

AGENDA for a PUBLIC WORK SESSION
of the Board of Trustees of the Town of Fairplay, Colorado
Monday, February 14, 2022 at 4:00 p.m.
at the Fairplay Town Hall Meeting Room, 901 Front Street, Fairplay, Colorado 80440

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. WORK SESSION**
 - A. Continued Discussion Regarding Regulation of Short-term Rental (STR) Units within the corporate limits of the Town of Fairplay, Colorado.**
- IV. OTHER DISCUSSION ITEMS**
 - A. 2022 Town of Fairplay Marketing Plan *(If time allows)***
- V. ADJOURNMENT**

This Agenda May Be Amended.

*Posted at Fairplay Town Hall, Fairplay Public Library, Fairplay Post Office on Thursday, February 10 2022
and on the Town of Fairplay Website (www.fairplayco.us) Friday, February 11, 2022*



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STAFF REPORT

TO: Mayor Just and Board of Trustees

FROM: Janell Sciacca, Town Administrator
Nina Williams, Town Attorney

RE: Regulation of Short-Term Rentals

DATE: February 14, 2022

The attached 02-14-2022 DRAFT Short-term Rental ordinance encompasses changes recommended or discussed by the Board during its January 31, 2022 Work Session. We will continue reviewing this version of the proposed regulations and then move forward to discuss setting several more Work Sessions to further discuss rules, regulations, licensing, fees, etc and hopefully obtain additional public comment and input on the matter.

Staff is also in the process of reviewing Chapter 6, Article III, for clarifications that might be warranted in the general Lodging Tax section, as well as looking at term definitions in the Uniform Development Code to determine if there are any contradictions. Findings and recommendations for changes will be presented at one of the future work shops.

The Moratorium was extended 90 days with the passage of Ordinance No. 1, Series 2022, at the Board's last regular meeting held on February 7, 2022. The additional 90 days should provide more than adequate time for the Board to conclude review and discussion and the public input process to arrive at a finalized version of the ordinance to be considered for adoption at, or before, the May 2, 2022 Regular Board Meeting.

As this is a Work Session, there will be no formal action taken and Staff will receive comments and general direction for further updates to the DRAFT ordinance.

ATTACHMENTS:

- 02-14-2022 DRAFT Ordinance

“Where History Meets the High Country”

TOWN OF FAIRPLAY, COLORADO
ORDINANCE NO. _____
(SERIES 2022)

AN ORDINANCE OF THE BOARD OF TRUSTEES FOR THE TOWN OF FAIRPLAY, COLORADO AMENDING CHAPTERS 6 AND 16 OF THE FAIRPLAY MUNICIPAL CODE, CONCERNING BUSINESS LICENSING AND UNIFIED DEVELOPMENT CODE, TO ESTABLISH A SHORT-TERM RENTAL LICENSING PROGRAM

WHEREAS, the Town of Fairplay, 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. § 31-15-401, the Town by and through its Board of Trustees (“Board”), possesses the authority to adopt laws and ordinances within its police power in furtherance of the public health, safety and welfare; and

WHEREAS, pursuant to C.R.S. § 31-23-301 the Town also possesses the authority to adopt and enforce zoning regulations; and

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

WHEREAS, pursuant to such authority, the Town has previously adopted certain regulations within Chapter 6, concerning business licenses and regulations, and Chapter 16, concerning the unified development code, of the Fairplay Municipal Code (“Code”); and

WHEREAS, in order to protect residential integrity and community character within the Town, the Board finds and determines it is necessary to amend certain provisions of Chapter 6 and Chapter 16 to adopt licensing regulations and restrictions on the renting or leasing of real property for occupancy of less than 30 days; and

WHEREAS, the Board finds such regulations will also ensure clarity, increased enforcement, fairness and consistency with the goals of the Town, for its residents, businesses and customers; and

WHEREAS, the Board also finds and determines that the establishment of a licensing program will accomplish these goals, and that the subject regulations concerning short-term rentals are necessary to health, safety and welfare of the public and to prevent adverse impacts to adjacent properties, neighborhoods and quality long-term rental housing units within the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD FOR THE TOWN OF FAIRPLAY, COLORADO as follows:

Section 1. The foregoing recitals are incorporated herein as conclusions, facts, determinations and findings by the Town of Fairplay Board of Trustees.

Section 2. A new Article V, concerning Short Term Rentals, is hereby added to Chapter 6, Business Licenses and Regulations, of the Fairplay Municipal Code to read as follows:

Sec. 6-5-10. Definitions.

For the purpose of this Article the following words and terms have the following meanings, unless the context clearly indicates otherwise. Definitions included in Chapters 1, 6 and 16 of this Code shall apply to this Article unless they are otherwise expressly defined herein.

Applicant means the owner of the property, or the person controlling the corporate owner of the property, used as a short-term rental business, as evidenced on the recorded deed for the property.

Local contact person means the person designated by the owner or the owner's authorized agent or representative who shall be available twenty-four (24) hours per day, seven (7) days per week for the purpose of: (1) Responding within sixty (60) minutes to property code violations and/or complaints regarding the condition, operation, or conduct of occupants of the short-term rental unit and (2) taking remedial action to resolve such violations and/or complaints.

Short-term rental business means the occupation of leasing or renting one (1) or more short-term rental units.

Short-term rental unit means a privately owned residential dwelling unit, or portion thereof, that is rented or used for lodging accommodation and occupancy for any period less than thirty (30) consecutive days, not to include accessory dwelling units, apartment buildings, bed and breakfast establishments, campgrounds, RV parks, hotels, motels, dormitories, boarding and rooming houses or RVs, tents, campers or other temporary structures.

Lodging occupation tax means the tax levied pursuant to Chapter 6, Article III.

Sec. 6-5-20. Licensing; limitations; requirements.

- (a) It shall be unlawful for any person or entity to engage in the short-term rental business without first applying for and procuring a license from the Town Clerk. The initial license fee, renewal license fee and penalty for operating without a license shall be established by resolution of Town Board, as may be amended from time to time, and payable annually in advance.
- (b) Licenses may only be issued to owners of properties who are also one of the following:
 - (1) A natural person;
 - (2) A trust, if the beneficiary of the trust is a natural person; or
 - (3) An entity registered with the Colorado Secretary of State.
- (c) Upon approval of a short-term license pursuant to this Article, the Town Clerk shall issue a license number specific to the subject property and the licensee.
- (d) Short-term rental businesses shall include their business license number in the title of the listing for all public advertising, including but not limited to webhosting services such as Airbnb, Home Away, Trip Advisor, VRBO, Kayak, Orbitz, etc.

- (e) Applications for a short-term rental license shall be submitted on a form provided by the Town, and the Town shall accept no incomplete applications. Applications shall include all information required on the application form checklist.
- (f) Each licensee shall submit to the Town, on a yearly basis, and upon renewal, an affidavit, signed by the licensee and notarized, attesting, under penalty of perjury, to the duration and frequency of the prior year's short-term rental history, including the specific number of rooms and nights rented in the prior year, as well as confirmation of payment of all applicable sales and lodging occupation taxes.
- (g) The name of the license applicant must match the name of the owner on the deed for the property, or the person controlling the corporate owner of the property. The applicant shall submit to the Town a copy of the recorded deed, showing the recording data with the Park County Clerk and Recorder.
- (h) The maximum number of short-term rentals shall not exceed: [X percentage; 6%?] of the total number of residential units within the Town, a running tally of which shall be kept in the Town Clerk's office, and open and available for public inspection at all times during business hours.
- (i) Exception to Cap. The cap identified in subsection (h) of this Section 6-5-20 can be exceeded only upon Town Board's sole discretion related to a land use application process, such as an annexation, planned unit development or subdivision, where the applicant is providing at least one (1) deed restricted workforce housing unit within the development, not exceeding a price affordable to a household earning sixty (60) percent of the Area Median (AMI) for the Denver-Aurora-Lakewood Metropolitan Statistical Area as defined annually by the United States Department of Housing and Urban Development (HUD), for every one (1) additional short-term rental unit within the development, and pursuant to the terms and conditions imposed by Town Board upon approval of the subject land use application.
- (j) In the event the maximum number of permitted short-term rentals has been met, no new applications for short-term rentals will be accepted. If and when new or additional short-term rental licenses become subsequently available, the Town will post notice of such license availability at those public place(s) designated annually by the Town Board as the place(s) for the posting of public notices, and the Town Clerk shall process such applications in the order they are received by the Town.
- (k) Short-term rental businesses must have a local contact person who shall be responsible for ensuring compliance with provisions of this Code including, but not limited to, reports for the lodging occupation tax, removal of snow and ice, and other property maintenance requirements. The local contact person must be available twenty-four (24) hours per day, seven (7) days per week for the purpose of: (1) responding within sixty (60) minutes to property code violations and/or complaints regarding the condition, operation, or conduct of occupants of the short-term rental unit and (2) taking remedial action to resolve such violations and/or complaints.
- (l) Each short-term rental unit shall provide a delineated off-street parking plan for guests' cars, which provides for parking for all users of the rental space.

- (m) Each short-term rental unit shall have a clearly visible notice posted within the unit that includes the following:
- (1) Licensee and local contact person's contact information;
 - (2) The short-term rental business license number;
 - (3) Additional emergency contact information;
 - (4) Location of fire extinguisher(s) and emergency evacuation routes and directions;
 - (5) The maximum number of people in terms of permitted sleeping occupancy;
 - (6) The maximum number of people permitted in the unit at any one time;
 - (7) The location for parking vehicles and the maximum number of parked vehicles permitted for the unit;
 - (8) Local trash and recycling storage location, schedule and instructions;
 - (9) Snow removal instructions;
 - (10) Water restrictions, if applicable;
 - (11) Town contact information.
- (n) The address and/or street number of each short-term rental unit shall be clearly posted and visible from the roadway, for all emergency response personnel.
- (o) The Town Clerk shall maintain a list of currently-licensed short term rental properties in the Town subject to public view on the Town's website and in the Clerk's office during regular business hours.
- (p) Minimum health and safety standards; inspections.
- (1) Each short-term rental unit licensed under this Article shall comply with all building, fire, housing and health codes which, if violated, would constitute an imminent danger and potentially subject the license to revocation.
 - (2) Each short-term rental shall contain working and updated smoke detector(s), carbon monoxide detector(s) and fire extinguisher(s).
 - (3) All wood burning, wood pellet, lp or natural gas stoves in the short-term rental unit must be inspected annually and deemed safe and properly maintained.
 - (4) No license under this Article shall be issued until the short-term rental unit and licensed premises are inspected by the Town Clerk or their designee, including the Fire Department and the Building Department, for compliance with this section, and such inspections are approved by the Town Clerk. If, after inspection, the Town Clerk or their designee, notifies the applicant of the inspection failure, such notification shall include a list of all items which shall be remedied, before the Town Clerk issues their inspection approval.
 - (5) A property inspection of the short-term rental unit and licensed premises shall be conducted before the issuance of any license under this article, and before the renewal of any license under this article.
- (q) For purposes of municipal utilities, the use of the short-term rental unit and the licensed premises shall be considered commercial.

Sec. 6-5-30. Application, issuance and renewals.

- (a) Any person desiring a license to engage in the short-term rental business shall apply to the Town Clerk, on application forms provided by the Town Clerk. New license applications must be submitted at least thirty (30) days prior to the date of the intended use and no advertising of the property as a short-term rental prior to issuance of a license is permitted. Licenses shall be issued and valid for one calendar year, from January 1 through December 31, and shall expire with the calendar year for which it was issued. New license application fees shall not be pro-rated or reduced.
- (b) The Town Clerk may issue a new short-term rental business license upon all the following conditions:
 - (1) The applicant has submitted a complete application form and provided all required information regarding the short-term rental unit, including, but not limited to a copy of the applicable sales tax license, the total number of bedrooms, the local contact person, and a delineated off-street parking plan for guests' cars.
 - (2) The applicant has paid the appropriate fee(s) established by the Town Board, and has paid all taxes and fees owed to the Town, including those related to other properties and purposes within the Town.
 - (3) The property to be used for a short-term rental business has completed and complied with the Town short-term rental unit inspection worksheet.
 - (4) All applicable requirements in Section 6-5-20 and Section 16-7-160 are met.
- (c) The Town Clerk may renew a short-term rental business license upon all the following conditions:
 - (1) The applicant has submitted a complete renewal application form and provided all required information regarding the short-term rental unit, including, but not limited to a copy of the applicable sales tax license, the local contact person, and a delineated off-street parking plan for guests' cars.
 - (2) The applicant has paid the appropriate fee(s) established by the Town Board, and all applicable taxes throughout the previous year, including sales tax, and has paid all taxes and fees owed to the Town, including those related to other properties and purposes within the Town, and that the applicant has submitted the required lodging occupation tax form affidavits whether or not the unit was rented and taxes were paid during the applicable reporting period.
 - (3) The property to be used for a short-term rental business has completed and complied with the Town short-term unit inspection worksheet and there are no outstanding health and safety violations on the property that are related to the short-term rental license renewal checklist, any other application requirements set by the Town or the Fire Department, or any violations of Chapter 18 of this Code as it relates to habitability.
 - (4) The applicant has submitted the appropriate affidavits, as required by Section 6-5-20.

- (5) There have been no violations of the provisions of this Article, this Code, or of any law, or regulation pertaining to the requirements of the application, or at the property, or of any of the terms pertaining to the license over the past year.
- (6) All applicable requirements in Section 6-5-20 are met.
- (d) It is the duty of each short-term rental licensee to ensure that all of the information provided in a license application is kept up to date at all times, and it shall be unlawful for a licensee to fail to provide updated information to the Town within ten (10) days after the date upon which any information provided is no longer accurate.
- (e) No license issued under this Article shall be transferable and no license is valid as to any person or entity other than the person or entity named thereon.

Sec. 6-5-40. Revocation and suspension.

Any license issued pursuant to this Article may be suspended or revoked by the Town Board, upon ten (10) days' written notice, to a licensee stating the contemplated action and, in general, the grounds therefor, and after a reasonable opportunity for the licensee to be heard, for any of the following reasons:

- (a) Failure to pay the Occupational Lodging Tax pursuant to this Code, Chapter 6, Article III, or any other tax, such as sales tax, or the annual license fee established by the Town Board, or failure to submit the required lodging occupation tax form affidavits whether or not the unit was rented and taxes were paid during the applicable reporting period.
- (b) False statement of material fact contained in the application;
- (c) Failure to file any report or furnish any other information that may be required by the provisions relating to this Article;
- (d) If any fact or condition exists which, if it had existed or had been known to exist at the time of the application for such license, would have warranted the refusal of the issuance of such license; or
- (e) Violation of any provisions of this Article, or of any law or regulation pertaining to the requirements of the application, or at the property, or of any of the terms pertaining to the license.

Sec. 6-5-50. Penalties.

In addition to any other remedies available at law or equity, engaging in the short-term rental business within the Town without a license shall subject the property owner to a fine in an amount to be established by resolution of the Town Board, as may be amended from time to time, and as provided in Chapter 1, Article IV of this Code, or a denial of a license altogether.

Section 3. Section 16-5-30 of the Fairplay Municipal Code, concerning the table of uses, is Hereby amended to read as follows:

Sec. 16-5-30. Table of uses.

Table of Uses									
P=Permitted Use, S=Special Use, ■=Prohibited Use									
Land Use	Residential		Mixed Use	Commercial			Light Indus.	Public	
	SF-Res	MF-Res	T	TC	C	MU	LI	CC	POST
...									
<u>Short-term rental units</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>■</u>	<u>■</u>	<u>■</u>

Section 4. A new section 16-7-160, concerning Short Term Rentals, is hereby added to Chapter 16, Unified Development Code, Article VII, Supplemental Standards, of the Fairplay Municipal Code to read as follows:

Sec. 16-7-160.- Short term rentals.

Short term rentals shall be subject to the following regulations:

(a) Registration and licensing requirements

- (1) All short-term rentals shall comply with Chapter 6 Article V of the Fairplay Municipal Code, which establishes conditions under which a property owner may apply for a short-term rental license.

(b) Conditions and standards.

- (1) Short-term rentals are not permitted in an apartment building at any time in any zoning district.
- (2) Short-term rentals are not permitted in accessory dwelling units (ADUs), recreational vehicles (RVs) which include all vehicles that bear a vehicle identification number (VIN), tents, teepees, campers or other temporary structures, at any time in any zoning district.
- (3) No short-term rental shall be operated in such a way as to constitute a nuisance.
- (4) The maximum number of occupants permitted in a short-term rental shall be established at the time of initial licensing and based upon the Water & Sewer Equivalent Residential (EQR) use calculation for the property.
- (5) Events, such as concerts, parties and weddings, are prohibited.
- (6) The designated parking for vehicles of short-term rental guests shall be addressed at the short-term rental application and licensing stage, and shall meet the off-street parking standards identified in Chapter 16 Article X.
- (7) Short-term rental units shall not be permitted in a planned unit development, annexation or a subdivision, unless upon Town Board's sole discretion related to such land use application approval process, where the applicant is providing at least [**X amount**] of deed restricted workforce housing units within the development not exceeding a price affordable to a household earning sixty (60) percent of the Area Median (AMI) for the Denver-Aurora-Lakewood Metropolitan Statistical Area as defined annually by the United States Department of Housing and Urban Development (HUD), and pursuant to the terms and conditions imposed by Town Board upon approval of the subject land use application.

Section 5. Current Business Licensees. If the amount of short-term rental license applications submitted upon the adoption of this ordinance exceed the cap imposed by the ordinance, the City Clerk shall process short-term rental license applications submitted by current business licensees (those who hold a valid and active business license with the Town) and who operate a short-term rental first, before processing subsequent short-term rental license applications.

Section 6. Safety Clause. The Town Board hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Fairplay, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Board further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 7. 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 8. This Ordinance shall become effective thirty (30) days after final publication.

**INTRODUCED, READ AND PASSED, ADOPTED AND ORDERED PUBLISHED
IN FULL** in a newspaper of general circulation in the Town of Fairplay by the Board of Trustees
this ___ day of _____, 2022.

Frank Just, Mayor

Janell Sciacca, Town Clerk