

CHAPTER 5.08. SHORT-TERM RENTALS

5.08.010. Purpose.

The purpose of this chapter is to safeguard the public health, safety and welfare by establishing regulations to control the licensing, use, occupancy, and maintenance of short-term rental dwellings in the town.

(Ord. No. 12-2021, § 1(5.10.010), 12-9-2021)

5.08.020. Applicability and interpretation.

This chapter applies to short-term rental only, as that term is hereinafter defined, within any zone district where such use is permitted. This chapter does not apply to hotels, motels, lodges, bed-and-breakfast establishments, or long-term rental units. This chapter does not supersede any private covenants or restrictions prohibiting short-term rental units. This chapter 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. This chapter shall not be construed to prohibit the leasing of property within the town for more than 30 days.

(Ord. No. 12-2021, § 1(5.10.020), 12-9-2021)

5.08.030. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Local agent means a management company or individual who is identified by an applicant as the responsible agent in the application for a short-term rental license and who is available 24 hours per day, seven 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 hour of the agent's receipt of notice of the emergency. The local agent may be the owner of the short-term rental unit 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 town who intends to lease or leases the property or a portion thereof as a short-term rental unit.

Owner-occupied means a property on which an owner uses a dwelling unit of any kind, or portion thereof, as the owner's legal, primary residence.

Parcel means an area of land which is capable of being described with such specificity that its location and boundaries may be established and which has been or may be developed as a single unit of land.

Renter means the party to a lease that has obtained the temporary right to use and occupy a short-term rental unit.

Short-term rental means charging overnight lodging fee that is in increments less than 30 days.

(Ord. No. 12-2021, § 1(5.10.030), 12-9-2021)

5.08.040. License required.

It is unlawful to lease, advertise for lease, or permit the leasing of any short-term rental unit within the town without a valid license issued by the town pursuant to this chapter. A person who has obtained a license pursuant to this chapter is not required to obtain a general business license pursuant to chapter 5.04 for the same business activity.

(Ord. No. 12-2021, § 1(5.10.040), 12-9-2021)

5.08.050. Classes of licenses.

An owner must obtain a license for each short-term rental unit within the town. There shall be two separate classes of licenses available for owners to operate short-term rental units within the town:

- (1) *Class 1.* A Class 1 license is required to operate any dwelling unit, or portion thereof, as a short-term rental unit on an owner-occupied property within the town.
- (2) *Class 2.* A Class 2 license is required to operate any dwelling unit, or portion thereof, as a short-term rental unit on a property within the town that is not owner-occupied.

(Ord. No. 12-2021, § 1(5.10.050), 12-9-2021)

5.08.060. Application requirements.

(a) *Contents of application.* A complete application for a short-term rental license must be submitted to the town. The application shall be in writing on forms provided and approved by the town. The following documents and information must be included with the application for the application to be considered complete:

- (1) The name, address and other contact information of the owner of the short-term rental unit;
- (2) The address of the proposed short-term rental unit;
- (3) A description of the property and dwelling unit or portion thereof that will be available for lease;
- (4) The name, address, and contact information of the local agent for the proposed short-term rental unit;
- (5) A site plan that identifies the location of the trash receptacles and available parking for the proposed short-term rental unit;
- (6) An acknowledgement, signed by the owner and local agent, that the owner and local agent have read and understand all regulations pertaining to the operation of short-term rental units within the town and that, following issuance of a license, the town may contact the owner if the town deems it necessary or appropriate even if there is a separate local agent for the short-term rental unit;
- (7) Proof of ownership of the proposed short-term rental of a lawful dwelling unit;
- (8) For owners that are business entities, proof of authorization signed by all applicable members of the business entity showing the applicant may submit a short-term rental license application on behalf of the business entity;
- (9) A copy of a current and valid state sales tax license issued to the owner or local agent for the proposed short-term rental unit;
- (10) A copy of a current and valid state and county sales tax and, if applicable, lodging tax license issued to the owner or local agent for the proposed short-term rental unit;

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- (11) Proof that all property tax payments for the property on which the proposed short-term rental unit is located are current;
 - (12) An affidavit, on forms provided and approved by the town, signed by the owner attesting that the short-term rental unit has appropriate safety features;
 - (13) Proof of insurance covering the proposed short-term rental unit sufficient to operate a short-term rental unit;
 - (14) A copy of a conditional use permit issued by the town, if required by zoning use;
 - (15) The applicable fees as set forth in the town's fee schedule; and
 - (16) Such other information determined necessary or desirable by the town to evaluate the compliance of the application, licensed premises or proposed short-term rental activity with the requirements of this Code, including, but not limited to, proof of primary residence acceptable to the town for Class 1 license applications.
- (b) *License fee.* All fees and fines set forth in this chapter shall be set by the town board by resolution and shall be included in the town's fee schedule.
 - (c) *Parking.* Each site plan must show the parking available for the short-term rental unit, which may be on-street parking, off-street parking, or a combination of both, for the purpose of indicating to renters where parking is available during their stay. The requirement to include available parking in the site plan does not obligate the owner to provide off-street parking for renters.
 - (d) *Application meeting.* The town may require a meeting with the applicant prior to approval or denial of the license to address any issues or questions regarding the application and assist the applicant in resolving any application deficiencies.

(Ord. No. 12-2021, § 1(5.10.060), 12-9-2021)

5.08.070. Application approval.

- (a) *Approval criteria.* Short-term rental license applications shall be reviewed and approved administratively by the town designee. The town designee is the town staff person designated by the town board and/or administrator to review applications and administer short-term rental licenses.
- (b) *Limitations.* The town designee shall not approve an application for a short-term rental license or issue a short-term rental license unless:
 - (1) The applicant has submitted a complete application, including the payment of all applicable fees, as set forth in the town fee schedule;
 - (2) The proposed short-term rental unit is within a zone district that allows short-term rental units;
 - (3) The site plan and other information provided with the application show that the property is in compliance with all applicable town ordinances and all applicable regulations regarding safety, parking and trash collection; and
 - (4) The applicant has obtained a conditional use permit, if and as required by zoning code.

(Ord. No. 12-2021, § 1(5.10.070), 12-9-2021)

5.08.080. Term of license, renewal, and show cause hearings.

- (a) *Term.* Short-term rental licenses are effective from May 1 until April 30 each year. Applicants who apply for and obtain a short-term rental license any time on or after May 1 shall be responsible for paying the entire license fee. Any license issued after May 1 shall expire on ~~the~~ April 30 following the date of issuance regardless of the issuance date.
- (b) *Renewal.* All short-term rental licenses must be renewed annually. All renewal applications must be submitted prior to April 30 each year on forms provided and approved by the town. For short-term rental licenses subject to the annual cap set forth in section 5.08.090(k), all renewal applications meeting the requirements herein and submitted by the deadline set forth in this subsection, with applicants who are in good standing, will be approved. Notwithstanding the foregoing, any license renewal applications received after the deadline set forth in this subsection will be considered on a first-come, first-served basis. The town shall approve a renewal application if:
- (1) The renewal form is complete and does not omit any required information;
 - (2) The renewal fee has been paid;
 - (3) The owner or local agent has submitted a new, current safety affidavit;
 - (4) Neither the owner, the local agent, nor the short-term rental unit is currently in violation of any applicable law, rule, or regulation, including the provisions of this Code;
 - (5) The owner has not been cited by the town for, or convicted by municipal court or other court of, competent jurisdiction of more than one violation related to the owner's short-term rental unit in the last 12 months; and
 - (6) For any licenses subject to the annual license cap set forth in this chapter, the short-term rental unit was rented for at least 14 days during the previous license term. If the short-term rental unit was not rented for at least 14 days during the previous term, the renewal application shall not be approved. Notwithstanding the foregoing, an owner or local agent may complete an affidavit of non-use declaring the reasons for failing to rent the short-term rental unit as required in this subsection. If a renewal application including such affidavit meets all other requirements of this Code, then the town will approve the renewal application. Affidavits of non-use will not be allowed for subsequent renewal applications.
- (c) *Show cause hearings.*
- (1) At any time during the term of a license, if the town's records show that a licensee has had at least three complaints, with each complaint related to a separate incident, concerning the operation or maintenance of the short-term rental unit brought to the attention of the town during the current license term, which complaints would each constitute a violation of this Code and have been substantiated or verified by the town, the town may notify the licensee in writing of the date and time established for a show cause hearing before the town board. At the show cause hearing, the licensee shall be required to show cause why its license should not be suspended or revoked. Notice of such hearing shall contain a brief description of the grounds for conducting the hearing, which shall include the list of code violations charged. The hearing shall be held no sooner than ten business days after notice has been delivered to the licensee.
 - (2) At the hearing, the town shall present matters into evidence, and the licensee shall have an opportunity to present evidence on the licensee's behalf and to comment upon the evidence. The town shall furnish the licensee its decision in writing within 30 days following the hearing. In the event of suspension or revocation of the license, no portion of any licensing fees paid shall be refunded.

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- (3) In all cases where the evidence presented at a show cause hearing demonstrates that a violation of this Code occurred, the town shall consider evidence and statements in mitigation and in aggravation of the violation prior to determining the appropriate penalty. Such evidence and statements may relate to and include, but shall not be limited to, the following factors:
- a. Seriousness of the violation;
 - b. Corrective action taken by the licensee after the violation;
 - c. Prior violations at the short-term rental unit by the owner, local agent or renters and the effectiveness of prior corrective action;
 - d. Whether the violation is part of a repeated course of conduct or is an isolated occurrence;
 - e. Likelihood of recurrence;
 - f. All circumstances surrounding the violation;
 - g. Willfulness of the violation;
 - h. Length of time the license has been held by the licensee;
 - i. Previous sanctions imposed against the licensee; and
 - j. Other factors making the situation with respect to the licensee or the licensed premises unique.
- (4) The licensee shall be permitted to give evidence and statements in defense, explanation and mitigation at the show cause hearing if then prepared to do so. If such evidence is not available at the show cause hearing but can be obtained by the licensee, the licensee shall state the substance of such evidence and, upon the licensee's request, the hearing may be continued for not more than ten business days to a date certain.

(Ord. No. 12-2021, § 1(5.10.080), 12-9-2021)

5.08.090. 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 tenant or neighbor concerns regarding the property 24 hours a day, seven days a week. Local agents must respond to complaints, regardless of the source of the complaint, involving the short-term rental unit within 24 hours.
- (b) *Renter information notice.* Each short-term rental unit shall have a sign displayed in a conspicuous place within the short-term rental unit that contains the following information:
- (1) Name and contact information of the local agent;
 - (2) The short-term rental license number;
 - (3) The physical address of the short-term rental unit;
 - (4) The occupancy limit for the short-term rental unit;
 - (5) The available parking for the short-term rental unit;
 - (6) A statement that all vehicles must be parked in the indicated available parking spaces unless such spaces are unavailable;
 - (7) Contact information for police, fire and ambulance service in case of an emergency; and

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- (8) The location of all fire extinguishers, fire escape routes, and contact information for renters to report safety concerns.
- (c) *Occupancy limits.* The occupancy limit for each short-term rental unit shall be two persons per bedroom available for lease within the short-term rental unit and two additional persons. By way of example and not limitation, a short-term rental that has three bedrooms available for lease has an occupancy limit of six persons plus two additional persons for a total occupancy limit of eight persons.
- (d) *Parking.*
- (1) *Parking notice in advertising.* The owner shall include in all official listings of a short-term rental unit a reference to the available parking for the short-term rental unit and the location of any designated parking area or spaces.
- (2) *Limitations.* Parking is prohibited in any landscaped area, in any manner that blocks ingress or egress for adjacent properties, or in any manner that blocks access to mailboxes of adjacent properties.
- (e) *Trash receptacles.* Each short-term rental unit shall provide trash receptacles to accommodate all garbage generated by renters. Owners shall be responsible for ensuring that all garbage is placed in covered, secured trash receptacles within 24 hours of the end of a rental period and shall ensure that all trash is collected from the short-term rental unit within seven calendar days of the end of any rental period, maintaining regular weekly trash removal.
- (f) *Safety features.* All short-term rental units must have an appropriate number of functional smoke detectors, carbon monoxide detectors, and fire extinguishers and must have adequate egress and other required safety features pursuant to applicable fire or building codes, as determined by the town fire department and set forth in the town's short-term rental safety checklist.
- (g) *Change in information.* An owner shall notify the town of any change in ownership of the property, a change in the owner's address or contact information, or any change in local agent or local agent name or contact information within five days of such change.
- (h) *Taxes.* Owners shall be responsible for making timely property tax payments for all short-term rental units, as applicable for each property. Owners shall also be responsible for keeping all applicable sales and lodging ~~tax fees and~~ licenses current.
- (i) *Notices.* Any notices or communications required or reasonably implied by this chapter may be sent to the owner and local agent by the town via U.S. mail or via electronic mail.
- (j) *Safety checks.* An owner or local agent of a short-term rental unit shall allow the town access to a licensed short-term rental unit once per year, ~~if requested,~~ for the purpose of verifying the information set forth in the safety features affidavit submitted with the owner's license application or renewal application. An owner or local agent shall also allow the town access to a short-term rental unit to investigate a safety complaint, ~~if needed,~~ about the short-term rental unit. ~~Each~~ A safety check ~~shall~~ ~~may~~ be subject to a fee set forth in the town's fee schedule. Following a safety check, the town may provide the owner or local agent instructions on how to bring the property into compliance with this Code and a deadline for such compliance. If the town determines that the owner or local agent has not complied with the instructions by the compliance deadline, the owner may be subject to the suspension or revocation or denial of a renewal application, as appropriate and in accordance with this Code, of the owner's short-term rental license.
- (k) *Maximum number of licenses per year.* There shall be a maximum number of certain licenses available per year (from May 1 through April 30), which shall not exceed ~~ten~~ ~~an established~~ percent of the total number of residential parcels within the town. The total number of residential parcels shall be as determined by the town using information from the El Paso County Assessor. The following types of licenses shall be subject to the cap set forth in this subsection:
- (1) ~~All~~ Class 2 licenses ~~shall not exceed 5%;~~ and

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- (2) Class 1 licenses ~~for parcels with two or more short term rental units on a single parcel shall not exceed 10%.~~

~~Class 1 licenses for parcels with only one short term rental unit are not subject to the cap set forth in this subsection. Licenses issued for owner-occupied parcels with two or more short-term rental units on a single parcel will be considered through the conditional use permit process shall count as one license toward the license cap set forth in this subsection.~~ Notwithstanding the foregoing, owners or local agents must obtain a license for each proposed short-term rental unit in accordance with this section.

(l) *Maximum number of licenses per parcel.*

- (1) The town shall issue no more than one license per parcel, subject to the provisions of this chapter.
- (2) Parcels ~~may be~~ eligible for more than one license ~~on a case-by-case basis if the additional licenses are approved through the conditional use permit process set forth in this Code prior to issuance of a license in accordance with this chapter. Applicants seeking two or more licenses for a single owner-occupied parcel and applicants seeking three or more licenses for a single parcel that is not owner-occupied must obtain a conditional use permit from the town before the town will process any such short term rental license application.~~
- (3) The operation of two or more short-term rental units on a single parcel that is not owner-occupied is ~~prohibited. In accordance with the requirements of this section, the town permits the operation and licensure of one short term rental unit on a parcel that is not owner-occupied or may permit, following the issuance considered by of a the conditional use permit process as set forth in this section, the operation and licensure of three or more short term rental units on a single parcel that is not owner-occupied. The operation of two or more short term rental units on a single parcel that is owner-occupied is permitted.~~

(m) *Large gatherings.* Short-term rental units shall not be used to host large social gatherings, which shall mean a gathering of people that exceeds the maximum occupancy limit set forth in this section (i.e., not allowed to host weddings or social/commercial events).

(n) *Nuisances.* All owners, local agents, and renters are prohibited from creating, operating, maintaining, or conducting any nuisance, as defined in sections of this Code, meaning compliance to noise, safety and public health codes.

(o) *Eligibility.* Lawful dwelling units, including accessory dwelling units, or guest units within a dwelling unit or accessory dwelling unit, may be eligible for a short-term rental license. No vehicle or other containment shall be eligible for a short-term rental license.

(p) *Signs.* Signs installed on a property related to the operation or management of a short-term rental unit must comply with the requirements of the town sign code set forth in this Code.

(q) *License nontransferable.* No license granted pursuant to this chapter shall be transferable from one person to another or from one location to another. An owner that is a business entity with a short-term rental license whose membership or ownership changes must notify the town of such change and apply for a new license within 30 days of such change.

(r) *Limited application of certain regulations to condominium units.* Notwithstanding any provision to the contrary set forth in this chapter, the following regulations apply to condominium units:

- (1) Each condominium unit is eligible for one short-term rental license.
- (2) Subsection (l) of this section does not apply to parcels containing condominium unit developments, and applicants seeking a short-term rental license for a condominium unit shall not be required to obtain a conditional use permit if other condominium units on the same parcel have obtained short-term rental licenses.

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- (3) All condominium units licensed as short-term rental units ~~that are not owner-occupied~~ are subject to the maximum number of licenses available per year set forth in subsection (k) of this section.
 - (4) Condominium units are subject to all other provisions of this Code, as applicable.

(Ord. No. 12-2021, § 1(5.10.090), 12-9-2021)

5.08.100. Denial of application.

- (a) The town designee shall deny a short-term rental license application or renewal application for any one or more of the following reasons:
 - (1) The applicable provisions of this Code have not been met;
 - (2) The required application fees have not been paid;
 - (3) The application is incomplete or contains false, misleading or fraudulent statements;
 - (4) The owner, local agent or other agent of the owner is currently in violation of this Code or has failed to comply with any applicable requirement of this Code; or
 - (5) For renewal applications only, the owner or local agent has been convicted of more than one code violation regarding the short-term rental unit within the 12 months preceding the renewal application.
- (b) Upon determining that an application must be denied, the town designee shall send a notice of denial to the address provided by the owner. Such notice of denial shall state the reasons for denial and inform the owner of his or her right to appeal the decision.

(Ord. No. 12-2021, § 1(5.10.100), 12-9-2021)

5.08.110. Suspension or revocation of license.

- (a) *Suspension.*
 - (1) The town designee may suspend a short-term rental license upon a determination that an owner or local agent has:
 - a. Been found guilty by the municipal court of violating any provision of this chapter on more than one occasion during the term of the current license; or
 - b. Operated a short-term rental unit during the term of the current license in violation of a building, fire, health or safety code adopted by the town, which finding of violation shall be determined by an investigation by the department, division or agency charged with enforcing said code, and has failed to timely cure such violation after receipt of and in accordance with a notice of violation issued by the town.
 - (2) Upon a determination that one or more of the reasons for suspension listed in subsection (a)(1) of this section has occurred, the town designee may suspend a short-term rental license for a period not to exceed one year. The town designee shall send the owner a notice of suspension. Such notice of suspension shall state the reasons for suspension, the dates during which the suspension will be effective, and inform the owner of his or her right to appeal the decision. The suspension shall remain in effect until and including the last day in the notice of suspension or until such time as the violation at issue has been corrected, whichever is later. No license shall be suspended past the license expiration date. Any owners whose licenses have been suspended until the expiration of the license must apply for renewal of the license per the renewal provisions of this chapter.

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Recodification codified through Ordinance No. 13-2021, adopted on December 9, 2021

(b) *Revocation.*

- (1) The town designee shall revoke a short-term rental license upon determining that:
 - a. A short-term rental license has been suspended more than once during the preceding 12 months;
 - b. An owner or local agent gave the town false, misleading or fraudulent information in the materials submitted during the application process;
 - c. An owner or local agent knowingly operated a short-term rental unit during a time when the short-term rental license was suspended; or
 - d. Any fact or condition exists that, if it had existed or had been known to exist at the time of the application for the license or renewal of the license, would have warranted the denial of the license application.
- (2) When the town designee revokes a short-term rental license, the revocation shall continue for one year from the date of revocation, the owner shall not be issued a short-term rental license during the time such revocation is effective and must submit a new license application after the revocation expires. The town designee shall send the owner a notice of revocation. Such notice of revocation shall state the reasons for revocation, the time period which the revocation is effective, and inform the owner of his or her right to appeal the decision.

(Ord. No. 12-2021, § 1(5.10.110), 12-9-2021)

5.08.120. Appeal of denial, suspension or revocation.

- (a) *Appeal.* An owner may appeal a denial of his or her application or suspension or revocation of his or her short-term rental license to the town board and shall be entitled to a public hearing before the town board. An appeal must be made in writing, stating the grounds for appeal, and delivered to the town within five business days of the date of the notice of denial, suspension, or revocation by the town designee. In the event of an appeal of a suspension or revocation decision, the owner may continue to operate the short-term rental unit during the hearing process unless the continued operation of the short-term rental unit pending resolution of the appeal will endanger the public health, safety or welfare, as determined by the town.
- (b) *Hearing.* A public hearing on the appeal shall be held within 30 days of the date the appeal was submitted to the town. At the hearing, the town board shall hear such statements and consider such evidence as is offered that is relevant to the reasons alleged for denial, suspension, or revocation. The town board shall make findings of fact from the statements and evidence offered at the hearing as to whether such reasons exist. The town board shall issue a written order either affirming or overturning the denial, suspension or revocation and stating the findings on which the board's decision is based. A copy of the order shall be sent to the owner within 30 days of the date of the hearing.
- (c) *No refund.* In the event of suspension or revocation of a short-term rental license, no portion of the short-term rental license fee shall be refunded.

(Ord. No. 12-2021, § 1(5.10.120), 12-9-2021)

5.08.130. Violation, penalty and enforcement.

- (a) It is unlawful for any owner, local agent, other agent of the owner or renter to violate any provision of this chapter.

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- (b) In addition to the suspension and revocation actions set forth in this chapter, violations of this chapter are subject to the penalties set forth in this Code.
 - (c) Any violation of this chapter shall constitute a nuisance under this Code and may be subject to the abatement procedures set forth in municipal code.
 - (d) This section shall not be construed to prohibit the town from taking any action permitted by law or in equity to remedy a violation of this chapter, including, but not limited to, seeking an injunction in any court of competent jurisdiction.

(Ord. No. 12-2021, § 1(5.10.130), 12-9-2021)