

# AGENDA

## Joint City Council / BOCC Work Session

January 18, 2022

4:00 PM, Virtual via WebEx



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### WEBEX MEETING INSTRUCTIONS

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### I. WORK SESSION

I.A. Wildland Fire Mitigation

I.B. Short-Term Rental Regulations

## **AGENDA ITEM SUMMARY**

**WORK SESSION DATE:** 01/18/2022

**AGENDA ITEM TITLE:** JOINT MEETING: WILD LAND FUEL MITIGATION UPDATE

**STAFF RESPONSIBLE:** JON PEACOCK, PITKIN COUNTY MANAGER; VALERIE McDONALD, PITKIN COUNTY EMERGENCY MANAGER; KEVIN WARNER, DISTRICT RANGER WHITE RIVER NATIONAL FOREST

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### **ISSUE STATEMENT:**

Since the April 20, 2021 joint meeting on wildfire risk several projects for wild land fuel mitigation have begun. Staff will provide an update on projects specifically discussed by the Board and Council last April.

### **BACKGROUND:**

On April 20, 2021 the Pitkin County Board of Commissioners, Aspen City Council and Snowmass Town Council had a joint meeting with the U.S. Forest Service to discuss wildfire preparedness and wild land fuel mitigation in the Urban Wild-land Interface (WUI). At that meeting the bodies had a broad ranging conversation about wildfire response and wild land fuel reduction opportunities. Staff will present two initiatives that have grown out of that discussion: 1) Fuel reduction projects in the Crystal River Valley; and 2) Roaring Fork Valley & Region Wild Land Fuels Mitigation Strategy. These efforts are in addition to efforts by fire districts and municipalities who are also working on fire mitigation projects in their jurisdictions.

At the April 20th Joint meeting Kevin Warner, District Ranger for the White River National Forest, identified two fuel reduction projects on USFS land in Pitkin County's Crystal River Valley. Jon Peacock and Valarie McDonald will provide an update on Pitkin County's partnership with the USFS to complete these projects this spring. Kevin Warner will then provide an update on the status the Roaring Fork Valley and Region Wild Land Fuels Mitigation Strategy, which is a broader effort between the USFS, fire districts, counties, and municipalities to identify and implement fuel reduction projects in the WUI throughout the Roaring Fork Valley. Finally, staff from the City of Aspen and County will be available to answer questions and discuss other projects under consideration.

### **LINK TO STRATEGIC PLAN:**

Livable & Supportive Community: A sense of personal and community safety.

### **KEY DISCUSSION ITEMS:**

- Do the City and County support regional planning efforts for fuel reductions in the WUI?

**ATTACHMENTS:** None, presentation to be provided at meeting



## MEMORANDUM

**TO:** Aspen City Council & Pitkin County Board of County Commissioners

**FROM:** Pete Strecker, City of Aspen Finance Director  
Phillip Supino, City of Aspen Community Development Director

**MEMO DATE:** January 7, 2022

**MEETING DATE:** January 18, 2022

**RE:** City of Aspen Short-Term Rental Policy and Regulations Update

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### **REQUEST OF COUNCIL & BOARD:**

City staff requests commissioners and councilmembers consider the information provided in this memorandum in support of their joint work session discussion of short-term rentals in Pitkin County and the City of Aspen. Staff further requests direction on any shared objectives or initiatives between the two jurisdictions on the topic.

### **SUMMARY AND BACKGROUND:**

This joint work session is a response to ongoing discussions in the City and County about the state of the STR industry, to discuss respective policy objectives, and to share potential regulatory responses which may be applicable in the City and County. Short-term rentals (STRs) have emerged in the last decade as a lucrative business in communities of all sizes around the world, including destination communities like Aspen and Pitkin County. Aspen has experienced benefits, but also adverse impacts, from these businesses.

While some property owners take for granted the ability to use their residential property as a STR by right, the reality is some STRs function as a commercial lodging-type use in residential structures and neighborhoods. As a result, the City faces increasing pressures, impacts, and negative externalities resulting from this relatively new land use – impacts which are not easily mitigated and costs not easily recovered with existing land use and financial regulations.

STRs have unique, sometimes acute impacts on mountain communities. In Aspen, the history of zoning and land use for decades has focused on a healthy balance of resident and non-resident housing, sales tax and employee-generating commercial activities, tourist accommodations, cultural and public facilities, park and recreation facilities, and transportation and utilities infrastructure. Recent Council discussion of STRs as a land use has focused in part on the proportion of STRs to other uses which support larger community needs and policy objectives.

In addition to land use, City Council has expressed a concern about the availability of locals housing being constrained by the increase in STR uses in town. The high cost of living and limited availability of housing place outsized pressure on workers trying to earn and support a family in a mountain town. Due to the lack of available housing and geographic constraints, our labor force is more susceptible to displacement than in non-destination communities. The availability of housing in and around town is directly related to the availability and cost of labor for our commercial sector. It also places upward pressure on property value, traffic, and tourist demand, as STRs add value and occupancy to residential structures. For these reasons, Council is concerned about impacts from STRs on a sustainable economy and community character.

STRs also increase demand for services – property management and development sector services for STR owners, and personal services demanded by STR occupants. The use of residential property in a more commercial manner may also increase demand for community services like life-safety, utilities, and natural resources. The City has not yet quantified these impacts and increased service demands.

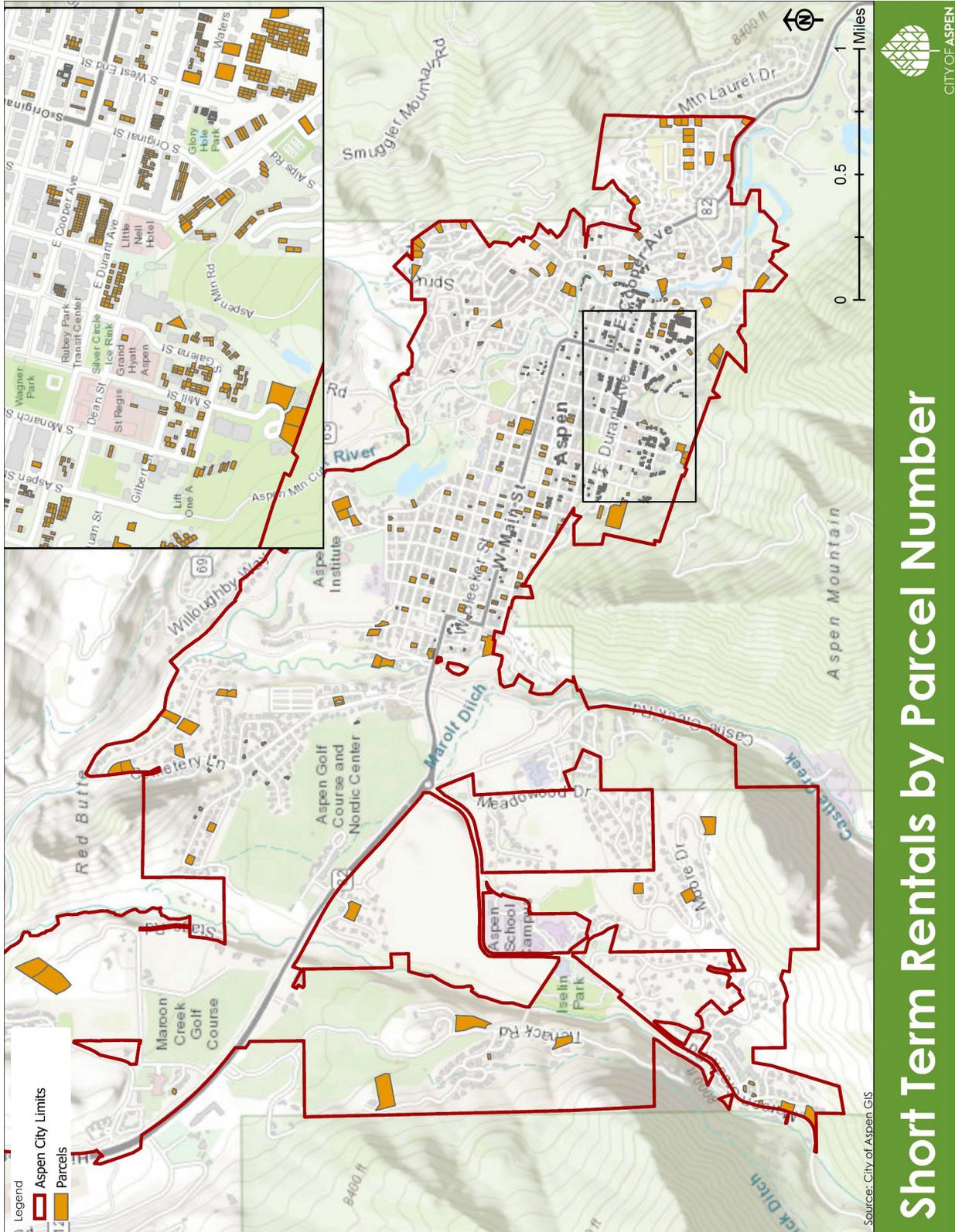
On December 8, 2021, Council passed by emergency Ordinance No. 27, Series of 2021 halting the issuance of new STR permits and placing a moratorium on certain kinds of residential land use approvals and building permits. STRs were a central concern for Council. The conditions created for the community by the currently unregulated STR market have created emergency conditions which, in Council's view, require a legislative response.

#### **STAFF DISCUSSION:**

##### *Current Conditions*

The City of Aspen has approximately 8,010 housing units (includes all types). There are approximately 1,388 STRs in town (see Figure 1) and thus, approximately 17% of the housing stock is at least occasionally used as a STR. In terms of the use of land in the community, 17% of all residential structures being some form of STR use is a significant proportion.

These properties are a mix of single-family homes and condominiums. They are also disbursed between property types that have a commercial use overlay (such as the Aspen Square and Gant for example) and reside in zone districts that align well with this use, but also in residential neighborhoods throughout the City which were not originally contemplated for revolving occupants and the associated disruption that may accompany each visit.



**Figure 1: Short-Term Rental Locations by Parcel as of November 16, 2021.**  
 Source: City of Aspen

**Short Term Rentals by Parcel Number**

While there has been a unique economic period over the last one and one-half years, with the pandemic greatly shaping the visitors' expectations for lodging in the near term and since the City has had its new monitoring software active, STRs have generated (on average) roughly 35% of all taxable income within the lodging industry over the last 9 months. This has equated to roughly \$50M in taxable income, certainly a significant segment of the overall industry, and should be assessed to ensure it is operating within the City's policies and Community's expectations.

### *Regulating STRs*

The existing regulatory and police powers conferred to municipal governments via state statutes provide ample authority to communities to regulate STRs. The first essential step in developing rules to regulate the quantity, location, operation, and economics of STRs is establishing that STRs are a land use distinct from traditional residential, commercial, and lodging land uses.

Once the use definition has been established, existing land use regulatory tools provide the basis for regulating STRs to meet community need. Generally, local government can use zoning powers to regulate STRs in the following ways: location, quantity, duration, occupancy, life safety, taxes and fees, permitting and licensing, and operational characteristics.

Community character and quality of life regulations are important to City residents and Councilmembers. Some of these issues include: noise, lighting, occupancy, solid waste, wildlife, utilities, parking and access, and good neighbor policies. Regulations which address character and quality of life issues are useful in ensuring that STRs are good neighbors and don't become a nuisance for adjacent and year-round residents. These regulations may look different for rural and unincorporated Pitkin County than for urbanized areas in the UGB and within the city limits.

### *Policy Priorities & Next Steps*

Over the last two years, Council has expressed a variety of policy priorities with respect to increasing regulation of the STR market in town. Those include:

- community and neighborhood character,
- balanced economy and support for traditional lodging,
- employee generation, labor force, and housing policies,
- life safety, community health, and welfare,
- transportation and transit,
- community sustainability.

Staff and Council feel there is ample policy guidance in the Aspen Area Community Plan (AACP) to support Council's desire to increase regulations and oversight of the STR market.

During the moratorium process, City staff will work with Council, stakeholders, and community members to develop new regulations for STRs based on the policy priorities expressed above. Should Council and the Board decide to collaborate on the regulation

or administration of STR programs, that collaboration could be incorporated into the moratorium process.

**QUESTIONS FOR THE BOARD AND COUNCIL:**

Staff recommends the Board and Council use the following questions as a basis for discussion of STRs at the joint work session.

1. Is there a shared understanding between the Board and Council about the impacts of the current STR market on our jurisdictions?
2. What are your ideas for changing the regulations around STRs in your respective jurisdictions?
3. Are there opportunities for collaboration on regulations, administration, or enforcement?

**CITY MANAGER COMMENTS:**

## AGENDA ITEM SUMMARY

**WORK SESSION DATE:** January 18, 2022

**AGENDA ITEM TITLE:** Joint Work Session with Board of County Commissioners & Aspen City Council RE: Short Term Rentals

**STAFF RESPONSIBLE:** Cindy Houben, Pitkin County Community Development Director  
John Ely, Pitkin County Attorney

**ISSUE STATEMENT:** The purpose of this joint work session is to share information regarding the status of Short Term Rentals (STRs) within each jurisdiction, discuss common issues and concerns, and to determine if collaboration on regulations and/or administration of respective licensing programs is warranted.

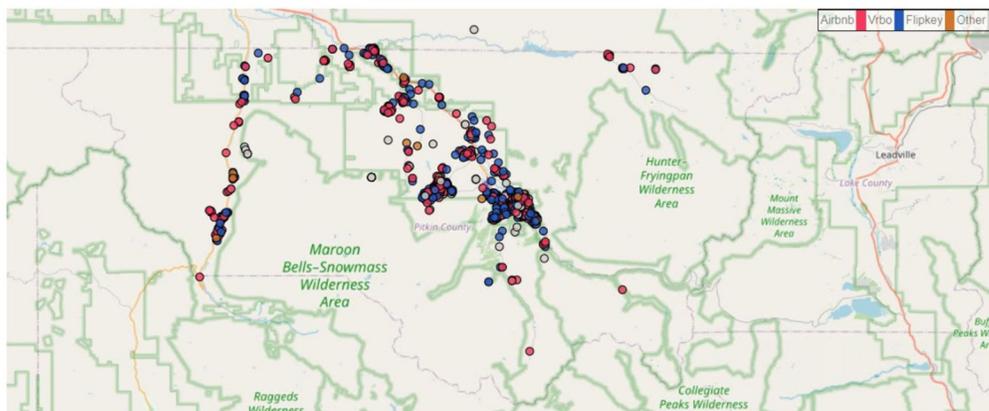
**BACKGROUND:** The BOCC has held four work sessions on STRs and 1st reading of the attached Short Term Rental Licensing & Regulation Ordinance was held on December 15, 2021. Second reading and a public hearing for the ordinance is set for January 26, 2022 at the BOCC's regular meeting.

Status of STRs in Pitkin County:

- At any given point, there may be as many as +-3,000 Short Term Rentals advertised County-wide, as shown in the following recent two month inventory summary and map provided by Muni Revs, with whom the County has a contract to track rental data:

**Inventory Summary**

	November					December				
	AirBnB	FlipKey	VRBO	Other	Total	AirBnB	FlipKey	VRBO	Other	Total
<b>Total Advertisements</b>	1,230	128	1,162	850	<b>3,370</b>	1,291	132	1,258	869	<b>3,550</b>



- On average, roughly 157 of the short term rentals advertised are located within unincorporated Pitkin County; 738 are located in the City of Aspen; 259 are located in the Town of Snowmass Village and 15 are located in the Town of Basalt.

<b>STR Location</b>	<b># of STRs Advertised</b>
Unincorporated Pitkin County	157
City of Aspen	738
Town of Snowmass Village	259
Town of Basalt	15

- The Short Term Rentals advertised within the unincorporated portion of the County are roughly dispersed between all of the Planning areas, with the majority located within the Aspen Urban Growth boundary area, the Crystal, Snowmass/Capitol, Woody Creek and Brush Creek areas, respectively as shown in the following table:

<b>Planning Area</b>	<b># Advertised STRs</b>
Crystal	31
Snowmass/Capitol	24
Woody Creek	17
Brush Creek	12
Emma	9
Independence (East of Aspen)	7
Frying Pan	6
Snowmass Canyon	3
Castle Creek	3
Owl Creek	2
Maroon Creek	1
UGB	42

- The following table identifies voter registration and the valuation of advertised STR properties by Planning area. Voter registration may be used as an indication of primary residency. The Frying Pan, Maroon-Castle and Urban Growth Boundary areas have a larger percentage of non-registered voters and Brush Creek/Wildcat and Owl Creek Planning areas have a larger percentage of registered voters, while the remaining areas have a fairly even split between registered and non-registered voters.

<b>PLANNING AREA</b>	<b>Number of Properties</b>	<b>Average Value</b>	<b>Median Value</b>	<b>Smallest Value</b>	<b>Highest Value</b>	<b>Number of Registered Voters</b>	<b>Percent of Registered Voters</b>	<b>Number of Non-Registered Voters</b>	<b>Percent of Non-Registered Voters</b>
Brush Creek - Wildcat	12	\$1,631,666.67	\$1,602,550.00	\$772,100.00	\$2,545,000.00	11	91.67%	1	8.33%
Crystal River	30	\$747,273.33	\$595,550.00	\$162,600.00	\$2,271,800.00	15	50.00%	15	50.00%
Emma/Basalt	9	\$1,359,822.22	\$895,500.00	\$478,200.00	\$4,586,600.00	4	44.44%	5	55.56%
Fryingpan	6	\$726,833.33	\$413,200.00	\$136,300.00	\$2,337,400.00	1	16.67%	5	83.33%
Independence	7	\$3,950,828.57	\$3,656,100.00	\$2,781,400.00	\$6,654,100.00	3	42.86%	4	57.14%
Maroon/Castle	4	\$4,039,750.00	\$2,300,700.00	\$0.00	\$11,557,600.00	0	0.00%	4	100.00%
Owl Creek	1	\$4,593,400.00	\$4,593,400.00	\$4,593,400.00	\$4,593,400.00	1	100.00%	0	0.00%
Snowmass Canyon	3	\$1,425,900.00	\$1,348,500.00	\$404,600.00	\$2,524,600.00	1	33.33%	2	66.67%
Snowmass/Capitol	24	\$1,547,438.00	\$1,072,900.00	\$596,300.00	\$5,902,400.00	16	66.67%	8	33.33%
UGB Boundary	39	\$8,728,428.00	\$5,987,500.00	\$1,351,200.00	\$26,290,500.00	11	28.21%	28	71.79%
Woody Creek	16	\$5,889,513.00	\$4,488,950.00	\$2,124,300.00	\$15,914,400.00	10	62.50%	6	37.50%
<b>Total</b>	<b>151</b>	<b>\$3,149,168.47</b>	<b>\$1,602,550.00</b>	<b>\$0.00</b>	<b>\$28,290,500.00</b>	<b>73</b>	<b>48.34%</b>	<b>78</b>	<b>51.66%</b>

**LINK TO STRATEGIC PLAN:**

Core focus areas associated with the topic of Short Term Rentals include, a “Livable & Supportive Community,” and a “Prosperous Economy.”

**KEY DISCUSSION ITEMS:**

1. The attached proposed Ordinance:
  - a) Creates a licensing program ;
  - b) Prohibits use of STR’s in the Rural and Remote Zone District ( RR);
  - c) Provides licensing opportunities for owner occupied residential units.
2. The BOCC has received written comments by the public in response to the proposed Ordinance. They can be reviewed at <https://records.pitkincounty.com/WebLink/Browse.aspx?id=344328&dbid=0&repo=LFRecords&cr=1>
  - Of twenty-two comments received to date, the majority are generally in favor of the Ordinance as drafted.
  - Many of those in favor of the licensing and regulations were Redstone residents. There was one recommendation to prohibit STRs in Redstone.
  - There was some support for excluding areas zoned for commercial use from STR restrictions.
  - There were also a few comments from citizens who oppose primary residency as a standard, given the number of jobs in property management and related services that would be lost as a result of that requirement.
3. RR: The RR zone district is called out specifically due to :
  - a) The Health Safety and welfare concerns for guests and service providers in back country settings;
  - b) The fragile sub alpine environment and influx of users;
  - c) The general intent of the zone district (as follows:)

“The RR (Rural/Remote) zone district is intended to: (i) conserve and protect the natural environment and its resources, while allowing for limited recreational uses and limited residential development, (ii) preserve the small scale, low-density backcountry character and lifestyle, (iii) retain undeveloped areas, and (iv) allow for the transfer of development rights to areas that are more appropriate for development. This district accommodates only small new structures and very limited types of development.”
4. Owner Occupied limitation for Licensing is due to:
  - a) An observation of the historic nature of resort economies and utilizing local housing for short term, peak season periods. The STR’s have supplemented incomes for locals in an increasing valuation resort setting which has helped to maintain the ability to pay rising taxes, raise a family etc.
  - b) As observed by other STR programs, the owner occupied rentals create less disruption to neighborhoods because owners are more likely to be considerate of their neighbors, keep a closer look at the situation and rent for more acceptable time periods.

- c) Beginning with a more restrictive STR program in order to assess if additional STR's can be absorbed relative to the following is a prudent move:
  - a. Traffic;
  - b. Hotel use in residential areas and other neighborhood issues;
  - c. Fair taxation issues for residential and lodge uses;
  - d. Overuse of community and individual infrastructure and natural resources (Roads/water capacity/wells and septic);
  - e. Appropriate use of residential space relative to safety concerns (ingress/egress, evacuation capacity for avalanche, mudslides and wildfires);
  - f. Intensity of use in general by increasing lodge rooms in the community (with no GMQS review);

**RECOMMENDED BOCC ACTION:** No formal action is proposed.

**ATTACHMENTS:**

1. An Ordinance Of The Board Of County Commissioners Of Pitkin County, Colorado Amending Title 6 Of The Pitkin County Code To Adopt Laws Pertaining To The Licensing And Regulation Of Short Term Rental Of Lodging Units And Residential Properties

**ATTACHMENT 1**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PITKIN COUNTY, COLORADO AMENDING TITLE 6 OF THE PITKIN COUNTY CODE TO ADOPT LAWS PERTAINING TO THE LICENSING AND REGULATION OF SHORT TERM RENTAL OF LODGING UNITS AND RESIDENTIAL PROPERTIES**

**ORDINANCE NO. \_\_\_\_\_-2021**

**RECITALS**

1. Pursuant to 30-35-301 C.R.S., the Board of County Commissioners (“BOCC”) of Pitkin County, Colorado a Home Rule County is authorized to make and publish ordinances for carrying into effect or discharging the powers and duties conferred upon such counties by law and as seems necessary.
2. Pursuant to Section 2.8.1 of the Home Rule Charter (“HRC”), the BOCC is authorized to take official action by Ordinance for certain matters where action is prescribed pursuant to the Colorado Revised Statutes as amended.
3. In 2020, the Colorado Legislature adopted an amendment to the County General Police Powers Statute and delegated to counties the ability to license and regulate lodge units rented for short-term stays.
4. This Regulation is established in order to license and regulate short term rental activity in unincorporated Pitkin County.
4. Authority to enact these regulations is specifically found in House Bill 20-1093, codified at C.R.S. § 30-15-401 (1)(s), which delegates to the counties of the State of Colorado the ability to license and regulate residential Dwelling Units used as Lodging Units for Short Term Stays.
5. To implement this delegation of authority these regulations are adopted in order to fully establish a system of registration, tax collection, and regulation of Short Term Rental activity for the health, safety and welfare of the citizens and property owners of Pitkin County.
6. These regulations do not apply or pertain to hotels, motels, lodges, resort cabins, guest ranches, country inns or bed and breakfast establishments as these are defined in the Pitkin County Code and the Land Use Code Chapter 11 in particular.
7. These regulations shall be adopted as Section 6.50 of the Pitkin County Code in substantially the form attached hereto as Attachment 2 and may be referred to as the “Pitkin County Short Term Rental Code”.

8. The Board finds that adoption of this ordinance is necessary for the preservation of the public health, safety and welfare of the citizens of Pitkin County and therefore declares this legislation to be effective March 31, 2022.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pitkin County, Colorado that it hereby adopts an Ordinance Amending Title 6 of the Pitkin County Code to Adopt Laws Pertaining to the Licensing and Regulation of Short Term Rental of Lodging and Residential Properties and authorizes the Chair or the Chair's designee to sign the Ordinance upon the satisfaction of the County Attorney as to form, and to execute any other associated documents necessary to complete this matter.

INTRODUCED AND FIRST READ ON THE 15TH DAY OF DECEMBER 2021 AND SET FOR SECOND READING AND PUBLIC HEARING ON THE 26TH DAY OF JANUARY 2022.

NOTICE OF PUBLIC HEARING AND TITLE AND SHORT SUMMARY OF THE ORDINANCE PUBLISHED IN THE ASPEN TIMES WEEKLY ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2022.

NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE ORDINANCE POSTED ON THE OFFICIAL PITKIN COUNTY WEBSITE ([www.pitkincounty.com](http://www.pitkincounty.com)) ON THE \_\_\_\_ DAY OF \_\_\_\_\_ 2022.

ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE \_\_\_\_ DAY OF \_\_\_\_\_ 2022.

POSTED BY TITLE AND SHORT SUMMARY ON THE OFFICIAL PITKIN COUNTY WEBSITE ([www.pitkincounty.com](http://www.pitkincounty.com)) ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2022.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2022.

THIS ORDINANCE IS EFFECTIVE IMMEDIATELY UPON ADOPTION.

ATTEST:

BOARD OF COUNTY COMMISSIONERS

By \_\_\_\_\_  
Jeanette Jones  
Deputy County Clerk

By: \_\_\_\_\_  
Kelly McNicholas Kury, Chair

Date: \_\_\_\_\_

APPROVED AS TO FORM:

MANAGER APPROVAL

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John Ely, County Attorney

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Jon Peacock, County Manager