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**CHAFFEE COUNTY**

**ORDINANCE NO. 2021—002**

**TITLE: AN ORDINANCE ADOPTING REGULATIONS CONCERNING THE APPLICATION AND THE LICENSING, PERMITTING, OR OPERATION OF SHORT-TERM RENTALS IN UNINCORPORATED PORTIONS OF CHAFFEE COUNTY.**

Recitals

A. The Chaffee County Board of County Commissioners ("Board") has authority to exercise all County powers for the unincorporated areas of Chaffee County pursuant to C.R.S. § 30-11-103.

B. Pursuant to C.R.S. § 30-15-401, the Board has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the present and future residents of Chaffee County.

C. Additionally, C.R.S. § 30-15-401(s)(I) gives the Board the specific power "to license and regulate an owner or owner's agent who rents or advertises the owner's lodging unit for a short-term stay, and to fix the fees, terms, and manner for issuing and revoking licenses issued therefore."

D. The Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101 et seq., provides the County with the broad authority to plan for and regulate the use of land to best protect and promote the health, safety, and general welfare of the present and future inhabitants of Chaffee County and to guide future growth, development, and distribution of land uses within Chaffee County.

E. The following provisions also give the County authority to plan for and regulate the use of land, including the authority to impose temporary moratoriums on development activities:

a. C.R.S. § 30-11-107 concerning powers of the Boards of County Commissioners;

b. C.R.S. § 30-28-101, et seq. concerning the regulation of the use of structures in various zone districts throughout Chaffee County; and

c. C.R.S. § 30-28-115 concerning the promotion of the health, safety, convenience, order and/or welfare of the citizenry through the use of land use regulations.

F. Issues have arisen related to enforcement of the Chaffee County Land Use Code pertaining to short-term rental licensing and use within unincorporated Chaffee County. As an example, County staff is unable to easily contact short-term rental owners concerning Land Use or Building Code violations or public health and safety issues and during the recent COVID-19 pandemic, the Board of Health suspended renting for all motels, hotels and short-term rental units, which were later reopened in a limited fashion if they followed safety protocols. Many of the short-term rental units had non-resident county owners, for whom the County did not have a current email or telephone number to relay the closures and instead had to relay information via US first class mail. If other emergencies were to arise, such as fires or floods, the County would not be able to notify the owners or renters of short-term rental units of life threatening emergencies. The

inability of the County and the Board of Health to close the short-term rental units during any emergencies creates a public health, safety, and welfare issue.

G. Without the appropriate regulations within the areas of unincorporated Chaffee County, short-term rentals will have and continue to have adverse impacts on neighboring residences and the community at large. Such impacts include, but are not limited to real estate price pressure for present and future local area wage earners, a scarcity of housing options within the unincorporated areas of Chaffee County, a reduction in the number of housing units available to present and future local area wage earners, and diminished neighborhoods and community character and desirability, all of which may damage the public health, safety, and welfare. The regulation of short-term rentals within the unincorporated areas of Chaffee County will further the public health, safety, and welfare by ensuring that such accommodations are operated in a manner consistent with the character of Chaffee County, neighboring residential uses, and adopted codes and regulations, and will lessen the negative impacts that short-term rentals have on the community and surrounding areas.

H. The County does not have adequate current regulations with respect to potential numbers of short-term rentals and requirements for administration of licenses for short-term rentals within unincorporated Chaffee County.

***BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CHAFFEE COUNTY COLORADO:***

Section 1. The foregoing recitals are incorporated herein and made a part of this ordinance.

Section 2. This ordinance applies to short-term rental units only, as that term is hereinafter defined, as a "Vacation Rental by Owner" (VRBO) in Article 15 of the Land Use Code (LUC) and Article 7 § 7.7.34 of the LUC, which requires licensing and certain standards to apply to VRBOs. Short-term rental and VRBO shall be used interchangeably and interpreted to be consistent with the definition of VRBO in Article 15 of the LUC. This ordinance does not apply to hotels, motels, lodges, hostels, bed-and-breakfast establishments, or long-term rental units. This Ordinance does not supersede any private covenants or restrictions prohibiting short-term rental units. This Ordinance shall not regulate a short-term rental unit during periods when the property is not being used as a short-term rental unit and is instead being used solely for personal use by the owner of such property. For the sake of this Ordinance a long-term rental unit is defined as the leasing of properties for more than thirty (30) consecutive calendar days to a single renter or lessee.

Section 3. Definitions.

*Annual Cap* means six (6) percent of the total number of residential housing units within unincorporated Chaffee County as determined by the County using information from the Chaffee County Assessor as determined by August 1st each year.

*Chaffee County Resident Owner* means a natural person and a full-time resident who owns a property within the unincorporated portions of Chaffee County who intends to lease or leases the property or a portion thereof as a short-term rental unit and is a full-time resident of either the incorporated or unincorporated portions of Chaffee County and whose name appears on the deed of the property. For the purpose of determining full-time residency the property owner must show legal proof of primary residence, such requirements will be established by staff but should include documentation of a current tax return showing residency within Chaffee County and two of the following items: a current and valid

voter registration card, current and valid vehicle registration, or a current and valid Colorado identification card, reflecting a physical address located within Chaffee County.

*Chaffee County Resident Owner Entity* means an owner of a property that is either an entity registered with the Colorado Secretary of State, (such as an LLC, LLP corporation or similar) or a trust, within the unincorporated portions of Chaffee County who intends to lease or leases the property or a portion thereof as a short-term rental unit and is one hundred (100) percent owned by a Chaffee County Resident Owner or for the purposes of a trust the beneficiary of the trust is a natural person that is a Chaffee County Resident Owner and shall show proof of full-time residency as required for a Chaffee County Resident Owner. Chaffee County Resident Owner Entity's name must appear on the deed of the property seeking a short-term rental license.

*Local agent* means a management company or a full-time resident who is identified by an applicant as the responsible agent in the application for a short-term rental license and who is physically based in Chaffee County and who is available twenty-four (24) hours per day, seven (7) days per week to respond as the initial point of contact for the short-term rental unit and who is able to respond to emergencies at the short-term rental unit within one (1) hour of the agent's receipt of notice of the emergency. The local agent may be the owner of the short term short-term rental unit or a property manager and must have access to the short-term rental unit, authority to assume management of the short-term rental unit, and the ability to take remedial measures as necessary.

*Owner* means the owner of a property within the unincorporated portions of Chaffee County who intends to lease or leases the property or a portion thereof as a short-term rental unit.

*Renter* means the party to a written lease or rental agreement that has obtained the temporary right to use and occupy a short-term rental unit or a portion thereof for a term of thirty (30) days or less.

*Short-term rental unit* has the same meaning as set forth in Article 15 of the Chaffee County Land Use Code and may be used interchangeably with VRBO.

Section 4. Licenses Required.

It is unlawful for an Owner to lease, advertise for lease, or permit the leasing of any short-term rental unit within the County without a valid license issued by the County pursuant to this ordinance and LUC. During the term of the license, applicant shall include the specific permit number for the short-term rental on any and all advertisement listings.

Section 5. Application Requirements.

A. Contents of Application. A complete application for a short-term rental license must be submitted to the County. The application shall be in writing on forms provided and approved by the County or submitted through any on-line application process approved by the County. In addition to any requirements in the LUC the following documents and information must be included with the application for the application to be considered complete:

1. The name, address, and contact information of the local agent for the proposed short - term rental unit;

2. Any requirements of the LUC, including but not limited to:

   a. Sales and lodging tax license information if rented outside of any online platform;

b. A site plan showing the location of the buildings on the property;

c. A scaled floor plan noting the location of necessary egress windows, fire extinguishers, smoke alarms, and carbon monoxide detectors;

d. Adequate wastewater treatment system that is adequately sized for the number of renters for the short-term rental unit as stated in the application;

e. Fire safety inspection if required by the fire protection district; and

d. HOA approval, if applicable; and

3. If necessary for a Chaffee County Resident Owner or Chaffee County Resident Owner Entity, proof of full-time primary residence within Chaffee County.

B. License Fee. All fees as set forth by the Board by resolution as may be amended from time to time.

Section 6. Application Approval.

Short-term rental license applications shall be administratively reviewed and approved by the County's designee(s), following the process outlined in this ordinance and the LUC. The County's designee(s) shall not approve an application for a short-term rental license or issue a short-term rental license unless:

1. Applicant has submitted a complete application, including payment of all applicable fees;

2. Applicant has provided proof of a current filing of a Personal Property Declaration with the Chaffee County Assessor's Office detailing all personal property in the short-term rental unit;

3. Applicant has provided proof the short-term rental unit is currently up to date on all assessed property taxes;

4. The proposed short-term rental unit does not exceed the maximum number of licenses available per year, as stated and enumerated herein; and

5. The proposed short-term rental unit is in compliance with all applicable County codes and ordinances.

Section 7. Term of License.

A. Term. All short-term rental licenses shall be effective from February 1st through January 31st each year regardless of issuance date. Applicants shall be responsible for paying the entire fee, regardless of when applicant applies or is issued a short-term rental license. County staff shall process all timely received applications by January 30th afterwards staff will process any applications received up to the annual cap as set forth herein.

B. Renewal. All short-term rental licenses must be renewed annually. All renewal applications must be submitted online prior to January 10th on forms provided and approved by the County or submitted through any on-line application process approved by the County, and will be reviewed and processed in the order received based on date and time stamp of submission. All short-term rental licenses and renewals shall be subject to the annual cap as set forth herein. All renewal applications meeting the requirements herein and as set forth in the LUC, and submitted by the deadline and with the applicant in good standing will be approved up to the maximum annual cap as set forth herein. Any license renewal or new license applications received after the deadline

set forth herein may be considered on a first-come, first-served based on the short-term rental license annual cap basis. Notwithstanding the foregoing, if the short-term rental license annual cap is met for a given year, only Chaffee County Resident Owners or Chaffee County Resident Owner Entities will be placed on a waiting list on a first-come, first- served basis in the order of the receipt of a complete application , which will be rolled over to the subsequent year. Those Chaffee County Resident Owners and Chaffee County Resident Owner Entities will be given priority to apply for a short-term rental license for the following license year if the following year's annual cap is not met. (As an example, if Jane Doe, a Chaffee County Resident Owner, applies for a short-term rental license in 2021 and the cap in 2021 is ten and all ten license have already been issued, Jane Doe will be placed on the waiting list. If in 2022 only nine of the ten prior short-term rental licenses are renewed, Jane Doe will be allowed to apply for the one available license.)

Section 8. Limitations and Requirements.

A. Local Agent. The Local Agent for a short-term rental unit shall have access to, and authority to assume management of, the short-term rental unit and take remedial measures as necessary. The Local Agent shall be available to respond to complaints or violations of any applicable law, code or regulation regarding the property twenty-four (24) hours a day, seven (7) days a week. Local Agents must respond to complaints, regardless of the source of the complaint, involving the short-term rental unit within twenty-four (24) hours and shall respond to emergencies at the short-term rental unit within one (1) hour of the agent's receipt of notice of the emergency.

B. Maximum Number of Licenses Per Year. There shall be a maximum number of short-term rental licenses available per year (February 1st through January 31st), which shall equal six percent (6%) of the total number of residential housing units within unincorporated Chaffee County, also referred to herein as "annual cap." The total number of residential housing units shall be determined by the County using information from the Chaffee County Assessor as determined by August 1st each year. Notwithstanding the foregoing, the maximum number of short-term rental licenses available shall not exceed either six percent (6%) of the total number of residential housing units within unincorporated Chaffee County or three hundred and ten (310) total licenses per year, whichever is fewer.

C. Non-Transferability. No short-term license granted pursuant this ordinance or LUC shall be transferable to a different applicant, natural person, owner, entity, or property.

Section 9. Denial of Application.

The County or its Designee shall deny a short-term rental license application or renewal application for any one or more of the following reasons:

A. The applicable provisions of this Ordinance, the Land Use Code, or Building Code have not been met;

B. The required application fees have not been paid;

C. The short-term rental unit has failed to file and pay for the current year for Personal Property Declaration;

D. The short-term rental unit has any delinquent property tax assessment liability;

E. The application is incomplete or contains false, misleading, or fraudulent statements;

F. The owner, local agent, or other agent of the owner, the property or short-term rental unit is currently in violation or has failed to comply with this ordinance, the Land Use Code, or Building Code;

G. The applicant is not the legal owner of the property; and

H. If the application exceeds the short-term rental license annual cap.

Upon determining that an application must be denied, the County's Designee shall send a notice of denial to the address provided by the applicant. Such notice of denial shall state the reasons for denial and inform the owner of his or her right to appeal the decision.

Section 10. Appeal. An owner may appeal a denial of his or her application to the Board of County Commissioners and shall be entitled to a public hearing before the Board. An appeal must be made in writing, stating the grounds for appeal, and delivered to the County within five (5) business days of the date of the notice of denial. All notices shall be deemed to have been duly given if hand delivered to the party that said notice was directed to or mailed by certified or registered mail with postage prepaid, on the third (3rd) business day after the date on which it is so mailed.

Section 11. Violation, Penalty and Enforcement.

A. It is unlawful for any person to violate any provision of this ordinance.

B. This ordinance may be enforced by a law enforcement officer or any other person designated by the Board as enforcement officers under this ordinance.

C. Pursuant to C.R.S. §§ 30-11-101 and 30-15-402, any arresting law enforcement officer enforcing this ordinance is authorized to utilize the penalty assessment procedure provided in C.R.S. § 16-2-201.

D. Pursuant to C.R.S. §§ 30-11-101 and 30-15-402, any person or entity that violates this ordinance shall be guilty of a Class 2 petty offense. For each separate violation, the fine for the first offense and for any subsequent offense shall be a minimum of fifty dollars ($50.00) and a maximum of no more than one thousand dollars ($1,000.00) .

E. In addition to the aforementioned fines and penalties prescribed in this ordinance, any person convicted of a violation of this ordinance shall be subject to the statutory surcharges of ten dollars ($10.00) for the Victim and Witnesses Assistance and Law Enforcement Fund. This surcharge shall be paid to the clerk of court by each person convicted of violating this ordinance. The clerk shall transmit the moneys to the respective funds in accordance with C.R.S. § 301-15-402(2).

F. This ordinance shall in no way limit application and enforcement of any statutes of the State of Colorado, but shall be in addition thereto.

G. This ordinance shall in no way limit application and enforcement of any ordinance, code or rules of Chaffee County, but shall be in addition thereto.

H. This ordinance shall be liberally construed so as to further its purpose.

I. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The Board hereby declares this ordinance to be severable and further declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

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J. The provisions of this ordinance are intended to promote and preserve the health, safety and welfare of the general public and shall be effective upon adoption. They are not intended to be, nor shall be, construed to create any basis for liability on the part of the County, its officers, elected officials, employees or agents for any injury or damage that an individual, class or group may claim arises from any action or inaction on the part of the County. Likewise, they are not intended to, nor shall be construed to, impose upon the County any duty that can become the basis of a legal action for injury or damage.

H. On a quarterly basis the Board of County Commissioner will endeavor to review metrics and circumstances related to this Ordinance and short-term rentals.

ADOPTED AND APPROVED by the Chaffee County Board of County Commissioners on September 7, 2021.

BOARD OF COUNTY COMMISSIONERS

Chairman

The vote on the above Ordinance was as follows:

| | |
|---|---|
| Commissioner Greg Felt | Yes |
| Commissioner Keith Baker | Yes |
| Commissioner Rusty Granzella | Yes |

STATE OF COLORADO, CHAFFEE COUNTY

ATTEST:

The above is a true and correct record of Ordinance 2021-02 duly adopted by the Chaffee County Board of County Commissioners by a 3-0 vote at a regular meeting, properly noticed and held on September 7, 2021, at least ten days following introduction and reading of the proposed ordinance on August 3, 2021, and publication of the proposed ordinance in The Mountain Mail on August 6, 2021 and in the Chaffee County Times on August 11, 2021.

Lori Mitchell by Kaitlin Kuster Chief Deputy Clerk and Recorder
Chaffee County Clerk

CHAFFEE COUNTY CLERK SEAL COLORADO

Notice of the Adopted Ordinance Published in *The Mountain Mail* on October 1, 2021 and the *Chaffee County Times* on October 7, 2021.