

**TOWN OF BLUE RIVER, COLORADO
ORDINANCE NO. 2022-03**

**AN ORDINANCE AMENDING THE BLUE RIVER MUNICIPAL CODE AT ARTICLE
1 OF CHAPTER 6 PERTAINING TO THE
SHORT-TERM RENTAL LICENSING AND REGULATION PROGRAM**

WHEREAS, the Town of Blue River, Colorado (“Town”) is a statutory town, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-501, the Town possesses the authority to regulate the operation and licensing of businesses within its jurisdiction; and

WHEREAS, short-term rental of property is deemed by the Town as a business or commercial privilege (not a permitted use) that is granted by license with residential property only within the R-1 Zone District pursuant to Section 16-5-40 of the Blue River Municipal Code and shall remain a business or commercial privilege subject to license issuance within the R-1 Zone District; and

WHEREAS, the Town has registered businesses operating by license as “accommodations” (otherwise known within the industry as “short-term rentals”) and all licenses automatically expire annually on December 31 of each year; and

WHEREAS, many local governments are monitoring, managing, and enacting limitations on the total number of short-term rental licenses as a means of preserving opportunities for longer term residency, preventing a degradation of neighborhood character created by temporary and part-time occupancy, and to better reserve properties for longer term rental and other forms of housing that can add to the housing diversity of the community; and

WHEREAS, property owners who obtain a short-term rental license yet do not rent the licensed premises or do not rent the premises for a reasonable number of days during the licensed year can undermine the Town’s ability to monitor the actual impacts of short-term rentals and properly allocate resources to manage impacts of short-term rentals on the community; and

WHEREAS, property owners who obtain a short-term rental license yet do not rent the licensed premises or do not rent the premises for a reasonable number of days during the licensed year effectively deny other property owners of the same privilege in the event that licenses are limited or competition increases for licenses; and

WHEREAS, the Board of Trustees desires to amend the short term rental provisions of the Municipal Code to address the operation of such business to protect the health, safety, and welfare of properties and persons residing in the Town.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BLUE RIVER, COLORADO:

Section 1. Amendment of Section 6-1-20, Definitions. Section 6-1-20 of the Municipal Code is hereby amended by the addition of the following definitions to be inserted in alphabetical order with the current definitions of Section 6-1-20:

New license means a license issued or to be issued to an applicant in accordance with this Article for property for which a short-term rental license was not issued or renewed in the immediately prior year.

Short-term rental means the rent for any form of consideration of a dwelling, dwelling unit, accessory dwelling unit, or portion of any dwelling unit to a specific person or persons for periods of time less than thirty (30) consecutive days. Further, a short-term rental is an activity that shall remain a privilege for a property owner that is accessory, ancillary, and subordinate to the primary or principal residential use of such dwelling or dwelling unit. The phrase short-term rental does not include commercial hotels or motels.

Section 2. Amendment of Section 6-1-70. Section 6-1-70 of the Municipal Code is hereby amended with a new title to read:

Sec. 6-1-70. Application for new short-term rental license.

Section 3. Amendment of Subsection (a)(3) of Section 6-1-70. Subsection (a)(3) of Section 6-1-70 of the Municipal Code is hereby amended to read as follows:

- (3) A non-refundable application fee in an amount of **\$300**. The application fee may be increased annually in January of any year after 2021 by the Town Manager by not more than \$25.00 where the Manager determines that such increase is necessary to meet the administrative cost of processing short-term rental applications

Section 4. Amendment of Subsection (c) of Section 6-1-80. Subsection (c) of Section 6-1-80 of the Municipal Code is hereby amended to read as follows:

- (c) **License Term – New Licenses.** All new short-term rental licenses shall be issued for a term to commence on the date of issuance and to expire on December 31 of the year in which the license was issued. Applicants are strongly encouraged to apply for licenses earlier in the year or to wait until the end of a year to maximize the term of the license.

Section 5. Amendment of Title of Section 6-1-100. Section 6-1-100 of the Municipal Code is hereby amended with a new title to read:

Sec. 6-1-100. Renewal and Renewal Term

Section 6. Amendment of Subsection (c) of Section 6-1-100 titled *Renewal*. Subsection (c) of Section 6-1-100, titled *Renewal*, of the Municipal Code is hereby amended to read as follows:

- (c) The renewal application must be accompanied by the annual short-term rental license renewal fee. For applications for the renewal of an existing license for calendar year 2023, the annual renewal fee shall be \$300; thereafter, the Town Manager is authorized to administratively establish, following consultation with the Board of Trustees, an appropriate annual renewal fee to address the reasonable costs of the Town in processing applications and generally investigating and enforcing this Article which fee shall not be lower than \$300. The imposition of a renewal fee shall not prohibit or preempt the Town from seeking compensation or reimbursement of costs incurred in a specific enforcement action against a license holder.

Section 7. Amendment of Subsection (d) of Section 6-1-100, *Renewal*. Subsection (d) of Section 6-1-100, titled *Renewal*, of the Municipal Code is hereby amended to read as follows:

- (d) Upon receipt of a timely renewal application, the Town Manager will review the application and administratively approve the renewal of the license, provided that for the year immediately preceding the date of renewal the following conditions are found by the Manager to be fully satisfied:

- (1) **Threshold Determination.**

For any application for license renewal for calendar year 2024 (i.e., for renewal applications submitted for a license that is set to expire on December 31, 2023) and for renewal applications submitted for all subsequent years, no applicant shall be entitled to a renewal if the licensed premises was not rented for at least ten (10) days during the immediately prior year. A renewal application for a licensed premises that fails to demonstrate the required rental for the minimum number of rental days in

the immediately prior year shall be deemed ineligible for renewal and summarily rejected.

(2) Eligibility Determination.

- (i) the applicant for license renewal was the original applicant for the license to be renewed;
- (ii) the applicant continues to meet all requirements for issuance of a license provided by Section 6-1-50;
- (iii) the applicant or the property is not presently in violation of this Article, other provisions of the Municipal Code, or conditions imposed upon the license;
- (iv) the applicant has not been cited for, charged with, or determined to be in violation more than three (3) times during the prior calendar year of a provision of this Article, other provisions of the Municipal Code, or a condition imposed upon the license;
- (v) the previously issued short-term rental license is current and valid and has not been suspended during the prior calendar year; and
- (vi) the property has no outstanding local or state tax obligations.

If any one of the conditions of this subsection (2) are not satisfied, the Town Manager shall deny the renewal application.

The Town Manager is authorized to issue a conditional renewal requiring the license holder to promptly remedy or resolve one or more issues that otherwise would necessitate rejection or denial of the application or license renewal. The license holder's failure to timely satisfy a condition of license renewal shall, without any formal action other than notice to the license holder, result in the revocation of the license renewal as if the renewal was rejected upon initial application and never issued.

Section 8. Amendment of Subsection (e) of Section 6-1-100, *Renewal*. Subsection (e) of Section 6-1-100 of the Municipal Code is hereby amended to read as follows:

- (e) Applicants whose application for renewal is rejected pursuant to subsection (d)(1) or denied pursuant to subsection (d)(2) of this Section may appeal the Town Manager's decision in accordance with Section 6-1-140.

Section 9. Amendment of Subsection (f) of Section 6-1-100, Renewal. Subsection (f) of Section 6-1-100 of the Municipal Code is hereby amended to read in full as follows:

- (f) The owner of property for which a renewal application was summarily rejected in accordance with (d)(1) above shall be ineligible to apply for a new license for a period of one (1) year from the date of rejection of the renewal application.

Section 10. Addition of new Subsection (h) of Section 6-1-100, Renewal. A new Subsection (g) of Section 6-1-100 of the Municipal Code is hereby amended by the addition of a new subsection (g) to read in full as follows:

- (g) Unless the applicant appeals the Town Manager's decision to reject or deny the applicant's renewal application, the applicant may request a refund of the renewal application fee less \$50 to cover the cost of processing of the renewal application, verification of rental days, and the final determination of the renewal application.

Section 11. Addition of new Subsection (i) of Section 6-1-100, Renewal. Section 6-1-100 of the Municipal Code is hereby amended by the addition of a new subsection (h) to read in full as follows:

- (h) An application for renewal of an existing short-term rental license that is submitted prior to December 31 shall, if approved, be effective on January 1 following the date of submission of the application and shall expire on December 31 of the same year. Late applications for renewal submitted and accepted for processing by the Town after January 1 shall be effective on the date of approval and shall expire on December 31 of the same year.

Section 12. Amendment of Section 6-1-140, Appeal of Town Manager Decision. Section 6-1-140, titled *Appeal of Town Manager Decision*, of the Municipal Code is hereby amended to read in full as follows:

Sec. 6-1-140. Appeal of Town Manager Decision.

- (a) The license holder or applicant may appeal the Town Manager's decision regarding a license denial, a license renewal, revocation, suspension, or penalty assessment by submitting a written notice of appeal with the Town Manager within twenty (20) calendar days of the date of the notice. An appeal shall stay (hold in abeyance) the decision regarding a renewal (i.e., to reject, deny, or condition a renewal), or a decision to revoke, to suspend, or to impose a penalty assessment until a final written decision is issued by the Board of Trustees on the appeal. The notice of appeal shall state in writing why the license issuance decision, renewal decision, revocation, suspension, or assessment is not warranted, justified, or based on

accurate information which may include a statement of why the license holder or applicant met all conditions for issuance or renewal or the grounds to contest the violation itself and provide information that addresses how the license holder or applicant has taken measures to remedy the violation.

- (b) Upon receipt of the written notice of appeal, the matter shall be set for a quasi-judicial hearing before the Board of Trustees or, at the Board's discretion, before an appointed independent hearing officer selected by the Town Attorney. Notice of the hearing shall be provided to the license holder or applicant by communication addressed to the license holder's or applicant's mailing or electronic mail address provided to the Town. Notice shall also be sent to any known address for property owners of record within 200 feet of the licensed short-term rental.
- (c) At the hearing, the license holder or applicant, the Town, and other interested persons may present evidence and testimony relevant to the Town Manager's decision. In determining whether to uphold the Manager's decision or to modify the decision, the Board of Trustees or hearing officer shall determine whether the Manager's decision was unreasonable, arbitrary or capricious, or not based on sufficient evidence. The Board or hearing officer may consider in rendering a decision the severity of the violation(s), the culpability of license holder or applicant, and any measures taken to remedy the violation to ensure it will not reoccur. For new licenses or renewals, the Board or hearing officer may instruct the license to be issued or renewed, or other condition modified or eliminated subject to reasonable conditions which will ensure ongoing conformance of the short-term rental with the requirements of this Article and other provisions of the Municipal Code.
- (d) The Board of Trustees or hearing officer's decision shall be made in writing which written decision shall be final for purpose of any further appeal pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. No stay shall be afforded to any license holder upon a denial of renewal, revocation, suspension, or penalty assessment during any further appeal of the Board of Trustee's decision.

Section 13. **Severability.** Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 14. **Repeal.** Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

Section 15. Minor Revision or Correction Authorized. The Town Manager, in consultation with the Town Attorney, is authorized to make minor revisions or corrections to the codified version of the provisions of this Ordinance provided that such revisions or corrections are grammatical, typographical, or non-substantive and do not alter or change the meaning and intent of this Ordinance.

Section 16. Effective Date. The provisions of this Ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED at a regular meeting of the Board of Trustees of the Town of Blue River, Colorado, held on the 16th day of August, 2022.

AMENDED, PASSED, ADOPTED AND ORDERED PUBLISHED at a regular meeting of the Board of Trustees of the Town of Blue River, Colorado, held on the _____ day of _____, 2022.

Mayor

ATTEST:

APPROVED AS TO FORM:

Town Clerk

Town Attorney

Published in the Summit County Journal _____, 2022.