

**TOWN OF BUENA VISTA, COLORADO
ORDINANCE NO. 15
(SERIES OF 2021)**

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF ARTICLES II AND VII OF
CHAPTER 6 OF THE BUENA VISTA MUNICIPAL CODE CONCERNING SHORT-
TERM RENTALS**

WHEREAS, the Board of Trustees desires to address the growth in short-term rentals in the Town and revise certain provisions of its licensing of short-term rentals;

WHEREAS, short-term rentals are currently a use subject to licensing requirements and structures may not be used as a short-term rental without a valid license;

WHEREAS, the Board of Trustees finds that limiting short-term rental licenses as set forth herein will assist in accomplishing the Town's goals regarding the provisions on long term rental properties, affordable housing, and availability of housing stock for persons who intend to live primarily in Chaffee County; and

WHEREAS, the Board of Trustees finds that these amendments are in the best interests of the Town and its citizens.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF
THE TOWN OF BUENA VISTA, COLORADO, THAT:**

Section 1. Section 6-21 of the Buena Vista Municipal Code is hereby amended to read as follows:

It shall be unlawful for any person or entity to conduct, engage in or establish a business or place of business in the Town, including a home occupation, without having first obtained a business license. Additionally, certain businesses or business activities defined in this Article shall be subject to special supplemental licensing requirements, except short-term rentals with a valid short-term rental license are not required to obtain a business license under this Article. A separate business license shall be required for each place of business and, unless otherwise specifically provided on the license, a business license shall expire on December 31 of the year in which it was issued, unless sooner revoked.

Section 2. Section 6-121 of Buena Vista Municipal Code is hereby repealed and reinstated to read as follows:

- (a) The purpose of this Article is to establish licensing regulations to safeguard the public health, safety and welfare by regulating and controlling the use, occupancy, location and maintenance of short-term rentals in the Town.
- (b) Ineligible structures or properties are not permitted to be used as short-term rentals.

(c) This Article shall not apply to motels, hotels, bed and breakfasts, or other establishments providing lodging for the general public.

(d) This Article shall not supersede or affect any private conditions, covenants or restrictions applicable to a parcel of property.

Section 3. Section 6-122 of the Buena Vista Municipal Code is amended by the addition of the following new definitions:

Ineligible structures and properties means nonresidential and commercial structures; co-housing developments; apartments; structures and other temporary dwellings that do not have a certificate of occupancy; accessory structures which do not satisfy the requirements of an accessory dwelling unit and do not have a Town assigned address; and other properties and structures which are not eligible to be short-term rentals. Ineligible structures and properties shall not include motels, hotels, bed and breakfasts, or other establishments providing lodging for the general public.

Primary residence means a residence which is the usual place of abode and to which the resident, whenever absent, has the present intention of returning regardless of the duration of the absence and as documented by the occupant's: (1) driver's license or Colorado state identification card; and (2) voter registration; or designated residence for tax purposes with the IRS. An applicant for a license under this Article may have only one (1) primary residence for purposes of this Article.

Resident means a natural person who has primary residence within a designated geographic location.

Total residential housing stock means all dwelling units, as defined by Chapter 16 of this code, that have a valid certificate of occupancy issued by the Town or Chaffee County.

Section 4. Section 6-123 of the Buena Vista Municipal Code is amended by the addition of a new subsection (c):

Each short-term rental must have a separate license. For residential structures, if less than the entire residential structure is rented as short-term rental, the allowed number of rooming units must be licensed under one license. For mixed-used structures, each dwelling unit must have a separate license.

Section 5. Section 6-124 of the Buena Vista Municipal Code is amended by the deletion of subsection (c) and the addition of the following new subsections (c) through (e):

(c) All applicants who are natural persons and not residents of Chaffee County must provide a true copy of valid and current driver's license, identification card or equivalent identification. If the applicant is a natural person and desires to apply for a license as a resident of Chaffee County, the application must include a true copy of a valid and current Colorado driver's license or Colorado identification card

identifying the property that is the subject of the application is the applicant's principal residence, a sworn statement stating the property is the person's primary residence; and either of the following items showing that the structure to be licensed is the applicant's primary residence: 1) record of current voter registration or 2) proof of property as designated residence for tax purposes.

(d) Proof of ownership, in the form of a deed, of the property on which the structure, for which the application is being submitted, is located. The applicant's name must appear on the deed for the property on which the proposed short-term rental is located and the applicant must possess at least a fifty (50) percent fee simple ownership interest in the property. Notwithstanding the provisions of this subsection, if any portion of ownership is vested in a trust or an entity, the applicant may only apply as a non-resident of Chaffee County.

(e) Structures subject to a renewal application are not required to obtain a fire inspection, unless required to do so by the Town.

Section 6. Section 6-125 of the Buena Vista Municipal Code is hereby renamed to "License", subsection (a) is hereby amended, and Section 6-125 is hereby amended by the addition of the following new subsections (d) through (i) to read as follows:

(a) A short-term rental license shall be for a one (1) calendar year, or portion thereof, and shall terminate on December 31st of each year, but may be renewed prior to termination in accordance with this Article. A license shall terminate immediately upon a change in ownership of the property on which the licensed structure or structures are located.

* * *

(d) Licenses may only be issued to owners of structures who are also are one of the following:

- (1) A natural person;
- (2) A trust, if the beneficiary of the trust is a natural person; or
- (3) An entity registered with the Colorado Secretary of State.

(e) Residents of Chaffee County may apply for a license for their primary residence and for a license for an eligible ADU on the same parcel as their primary residence.

(f) Residents of Chaffee County may apply for a license per addressed structure for a short term rental which is not eligible under Section 6-122(e) above. Other than the percentage cap in this subsection, there is no numerical limit of the number of licenses which may be held by residents of Chaffee County. Licenses available under this category shall not exceed three percent (3%) of the total residential housing stock of the Town.

(g) Non-residents of Chaffee County may apply for a license for per addressed structure for a short term rentals. Other than the percentage cap in this subsection, there is no numerical limit of the number of licenses which may be held by non-residents of Chaffee County. Licenses available to non-residents of Chaffee County shall not exceed six percent (6%) of the total residential housing stock of the Town.

(h) Applications for licenses for properties that are the subject of a valid building permit issued on or before September 28, 2021, shall not be subject to the percentage limits in subsections (f) and (g) and owners of such properties may apply for a license upon receipt of a certificate of occupancy, provided the certificate of occupancy is issued by August 31, 2022. All applications under this provision must be submitted no later than seven (7) days after receipt of the certificate of occupancy. Untimely applications will not be accepted by the Town. The overall percentage limitations shall be increased from their respective three and six percent limits to account for any licenses issued under this Subsection (h); provided that if in any subsequent renewal year, there are less licenses issued than the maximum percentage limitation, such maximum percentage limitation shall be decreased and set at the percentage for that renewal year until the original percentage limitations of three and six percent established in subsections (f) and (g) are met.

(i) In determining the number of licenses available based on the limitations in subsections (f) and (g), the Town shall round down to the nearest whole number.

(j) All trusts and entities shall be deemed non-residents of Chaffee County for purposes of licensing.

(k) Structures located in the MU-MS zone and the South Main PUD shall not be subject to the percentage limitations on total residential housing stock in subsections (f) and (g) above. The owners of a structure located in the MU-MS zone and the South Main PUD may have up to three (3) licenses per structure, when the structure is under the single ownership. If dwelling units within a mixed-use structure have been condominiumized and are under separate ownership, such dwelling units must be separately addressed to license.

(i) ADUs attached to a primary structure shall be counted as a separate structure for purposes of licensing under this Article.

Section 7. Section 6-128 of the Buena Vista Municipal Code is hereby amended to read as follows:

The Town shall have the authority to revoke and assess administrative penalties for violations of this Article or Chapter 7 of this Code by licensees under this Article.

(a) Any properties used for short-term rental purposes in violation of this Article, shall be subject to the following administrative penalties in addition to those set forth in Section 6-131 of this Article:

- (1) First offense: written warning.
- (2) Second offense: fine as established by the Board of Trustees.
- (3) Third offense: revocation of license without possibility of reapplication for the subject property for one (1) year from the date of revocation and fine established by the Board of Trustees.

(b) The Town expressly reserves the right to accelerate any enforcement action as it deems appropriate and shall not be required to follow the enforcement steps in subsection (a) above.

(c) Failure to pay the penalty shall constitute a further violation of this Article, which shall subject the license to revocation; provided that there shall be no administrative appeal right for a revocation based upon failure to pay the penalty.

(d) The following procedures shall be use for revocations:

(1) A revocation notice shall be delivered via first class mail to the address of the licensee (as listed on the applicable license), which shall list in detail the violation upon which the revocation is based, and the effective date of the revocation, which shall commence no earlier than ten (10) days after the date of the notice. The notice shall inform the licensee of licensee's appeal right as set forth herein.

(2) The licensee may appeal the revocation by filing an appeal with the Town Clerk within ten (10) days of the date of the notice. An appeal shall stay the revocation until a final written decision is issued. The appeal shall state why a revocation is not warranted, which may include a statement contesting the violation itself and information addressing how the licensee has taken measures to address the violation. Upon receipt of the appeal, the matter shall be set for a hearing before the Town Administrator or his/her designee, at which the licensee and the Town may present evidence and testimony concerning the violation and the appeal. In determining whether to uphold the revocation, consideration shall be given to the criteria set forth in Section 6-130(b) for renewal of a license. The decision shall be reduced to writing and shall constitute a final decision.

(3) Revocations shall apply to the remainder of the license term at the time of revocation.

Section 8. Section 6-129 of the Town of Buena Vista Municipal Code is hereby amended to read as follows:

Sec. 6-129 Licensing and Renewal

(a) All applications must contain all information and fees as required by this Article. Applications for licenses will be issued on a first-come, first-serve basis subject to the procedures in this Article.

(b) By August 31st each year, the Town shall establish the total residential housing stock of the Town to determine the maximum number of available short-term rental licenses pursuant to Section 6-125(f) and (g) of this Code. The Town shall post the calculation no later than September 15th of each year on its website.

(c) Renewal applications may be submitted from October 1 to October 31st of each year prior to the expiration of license. Application for new licenses will not be accepted during this period. For the license year 2022 only current licensees may submit a renewal license if the licensee name is different in order to comply with the requirements of this Article.

(d) Upon receipt of a timely renewal application, the Town Clerk shall review the application and shall administratively approve renewal of the license, provided that in the year immediately preceding the date of renewal, the structure has not been the subject of enforcement pursuant to Sections 6-128 or 6-130, or has not been the subject of a nuisance violation conviction or plea of guilty or no contest. Otherwise, the renewal application shall be reviewed by the Board of Trustees at a public hearing upon notice being delivered via first class mail to the owners of all properties within two hundred (200) feet of the subject property, and posting of notice of the hearing at a conspicuous location on the subject property.

(e) In deciding whether to renew the license, the Board of Trustees shall consider the severity of the violation, the culpability of licensee, any measures taken to remedy the violation and to ensure it will not reoccur. Statements shall be taken by Town staff, the licensee, and the neighbors subject to the 200-foot notice.

(f) If a renewal application is denied, no application for a short-term rental license shall be accepted for such property for one (1) year.

(g) After the processing of and issuance or denial of all renewal applications, the Town shall post on its website no later than November 15th, the amount of available licenses. After such date, applications for new licenses will be accepted by the Town.

(h) Licenses will be effective no earlier than January 1st of each year.

Section 9. Section 6-130 of the Buena Vista Municipal Code is hereby repealed and reinstated to read as follows:

(a) It is unlawful for any licensee or occupant of a short-term rental to violate any provision of this Article or any other applicable provisions of this Code.

(b) It is unlawful for any person to operate a short-term rental without a license issued under this Article.

(c) In addition to the enforcement provisions pursuant to Section 6-129, violations of this Article shall be subject to the penalties set forth in Section 1-72 of this Code. 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. 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 10. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any part or parts be declared unconstitutional or invalid.

Section 11. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 28th day of September, 2021.

THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY (30) DAYS FROM PUBLICATION.

TOWN OF BUENA VISTA, COLORADO

By: Libby Fay
Libby Fay, Mayor Pro-Tem

ATTEST:

Paula Barnett
Paula Barnett, Town Clerk

