

**AN ORDINANCE OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
ESTABLISHING REGULATIONS FOR SHORT TERM RENTAL OF RESIDENTIAL PROPERTIES**

WHEREAS, the Board of County Commissioners has authority pursuant to C.R.S. 30-11-101, 30-28, 102, 30-28-115, and 30-28-116 to promulgate regulations governing zoning and land use and to promote the health, welfare and safety of the inhabitants of the county; and

WHEREAS, the Ouray County Land Use Code (LUC) contemplates a number of accommodation options in Ouray County, including bed and breakfast establishments, lodges, guest ranches, hotels, and resorts, none of which are uses by right in any zoning district in Ouray County; and

WHEREAS, increasing numbers of single-family dwellings and accessory dwellings in Ouray County are being used for short term rental to visitors as vacation accommodations; and

WHEREAS, the Colorado courts have considered the nature of short term rental of residential properties and generally have concluded that short term rentals are not commercial in nature for purposes of zoning or covenant restrictions; and

WHEREAS, the Board of County Commissioners finds and determines that it is inequitable for some accommodation facilities to be regulated as commercial businesses, and impose lodging, sales taxes and commercial property tax assessments on such properties while residential short term rentals are not similarly treated; and

WHEREAS, the Board of County Commissioners acknowledges that treatment of short term rentals as a commercial business is not consistent with Assessor guidance on classification for property tax purposes; and

WHEREAS, both the Town of Ridgway and the City of Ouray do charge owners of residential property being used for short term vacation rentals a lodging tax, and the Board finds that consistency throughout the County is useful to the residents and visitors of Ouray County;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO:

Section 1. Title.

This Ordinance shall be known and referred to as the "Ouray County Short-Term Rental Ordinance" and may be cited and referenced as such.

Section 2. Authority.

This Ordinance is authorized pursuant to, inter alia, Colorado Revised Statutes 30-11-101, 30-28-102, 30-28-115, and 30-28-116.

Section 3. Purpose.

The Board of County Commissioners of Ouray County, Colorado, finds and declares that short term rentals of residential property is an acceptable use of private property, so long as certain requirements for the public health, safety and welfare are met.

Section 4. Scope of Ordinance.

This Ordinance shall apply within the unincorporated territory of Ouray County, Colorado.

Section 5. Amendment and Repeal

Ordinance 2016-002 is repealed and the provisions of this Ordinance shall govern the permitting and operation of Short Term Rental of residential properties.

Section 6. Definitions.

Short term rental is defined as the rental of a single-family dwelling or accessory dwelling, or any portion thereof, for not more than thirty (30) days, where no meals are served or provided to those leasing or renting the dwelling space.

Section 7. Where Permitted and limit on number of Permits.

Short term rentals may be permitted as a special use in any zoning district permitting residential use

as a use by right and subject to the terms and conditions of this Ordinance. Short Term Rental Permits are limited to a maximum of one hundred (100) permits issued by the Land Use Department.

Section 8. Application Process and Requirements.

The first time that a property owner engages in Short Term Rental of a property, the owner shall apply for a Short Term Rental Permit from the Land Use Department. The following requirements shall be applicable to all Short Term Rental properties:

- A. Homeowners' Association Notification. In the event that a proposed Short Term Rental is part of a PUD, subdivision, or common interest community, and there is an active Homeowners' Association, the Applicant shall notify the HOA of the application to the County for a Short Term Rental Permit. Applicant shall submit a copy of the letter to the HOA, sent via certified mailing, within 60-days prior to the submittal date of the Short Term Rental Permit application, along with a copy of the certified mail receipt. Applicant shall also provide the name, address, phone, and email of a primary contact with the HOA. If there is no active/valid HOA, the Applicant shall submit a signed letter attesting to this fact that there is no HOA.
- B. Business License. Any person who owns or represents one or more Short Term Rental properties shall obtain a sales tax license or such other business license as may be required by the state of Colorado or Ouray County in order to collect and submit applicable sales and lodging taxes. If an individual or business entity acts as a designated representative of one or more Short Term Rental properties, only one license shall be required, unless otherwise provided by state statute or regulation. A copy of such license shall accompany any application for a Short Term Rental Permit.
- C. Local owner representative. The owner of a Short Term Rental shall either be present within a distance allowing response in one hour or less, generally within fifty (50) miles of the property being used for short term rental, or shall employ a manager or representative within fifty (50) miles of the property, who shall be on call to manage the Short Term Rental during any period within which the Short Term Rental is occupied. The name, phone number and address of the local owner or the local owner representative shall be provided to the County Assessor and the County Land Use Department, the applicable HOA, and shall be revised as needed to maintain current and accurate information with the County. A sign identifying the owner or representative's name and phone number shall be posted inside the dwelling permitted as a short term rental. It is the responsibility of the owner or the owner's representative to inform Short Term Rental occupants about all relevant County ordinances, and special use permit terms and conditions, including, but not limited to parking, trash and noise, and dog regulations. It is the responsibility of the owner to notify both the County Assessor and Land Use Department if there is a change in local owner representative within ten business days.
- D. Lodging and sales taxes. Short Term Rentals shall be subject to all taxpayer responsibilities for accommodations, particularly the responsibility to collect and to remit all applicable sales and lodging taxes. The property owner or local owner representative shall provide documentation of rentals and compliance with sales and lodging tax remittances upon annual renewal of the Short Term Rental permit.
- E. Property taxes. The County Assessor shall also assess such personal property taxes as are provided for by law and regulation.
- F. Permit duration. The initial Short Term Rental Permit shall be issued for a period of one year. Annual renewals shall be approved administratively by the Land Use staff unless staff finds that the Short Term Rental property has not been in compliance with the Short Term Rental Permit terms and conditions or the provisions of this section, that there is a history of complaints about the Short Term Rental property, or if for any other reason staff does not believe renewal of the Short Term Rental permit is warranted. In that event, staff may refer the application for renewal to the Board of County Commissioners for consideration.
- G. Permit processing. Applications for Short-Term Rental Permits and renewals shall be administratively reviewed and approved by the Land Use Department. Applicants shall submit a complete application with the required fee as set forth in the Land Use Fee Schedule. Land Use Staff shall review and approve, deny, or request additional information within fourteen (14) days from the date of the submitted application. All applications for Short-Term Rental Permit shall be

processed by Staff and a final determination sent to the Applicant within thirty (30) days from the date of application acceptance. An appeal may be made by an Applicant from a decision of the Staff to the Board of Adjustment, following the procedures contained in Section 12.5 of the Ouray County Land Use Code.

Section 9. Standards for Approval, Terms and Conditions of Approval.

- A. Applications for Short Term Rental Permits and renewals thereof, shall include the following information which shall be reviewed by Staff and used to make a determination of approval:
- (1) Evidence showing compatibility with the neighborhood, the community character, and surrounding land uses.
 - (2) Plan to address any potential impacts to the neighborhood, including but not necessarily limited to, offensive noise, parking, demonstration that vehicle traffic to and from the property will not create hazards or nuisance, and trash management and disposal. All parking for renters must be located off-street and not within any public right-of-way, including the right-of-way for county roads.
 - (3) Information demonstrating the suitability of the property for Short Term Rental, availability of parking, proximity of property to other residential properties, and overall safety of property, , and that the property has legal access, potable water, sanitary sewage disposal, and all other utilities necessary to serve the proposed use.
 - (4) Only one dwelling unit per parcel, that has received a valid Certificate of Occupancy from the County, may be used for Short Term Rental, meaning that either the primary dwelling may be used for Short Term Rental, or an accessory dwelling unit may be used for Short Term Rental, but not both. Notwithstanding anything in Section 2 of the Land Use Code to the contrary, an accessory dwelling unit may be used for Short Term Rental if such use is in compliance with the terms and conditions of this Ordinance, and is not otherwise prohibited by applicable covenants, restrictions or plat provisions.
 - (5) A site plan, which may be hand-drawn, modified from an aerial photograph, or other source of depiction of the property which includes, but is not limited to, lot lines, easements, road access, all proposed and existing driveways, parking areas and structures, all areas of significant vegetation and all ditches, ponds and waterways. Signature of owner(s) of all property, authorizing application and proof of ownership satisfactory to the County, and if land included in an application is leased to an Applicant, a current copy of the lease shall be provided.
 - (6) If an applicable homeowners' association (HOA) has covenant or regulations pertaining to short term rentals that are more stringent than those contained in this Ordinance, the property owner should consider that the more stringent standards are applicable, however, the County will not enforce HOA covenants or regulations.
 - (7) Violations of this Ordinance, or of any terms and conditions imposed in a permit, may be grounds for revocation, suspension, or non-renewal of the permit. Promptness in correcting a violation may be considered as a factor in determining whether a permit should be revoked, suspended or renewed.
 - (8) An application shall be signed by the property owner and verified by the owner as to the accuracy of the information submitted. Misrepresentations, falsifications, and omissions of significant information in the application submitted may be grounds for denial of an application.
 - (9) Short Term Rental Permits are not transferable to another property or owner, except pursuant to the provisions of Section 9.A(11) of this Ordinance.
 - (10) In the event that all Short Term Rental Permits allowed by this Ordinance are issued, the Land Use Department shall maintain a waiting list of no more than five (5) persons who have submitted a valid application. If a Short Term Rental Permit becomes available, Staff shall contact persons on the waiting list in order of the date the contingent application is made. Applicant shall have 14-days to apply for the available permit or Staff will contact the next person on the list.

- (11) If a residential dwelling permitted as a short term rental is sold, the buyer or seller shall notify the Land Use Department in writing within 14-days from the date of closing. Failure to notify the Land Use Department within this time period shall cause the short term rental permit to be immediately rescinded and available to the next qualified applicant.
 - (12) If a residential dwelling permitted as a short term rental is sold, and the buyer desires to continue operating the short term rental, the buyer shall have 60-days from the date of close to apply for the short term rental permit which shall be reserved and considered active and in-force until the disposition of the application. If the buyer does not apply within 60-days, or is not approved for reissuance of the short term rental permit, the permit shall become available to the next qualified applicant.
 - (13) The Land Use Department shall charge the appropriate fee as stated in the Land Use Fee Schedule and as approved by the Board of County Commissioners. Permit fees (*new and renewal*) shall be assessed on an annual basis. Permit applications made after January 31 shall be assessed a prorated fee based upon the months remaining for the current permit year x 1/12 of the annual permit fee.
- B. Terms and conditions to be included in all permits approved include, but are not limited to, the following:
- (1) All ads for Short Term Rentals in all media shall include the County license number or the Colorado sales tax license number as identification.
 - (2) A list of emergency services contact numbers, property manager contact numbers, and the physical address of the property, shall be prominently displayed inside the property.
 - (3) A disclaimer shall be provided by the owner to all short term renters advising that emergency services may not be readily available to the property.

Section 10. Intergovernmental Cooperation.

The Board directs the County Assessor and county staff to work cooperatively with staff for the Town of Ridgway and the City of Ouray in sharing information regarding short term rental properties, limited to non-confidential and non-proprietary information as permitted by law, and the development of an intergovernmental agreement among the respective jurisdictions for consideration and approval by the Board as may be appropriate. Staff is directed to take such other action as deemed appropriate to implement this Ordinance, including preparation of applications, permits, and other documentation and processes appropriate for implementation of this Ordinance.

Section 11. Violation.

It shall be unlawful for any person to violate any provision of this Ordinance. Violations may result in revocation, suspension or non-renewal of a short term rental permit as may be determined by the County Commissioners or the Land Use Department. Any revocation of a Short-Term Rental Permit shall be for the remainder of the current permitted year. After that time the property owner may re-apply for a new permit if such permits are available. (ie. *Application is not considered a renewal. If there are contingent applications submitted to Land Use, permits may not be available.*) Falsification of information, or intentional omission of required information, is grounds for immediate permit revocation and potential ineligibility of the Applicant to obtain another Short Term Rental Permit.

Section 12. Enforcement and Penalties.

The Board may seek an injunction or other equitable relief in court to enjoin any violation of this Ordinance and may recover the costs of such actions. The County may seek such criminal or civil penalties as are authorized by Colorado law, including as provided in C.R.S. 30-15-402. Each day of violation may be considered a separate violation. Each violation may result in a fine up to \$1,000.

The Ouray County Sheriff shall enforce any criminal penalties as may be authorized under Colorado law. Except as may otherwise be provided by Colorado law, all prosecutions for violations of this Ordinance shall be by the Seventh Judicial District, District Attorney.

The remedies available under Colorado law for violation of this Ordinance shall be cumulative and in addition to any other remedy which may be available to the Board or the County. Nothing contained herein shall be construed to preclude the Board from seeking such other remedies in addition to, or in

lieu of, the legal remedies granted herein.

Section 13. Severability.

If a Court of competent jurisdiction shall hold any part of this Ordinance void or unconstitutional, such part shall be deemed severable, and the invalidity thereof shall not affect the remaining provisions of the Ordinance.

Section 14. Disposition of Fines, Fees and Forfeitures.

Unless otherwise provided by law all fines and penalties, and the surcharges thereon, for the violation of this Ordinance shall be paid into the treasury of Ouray County.

Section 15. Effective Date.

This Ordinance shall be effective on January 5, 2019 and shall remain in effect until such time as this Ordinance is amended, temporarily suspended or repealed. All current and valid short term rental permits shall remain active in force until the effective date of this revised Ordinance.

Section 16. Interpretation.

This Ordinance shall be so interpreted and construed as to effectuate its general purpose. Section headings of the Ordinance shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.

Section 17. Certification.

The Ouray County Clerk and Recorder shall certify to the passage of this Ordinance and make not less than three copies of the adopted Ordinance available for inspection by the public during regular business hours.

INTRODUCED AND FIRST READING on November 6, 2018 and continued to second reading on November 20 and December 4, 2018 and on such date ordered published in the *OURAY COUNTY PLAINDEALER*. Published on November 8, 2018

**Board of County Commissioners
Ouray County, Colorado**



Don Batchelder, Chair



John E. Peters, Vice-Chair



Ben Tisdell, Commissioner Member

ADOPTED ON CONTINUED SECOND AND FINAL READING on December 4, 2018.

**Board of County Commissioners
Ouray County, Colorado**



Don Batchelder, Chair



John E. Peters, Vice-Chair



Ben Tisdell, Commissioner Member

CERTIFICATION BY OURAY COUNTY CLERK AND RECORDER:

I, MICHELLE NAUER, CLERK AND RECORDER OF OURAY COUNTY AND CLERK TO THE BOARD OF COUNTY COMMISSIONERS, DO HEREBY ATTEST AND CERTIFY THAT THIS ORDINANCE was INTRODUCED AND READ ON Nov. 6, 2018 AND READ AND ORDERED PUBLISHED AT SUCH REGULAR MEETING OF THE BOARD OF COUNTY COMMISSIONERS.

THE ORDINANCE WAS PUBLISHED IN FULL IN THE *OURAY COUNTY PLAINDEALER* ON Nov. 8, 2018 ALONG WITH A NOTICE OF PUBLIC HEARING.

ADOPTED AND APPROVED AT A PUBLIC HEARING OF THE BOARD OF COUNTY COMMISSIONERS ON December 4, 2018 AFTER THE SECOND AND FINAL READING OF THE ORDINANCE.

PUBLISHED AFTER ADOPTION IN THE *OURAY COUNTY PLAINDEALER* ON THE December 6, 2018.

Hollenbeck

Michelle Nauer, Clerk and County Recorder
By: Hannah Hollenbeck, Deputy Clerk of the Board

