

**TOWN OF MT. CRESTED BUTTE
ORDINANCE NO. 1
SERIES 2023**

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, AMENDING CHAPTER 11 LICENSES AND BUSINESS REGULATIONS, ARTICLE I. IN GENERAL, SECTION 11-1 DEFINITIONS, AND ARTICLE II. SHORT-TERM RENTAL REGULATIONS

WHEREAS, the Town of Mt. Crested Butte, Colorado is a home-rule municipality organized under Article XX of the Colorado Constitution; and

WHEREAS the Town is authorized to enact land use and licensing regulations; and

WHEREAS, the Town Council of the Town of Mt. Crested Butte, Colorado determined that the short-term rental of accommodation units has impacts upon adjacent properties, public services and the public health, safety, and welfare generally, and

WHEREAS, the Council determined that licensing and regulation of short-term rentals is necessary to address those impacts and adopted Ordinance No. 9, Series 2019 to regulate and license short-term rentals; and

WHEREAS, the Council has from time to time amended its regulations relating to short-term rentals as necessary to clarify certain provisions and to further address enforcement of violations or related to properties being advertised or short-term rented without a license; and

WHEREAS, staff recommends adding definitions to Chapter 11, Article I. and modifications to Chapter 11, Article II. to clarify and refine the short-term rental regulations.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, AS FOLLOWS:

Section 1. Chapter 11, Article I, Section 11-1 Definitions, is hereby amended by the addition of the following definitions:

Corporate Entity – A legal entity formed for any business purpose, including the purchase holding, management and sale of real property, and authorized to do business in the state of Colorado, including without limitation entities denominated as corporations, limited liability corporations, partnerships, and limited liability partnerships.

STR – Means any accommodation unit or portion thereof rented for a period of less than thirty (30) consecutive days. Rentals of entire dwelling units, individual rooms, or portions of rooms shall each be considered short-term rentals.

STR Licensee – An owner, corporate entity or lessee of the short-term rental.

Section 2. Chapter 11, Article II, Short Terms Rental Regulations, is hereby amended to read as follows:

Sec. 11-2 Applicability and purpose.

The purpose of this article is to establish comprehensive licensing provisions to safeguard the public health, safety and welfare, by regulating the use, occupancy, and maintenance of short-term rental properties. This article shall apply to short-term rental properties only, as defined herein. This article shall not supersede or affect any private conditions, covenants or restrictions applicable to a particular property. This article shall not apply to properties which are mandated by recorded covenants or zoning limitations or restrictions to short-term rental units within the property.

Sec. 11-3 Short-term rental license requirements.

(a) License required. All short-term rentals, with the exception of buildings mandated to be short term rented by covenant or law, shall be licensed under the terms and provisions of this article prior to renting a property or listing it as a short-term rental in any fashion, whether individually, or through a broker or other advertising site. A short-term rental license may be issued in all zoning districts. Short-term rental licenses are valid only for the property for which the license is issued and are not transferrable upon conveyance of the property.

A license application for which no license has been issued within sixty (60) days of the date the application is submitted to the town shall be deemed denied and no further action by the town shall be undertaken, unless an extension is granted by the Town upon the applicant showing good cause for an extension. Upon conveyance of a licensed property to a new owner, the new owner shall have sixty (60) days to receive a new license from the Town without being in violation of this chapter.

The Town shall maintain a document entitled "STR Guide" that is consistent with the terms of this article, and which is intended to assist owners in obtaining a short-term rental license, as well as written policies to address whether an extension may be warranted.

In order to obtain a license, an applicant must submit or obtain:

(1) Sales tax and occupational fee licenses. Prior to the issuance of a short-term rental license, the STR Licensee of the property shall provide to the town proof of current sales tax and occupational fee license.

(2) Proof of ownership. The STR Licensee shall provide evidence of ownership or right to possession of the proposed short-term rental property. In the case of an owner managed short-term rental, the owner shall submit a copy of the deed verifying ownership or a current property tax bill. In the case of a lease managed short-term rental, the applicant must provide verification from the owner that the property can be short-term rented. In the case of an applicant that is not a natural person, but where ownership is held in a corporate entity, the applicant must provide documentation sufficient to demonstrate to the satisfaction of the Town Clerk that the natural

person applicant is either a majority owner in the corporate entity or a majority beneficiary of the corporate entity and is authorized to make application on behalf of the corporate entity. Such documentation may include, articles of organization or other materials demonstrating the corporate authority of the natural person or persons signing the application.

(3) A STR license will not be issued for a property that has an open building permit until a certificate of occupancy (CO) (not temporary certificate of occupancy "TCO") has been issued or the permit has been closed by the Town. For a property with an existing license that has an open building permit, the STR license shall be temporarily suspended until a certificate of occupancy (not TCO) has been issued or the building permit has been closed.

(4) STR License Fee. A fee set by the Town Council by resolution shall be paid to the Town annually for a short-term rental license. The initial inspection and one follow-up inspection are included in the STR fee. Any further inspections necessary to obtain compliance with the Town Code, prior to issuance of a STR license shall be at an additional cost set by Town Council by resolution. Fees are non-refundable. If the STR licensee desires to have Town staff complete the online application renewal process, the Town will assess a fee for that service.

(5) Self-Compliance Affidavit. No license shall be issued without an affidavit, digitally signed by the owner under penalty of perjury.

(6) Parking Plan. The applicant shall provide to the town a site plan for the property showing the number of on-site parking spaces. If the property is managed by a homeowner's association (HOA) the HOA must approve the parking plan.

(7) Occupant Capacity Count. The occupancy of the STR shall be confirmed by the zoning administrator. Any increase in occupant capacity shall require a new inspection and be subject to the additional inspection fee.

(8) Local Representative. The applicant (licensee) must identify and provide contact information for a local representative qualified and capable of providing property maintenance repair who is located within a forty-five (45) minute drive of the property. The local representative shall be on call full time (24/7), shall have physical access to the STR, and shall be authorized to make maintenance and repair decisions regarding the STR on behalf of the licensee. The local representative is also responsible for responding to complaints within forty-five (45) minutes. The local representative may be a property management company. It is the owner's responsibility that the name and contact information for the local representative is provided to the Town throughout the term of the license any time the local representative changes. The STR licensee must submit a new local representative form within ten (10) days of a change in their local representative, or their license will be revoked.

(9) Good neighbor policy. Complete the good neighbor policy form.

(10) Initial inspection. Upon filing a complete application, the STR Applicant shall schedule an inspection of the property with the zoning administrator. The inspection shall include building code compliance related to life safety issues, as well as compliance with the approved parking

plan. No property shall be granted a short-term rental license until the zoning administrator determines the property to be in compliance with applicable provisions of the town of Mt. Crested Butte Town Code. A property that has been issued a certificate of occupancy for improvements permitted by the Town and to which modifications cannot be reasonably made as to life safety building code provisions, shall be deemed to be in compliance with Town Code, subject to written acknowledgement by the owner or lessee of the property accepting liability and agreeing to indemnify the town against any claim for any injury occurring on the property due to such issues. The Town may require modifications to any property seeking a license including, but not limited to the addition of fire extinguishers, ladders, handrails, or other life/safety equipment.

(b) Requirements following licensure.

(1) Periodic life-safety inspections. Because STR's are, by their nature, intended to be occupied by guests for short periods of occupancy, it is determined that the Town's ability to periodically inspect STR's is in the interest of public safety. Therefore, the zoning administrator may enter a STR at all reasonable times to inspect the STR. If the STR unit is occupied, the zoning administrator shall first present the proper credentials and request entry. If the STR unit is unoccupied, the zoning administrator shall first make a reasonable effort to locate the licensee, the local representative, or other person having charge or control of the STR and request entry. If such entry is refused, or if the STR is locked, the zoning administrator shall have recourse to every remedy provided by law to secure entry. When the zoning administrator has obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, licensee, occupant, or any other persons having charge, care, or control of the unit shall fail or refuse, after proper request is made herein provided, to promptly permit entry therein by the zoning administrator for the purpose of inspection of the STR. No inspection warrant or permission shall be required for the zoning administrator to enter and inspect a short-term rental in the case of an emergency involving the potential loss of property or human life.

(2) Posting of documents.

a. Each STR licensee shall post the STR license number, maximum occupancy, approved parking plan, and local representative information on any advertisement of the property.

b. Each STR licensee shall post in a conspicuous location inside the STR a copy of the STR license approved parking plan, local representative contact information, self-compliance affidavit, the good neighbor policy, and trash instructions.

c. Property owner agrees that the Town will post to the Town website the property address, STR licensee name, local representative name and phone number, maximum occupancy, and number of parking spaces allowed by the license.

Sec. 11-4 Duration and renewal.

(1) An STR license is valid for the duration or remainder of the calendar year. A license holder shall submit an application for license renewal not less than sixty (60) days prior to expiration of

the current license. The application shall include a new self-compliance affidavit that is signed by typing the applicant's name on the application form in the proper location.

Sec. 11-5 Taxes.

An STR licensee shall be responsible for the collection and submission all taxes in compliance with state, county, and local law, and remit the same to the proper taxing authority. Delinquent taxes constitute a lien on the real property and may be made effective by the Town certifying the amount of the charges and the period covered by the charges and giving a legal description of the premises to the county treasurer, to be collected and paid to the Town by the county treasurer. The Town may add to the amount due the late payment penalty, and costs incurred by the town in attempting to collect the amount due, including attorney's fees to the delinquent tax lien.

Sec. 11-6 Enforcement.

The property owner of any property licensed as a STR shall be liable for any violations of this article as well as applicable provisions of the Town of Mt. Crested Butte Town Code.

The failure to license a STR constitutes a violation of this article in addition to any other violations.

The Town may enforce the requirements of this article by any or all of the following means:

(a) The Town may issue a warning letter complying with section 11-7 to any person or entity renting a property as a STR without a license, or for any other violations of the Town Code, providing a date for cessation or compliance and providing an invoice detailing sums due to the Town for such violation, including attorney fees and costs incurred by the town in attempting to obtain compliance.

(b) The Town may suspend, revoke or refuse to renew an STR license.

(c) The town may prosecute a civil action pursuant to Town Code provisions applicable to the violation.

(d) Fines for violation of this article are:

(1) Up to one thousand dollars (\$1,000.00) per day the unit is advertised or rented without a license.

(2) Up to two hundred dollars (\$200.00), for an online listing missing STR number or failure to post required items in listing.

(3) A fine of not more than two thousand six hundred fifty dollars (\$2,650.00) per day for violation of any other provision of the article or Code, such fine amount to be determined by the municipal court judge, plus attorney fees and costs.

Each day any violation of any provision of the Code shall continue shall constitute a separate violation for which fines may be assessed.

If a license is revoked, the Town shall not accept an application for a new license for the same property for a period of twenty-four (24) months from the date a license is revoked, unless ownership of the property has transferred to a new owner with no legal or other affiliation to the ownership on the date of revocation.

Sec. 11-7 Notices.

Any notice required by this article is sufficient if mailed by first-class mail to the address provided by the owner of the property on the most recent license application.

Secs. 11-8—11-39 Reserved.

Section 3. Severability. Should any section, clause, phrase, or provision of this ordinance be ruled invalid or unenforceable by any court of competent jurisdiction, it is hereby declared the intent of the Town Council of the Town of Mt. Crested Butte, Colorado, that the remaining provisions of this ordinance be given full force and effect if it is possible to do so.

INTRODUCED, READ, APPROVED, AND ORDERED PUBLISHED on first reading at a regular meeting of the Town Council of the Town of Mt. Crested Butte, Colorado, this 17th day of January, 2023.

PASSED, ADOPTED, AND APPROVED ON SECOND READING at a regular meeting of the Town Council of the Town of Mt. Crested Butte, Colorado, held the 7th day of February, 2023.

TOWN OF MT. CRESTED BUTTE, COLORADO


By: Nicholas Kempin, Mayor

ATTEST:


Tiffany O'Connell, Town Clerk