

**TOWN OF SILVER PLUME
ORDINANCE NO. 348**

**AN ORDINANCE CONCERNING THE
SHORT-TERM RENTAL OF RESIDENTIAL STRUCTURES
WITHIN THE TOWN OF SILVER PLUME, COLORADO**

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SILVER PLUME, COLORADO:

Section 1. Findings, Purpose.

(a) The Silver Plume Board of Trustees finds that the use of property for short-term rentals has impacts on the neighborhoods not unlike that of hotels, motels, and lodges. The impacts of short-term rentals on neighboring uses can be significant when the rental property is occupied by multiple tenants in consecutive tenancies throughout the year. The commercial aspects of short-term rentals can have detrimental effects on the quiet, dignity, and neighborliness of adjacent residential uses and therefore should be regulated to protect the health, safety and welfare of Silver Plume and the general public.

(b) The purpose of this ordinance is to foster and safeguard the residential character of the Town and to protect the public health, safety, and welfare of the Town for the benefit of its residents and its visitors.

Section 2. Applicability. The requirements in this ordinance apply to short-term rentals as that term is defined herein. It does not apply to the following:

- (a) the furnishing of lodging services in hotels, motels, and lodges specifically approved for such use under the Town's Land Use Code; or
- (b) short-term rental of a primary residence for no more than nine (9) nights in a year.

Section 3. Definitions. As used in this ordinance, unless the context otherwise indicates:

- (a) "Initial application deadline" means October 28, 2022.
- (b) "License" means, unless otherwise clear from the context, a short-term rental license contemplated by this ordinance.
- (c) "License renewal deadline" means each anniversary of the initial application deadline. While an initial application may be received and approved at any time during the year, its renewal deadline shall be the next ensuing anniversary of the initial application deadline. When a license renewal deadline falls on a Saturday, Sunday, or holiday, it shall be extended to the next regular business day.

(d) “Person” means an individual, partnership, corporation, trust, or other legal entity.

(e) “Primary residence” means a residence which is the usual place of return for housing documented by the owner self-certifying, under penalty of perjury, to that effect and providing at least two of the following: motor vehicle registration, driver’s license, a Colorado state identification card, voter registration, or tax documents. A person can have only one primary residence.

(f) “Short-term rental” means the rental of all or part of a residential structure or the residential portion of a mixed residential/commercial structure for human lodging for a period of less than 30 consecutive days.

(g) “STR Administrator” means a person designated as such by the Board of Trustees. If the designated person is the Mayor or a Trustee, that person shall not take part as the Mayor or a Trustee in any appeal provided for in this ordinance.

Section 4. Location. Subject to the requirements of this ordinance, short-term-rentals may be located in a residential unit or the residential portion of a mixed residential/commercial structure in any zone district in the Town where residential occupancy is allowed.

Section 5. Fees. The fee for each initial license application shall be \$500. The fee for each renewal license application shall be \$250. The fee is not refundable in the event that the license or renewal is not issued, nor is the fee subject to proration for a partial year.

Section 6. License Requirements, Procedure, Appeal.

(a) After the initial application deadline, it shall be unlawful and a violation of this ordinance for any person to use any property as a short-term rental without first obtaining a short-term rental license from the Town.

(b) The license application shall be submitted to the Town Clerk, must be accompanied by the annual license fee and include the following:

- (i) owner name and address;
- (ii) property address;
- (iii) maximum occupancy of rental guests;
- (iv) name of owner representative and contact information;
- (v) identity of any broker or agent (e.g. AirBnB, Vrbo) to be used;
- (vi) proof of ownership of the property;
- (vii) proof of property and liability insurance as a short-term rental;
- (viii) proof of any applicable business, sales tax, lodging tax, or similar license;
- (ix) a parking plan for guests;
- (x) proof that the property is the applicant’s primary residence if the applicant intends to rely on Section 10(d) of this ordinance; and

(xi) the certificate required in the next subsection.

(c) The applicant shall certify, under penalty of perjury, that:

- (i) The applicant consists of no more than four (4) individuals and that no other person owns any portion of the fee simple title to the property proposed for licensing.
- (ii) The applicant acquired the property proposed for licensing before January 1, 2022 or, if acquired thereafter, at least twenty-four (24) months prior to applying for the license.
- (iii) The property proposed for licensing has, and will have throughout the license term, a functioning fire extinguisher, carbon monoxide detector, and smoke alarm as required by this ordinance;
- (iv) The property proposed for licensing is, and will be throughout the license term, covered by liability insurance for bodily and property damage in the context of STR use; and
- (v) The property proposed for licensing is, to the best of the applicant's knowledge, in compliance with the Town's Land Use Code and applicable building, fire and related codes.

(d) The STR Administrator may require additional items deemed necessary to establish eligibility for a license under the criteria specified in this ordinance. An application shall not be deemed complete until such additional items have been provided.

(e) At the applicant's expense, the applicant shall cause to be posted and maintained on the proposed short-term rental property a notice, legible from a passing vehicle, stating the date of the notice, the property location, that a short-term license has been applied for, that the full application may be copied or reviewed at the Town Hall, and the date by which comments must be received, which date shall be at least fifteen (15) days after the date of the notice. The Town Clerk will provide a copy of the required notice upon request.

(f) After reviewing the license application and any public comments, the STR Administrator shall issue or deny the license within fifteen (15) days after the deadline for receipt of public comments. The STR Administrator shall deny the license if the application or supporting documentation does not comply with this ordinance. The STR Administrator may also deny the application if it contains false, incomplete, or misleading information or if the posted notice is found to be inadequate. A short-term rental license may be issued with conditions necessary to assure compliance with the policy of this ordinance and the development standards of the Town's Land Use Code.

(g) The applicant may appeal the STR Administrator's decision to issue, revoke, or deny a short-term rental license. Such appeal shall be filed with the Town Clerk in writing within fifteen (15) days of the STR Administrator's decision. The Board of Trustees shall hear and decide upon all appeals, after fifteen (15) days public notice of the time, date and location of the appeal hearing being posted on the subject property and at the Town Hall. The decision of the

STR Administrator (if not appealed) or of the Board of Trustees (if appealed), is the final decision of the Town for purposes of judicial review.

(h) If issued, a short-term rental license is issued to the owner of the property where the short-term rental will occur, may be used only for that property, and is not transferrable upon sale of that property.

(i) A short-term rental license shall be valid until the next ensuing license renewal deadline and, if a renewal application has been timely submitted, thereafter until a renewal license is granted or denied by the Town.

(j) A short-term rental license may be renewed, but only if a complete renewal application is received by the Town Clerk on or before the license renewal deadline. The application contents and procedure shall be the same as with an initial license application, except that posting on the property shall not be required and the deadline for receipt of public comments shall fifteen (15) days after the license renewal deadline or fifteen (15) days after the completed renewal application has been submitted, whichever is later. Failure to timely apply for a renewal shall result in expiration of the license, and any application received thereafter shall be treated as an initial application.

Section 7. Additional Requirements for Short-Term Rentals.

(a) Each short-term rental unit must be owned by no more than four (4) individuals and no other person.

(b) The short-term rental property must have been acquired by the applicant before January 1, 2022 or, if acquired thereafter, at least twenty-four (24) months prior to applying for the license.

(c) Each short-term rental unit must have access to a functioning toilet, sink, and bath or shower without having to go outside.

(d) A short-term rental property must provide one off-street parking space for every three (3) or fewer beds available for short-term rental in the property. A property lacking such space(s) may still be licensed if the STR Administrator determines that the parking plan submitted with the license application is practicable and will not have a negative effect on the neighborhood.

(e) All owners of short-term rentals are required to collect and remit any applicable sales, lodging, or similar tax except to the extent that a broker or agent does it for them.

(f) An ancillary structure in existence on the effective date of this ordinance shall be subject to the same requirements for licensing as the primary structure on the same lot or parcel.

(g) The holder of a license shall hold the Town harmless from any injury or damage which arises out of or occurs as a result of the operation of a short-term rental, including attorney's fees or other expenses incurred in defending against any lawsuit or other action which may be brought against the Town as a result of such operation.

(h) Address numbers shall be posted on the exterior of a licensed building so as to be clearly visible.

Section 8. Safety and Operations.

(a) There shall be an owner representative within Clear Creek County who is on call full time (24/7) to manage the property during any period within which the property is occupied as a short-term rental. The name, address, and phone number of the owner representative shall be listed on the short-term rental license which is on file at Town Hall, and shall be prominently posted inside and outside at the rental property (except that the outside posting need not include the address of the owner representative). It is the responsibility of the owner representative to inform short-term rental tenants regarding Town ordinances including but not limited to pets, parking, trash, and noise.

(b) No trash or garbage shall be left outside the unit except on trash pickup days or in a bear-proof container.

(c) The owner shall ensure compliance with the parking plan approved as part of the application.

(d) A life safety inspection may be ordered by the Town, at the Town's initial expense, at any time during the term of a license or while the granting of the license is under consideration by the Town. The inspection shall evaluate the suitability of the building for short-term rental, including but not limited to the following:

- (i) Adequate fire extinguishers shall be and are installed and maintained;
- (ii) Smoke alarms and carbon monoxide alarms shall be and are installed as required by the applicable building, fire, and related codes;
- (iii) The maximum occupancy approved in the license shall be and is clearly posted; and
- (iv) Emergency egress pathways shall be and are in compliance with the

applicable building and fire codes.

If the inspection reveals a violation, the owner shall promptly remedy the violation and reimburse the Town for the cost of the inspection.

Section 9. Violation and Enforcement.

(a) **Notice of violation and administrative order.** Any person who has violated or is violating any of the provisions of the license or this ordinance shall be subject to a written notice of violation, an administrative order, or both. A notice of violation and administrative order may be combined into one document. The notice of violation shall state the nature of the violation(s) and the administrative order shall require that the violation(s) be corrected and compliance obtained with this ordinance within a reasonable time, as specified in the administrative order, and the amount of the civil penalty. The notice of violation and/or administrative order shall be sent via regular mail to the licensee and posted on the property.

(b) **Administrative penalties.** In addition to other remedies provided in this ordinance, violations stated in a notice of violation and administrative order issued pursuant to this ordinance are subject to a civil penalty of up to \$100 for the first violation, up to \$200 for the second violation within a twelve-month period, and up to \$1,000 for each violation thereafter within a twelve-month period. If a violation continues after a reasonable time required to correct the violation, each subsequent day or part of a day the violation continues is a separate offense. Payment of the penalty shall not excuse the failure to correct a violation, nor shall it bar further enforcement action by the Town.

(i) Any license holder who receives a notice of civil penalty assessment may appeal the civil penalty to the Board of Trustees in the manner set forth in Section 6(g) of this ordinance.

(ii) Based on the evidence and reasons presented by the licensee or its representative, the Board of Trustees may uphold the civil penalty assessments, dismiss the civil penalty assessments, or waive or conditionally reduce the penalties assessed by the administrative order. The written decision shall be mailed to the licensee.

(iii) Civil penalties not paid and received by the city within 30 days of issuance of the notice of civil penalty, or decision of the Board of Trustees if the licensee has requested review by the Board, whichever is later, shall be deemed delinquent and subject to delinquency charges. Civil penalty assessments not paid before the due date may result in the imposition of a late fee of \$25.00, and interest at 1½ percent per month or fraction thereof shall accrue. The Town shall also be entitled to reasonable attorney fees and costs incurred in collecting civil

penalties or otherwise enforcing this ordinance.

(iv) In the event that the penalties, late fees, interest, and attorney fees and costs due at any time total the amount of \$2,000 or more, the Town shall have a lien on the subject property as security for the collection of thereof. The Town Clerk shall certify such charges to the County Treasurer, for collection in the same manner as the collection of general property taxes.

(c) **Other remedies.** In addition to any other remedy provided by law or this ordinance, the Town may invoke all or any of the following remedies for violation of any requirement of the license or this ordinance:

- (i) revoke or refuse to renew a license;
- (ii) declare that no future license may be issued to the same person; and/or
- (iii) seek judicial enforcement of any violation of this ordinance.

Section 10. Maximum Number of Licenses, Wait List, Exception.

(a) The maximum number of outstanding licenses allowed within the Town at any one time shall be the number of completed license applications received by the Town on or before the initial application deadline.

(b) After the initial application deadline, the Town Clerk shall establish and maintain a wait list of persons who have submitted a written request to apply for a license which, if granted, would result in exceeding the maximum number of outstanding licenses. Such requests shall be listed and honored in the order received.

(c) When the number of outstanding licenses is no longer at its maximum, the Town Clerk shall notify the top person on the list, who shall have thirty (30) days thereafter to submit a completed application or be removed from the list. The process shall be repeated as many times as necessary to produce the maximum number of outstanding licenses or exhaust the wait list.

(d) Short-term rentals to no more than two individuals at any one time in a primary residence while the owner is actually in residence shall not be subject to the maximum limitation provided for in this section. However, such rentals will still require a license unless otherwise exempted in this ordinance

Section 11. Severability. If any part of this ordinance or the application thereof to any person or circumstance is found to be invalid, such invalidity shall not affect the validity of any

remaining part of the ordinance or of application to any other person or circumstance, and to that end this ordinance is declared to be severable.

INTRODUCED BEFORE THE BOARD OF TRUSTEES ON THE 23rd DAY OF May, 2022.

ADOPTED AND ORDERED PUBLISHED by the Board of Trustees of the Town of Silver Plume, Colorado, this _____ day of _____, 2022.

(S E A L)

Mayor Sam McCloskey

Attest: _____
Town Clerk