Revocation and Suspension.

Any license issued pursuant to this Ordinance may be suspended or revoked by written decision of the Town Manager after (10) calendar days' prior written notice to a licensee of the contemplated action and, in general, the grounds therefore, and after a reasonable opportunity for the licensee to be heard by presentation of responsive information to the Town Manager, for any one or more of the following reasons:

- (a) Failure to pay applicable Town lodging tax pursuant or any other requited Town tax or fee for the Short-Term Rental.
- (b) Any false statement of material fact contained in the Application.
- (c) Failure to file any report or furnish any other information that may be required by the provisions of this Article.
- (d) Any other fact or condition that, had it been known to exist at the time of the license application, would have warranted the refusal of the issuance of such license.
- (e) Any violation of any provisions of this Article or of any other law or regulation pertaining to the requirements of the application, or at the property, or of any of the terms pertaining to the license.

In the event of any suspension or revocation, the Town shall have no liability for any Short-Term Rental reservations or revenues that may be affected by any such suspension or revocation, and all licenses hereunder shall be at the risk of the licensee with regard to any such lost reservations or revenues. The only remedy for anyone affected by the denial of any application or any suspension or revocation shall be the right of the Applicant or licensee, as applicable, to appeal such decision and seek reversal of the same pursuant to the following Section 6-10-70.

Section 6-10-70 - Appeals.

Any Applicant directly affected by the denial of any license application, or any licensee directly impacted by suspension or revocation of any license pursuant to this Article, shall have the right to appeal to the Board of Trustees and may, thereafter, seek judicial review. The Town Attorney shall act on behalf of and advise the Board of Trustees. The Board of Trustees shall not review de novo and shall only reverse or modify a determination of the Town Clerk or the Town Manager if it determines that there was insufficient evidence to support the decision or that the decision was otherwise not in compliance with this Article.

Sec. 6-10-80 - Penalties.

In addition to any other remedies available to the Town at law or in equity, after August 1, 2022 the operation of a Short-Term Rental within the Town without a license shall subject the record owner to a fine in the amount of One Thousand and no/xx (\$1,000.00) dollars plus an additional \$100.00 per day until a complete license application is submitted to the Town with all required license fees or the Short-Term Rental operation is terminated, to be collected in the manner provided for penalty assessments as provided in this Code.

Section 3: If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance, and the Board of Trustees hereby declares that it would have passed this ordinance and each such part thereof regardless of the fact that any one or more provisions were declared invalid.

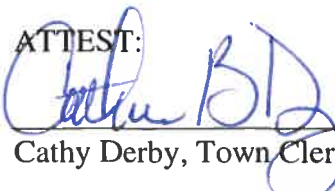
Section 4: This Ordinance shall become effective after posting and publication in accordance with the Home Rule Charter of the Town of Carbondale.

INTRODUCED, READ AND PASSED this 8th day of March, 2022.

THE TOWN OF CARBONDALE


Dan Richardson, Mayor

ATTEST:


Cathy Derby, Town Clerk



18358229_v3