

TOWN OF NEDERLAND, COLORADO

ORDINANCE NUMBER 7XX

AN ORDINANCE AMENDING CHAPTERS 6 AND 16 OF THE NEDERLAND MUNICIPAL CODE, CONCERNING BUSINESS LICENSING AND ZONING, RESPECTIVELY, TO ESTABLISH A SHORT-TERM RENTAL LICENSING PROGRAM

WHEREAS, the Town of Nederland, Colorado (“Town”) is a statutory municipality, duly organized and existing under the laws of the state of Colorado; and

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

WHEREAS, the Board of the Town finds that there exists within the Town from time to time, residential dwelling units that are offered for rent for the purpose of vacation or other short-term stays of less than 30 days; and

WHEREAS, in discussion with the Planning Commission at a joint work session on August 24, 2016, the Board determined it prudent to establish regulations governing such uses, so as to protect the health, safety and welfare of residents of the Town, and so directed the Planning Commission to draft related policy for the Board’s consideration; and

WHEREAS, the Planning Commission has made certain recommendations to the Board of Trustees regarding amendments to Chapters 6, Licensing, and 16, Zoning, of the Town of Nederland Municipal Code (“Code”), related to short-term rental of housing units and related licensing; and

WHEREAS, after due and proper notice as required by C.R.S. §§ 31-23-304 and 305, the Planning Commission held a continuing public hearing at many meetings, including on June 27, 2018; and

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

WHEREAS, the Board finds that the establishment of a licensing program will accomplish this goal, protect the health, safety, and welfare of the public, and prevent adverse impacts to adjacent properties, neighborhoods and quality long-term rental housing units within the Town.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Nederland, Colorado, as follows:

Section 1. The following Article is hereby added to Chapter 6 of the Nederland Municipal Code.

ARTICLE XII

Short-term Rental Business Licensing

Sec. 6-291. Definitions.

Advertise means any act, method or means of drawing attention to a short term rental for purposes of promoting the same for rent or occupancy.

Imminent danger shall mean a condition that could cause serious or life-threatening injury or death at any time.

Licensed premises means the premises specified in an approved application for a license under this Article which are owned or in the possession of the licensee and within which such licensee is authorized to provide short term rental accommodations in accordance with this Article.

~~*Primary residence* means a residence which is the usual place of return for housing as documented by the occupant's: (1) driver's license OR Colorado state identification card; AND (2) voter registration; motor vehicle registration; OR designated residence for tax purposes. An applicant for a license under this Article may have only one (1) primary residence for purposes of this Article.~~

Short term rental means a ~~primary~~ residence or portion thereof used for lodging accommodations for transients for a period of less than thirty (30) consecutive days per transient renter.

Sec. 6-292. Application for license; term; renewal; non-transferable.

(a) License application. Applications for a short term rental license shall be submitted to the Town Clerk on a form provided by the Town, and the Town Clerk shall accept no incomplete applications. Applications shall provide the following information:

(1) The full name, residential address and telephone number for the applicant.

(2) The full name, address and telephone number of an authorized agent with either a residential or business address within fifty (50) miles of the Town, along with a copy of the writing designating the agent to act, in the applicant's absence, as the representative of the applicant on issues related to the short term rental.

(3) A sworn affidavit that the applicant has followed all license requirements, that there are no private rules or covenants that prohibit

the use of the licensed premises as a short term rental, and that the application is complete and contains no false, misleading or fraudulent statements.

(4) The address of the proposed licensed premises and a description or illustration of the area(s) that will be used for short term rental purposes.

(5) Proof of the lawful possession of the licensed premises by the applicant, either by deed or lease. If the applicant is not the owner, the application shall include written authorization, signed and notarized, from the owner of the licensed premises for the use of the same for short term rentals.

~~(6) Proof of applicant's primary residence at the licensed premises, by providing: (1) the applicant's driver's license OR Colorado state identification card; AND (2) the applicant's voter registration; motor vehicle registration; OR document(s) designating a residence for tax purposes.~~

~~(7) (6)~~ An application fee in an amount set forth in the Town Fee Schedule.

~~(8)~~ A delineated off-street parking plan for guests' cars, which provides for parking for all users of the rental space.

~~(9) A sales tax license issued by the State of Colorado.~~

~~(10) (8)~~ Information as to how the rental unit is served by utilities. If the unit is served by a septic system, a copy of the latest inspection must be included with the application. All utility payments owed to the Town, related to the rental unit, must be kept current.

~~(11) (9)~~ A certification by the applicant that the dwelling unit is equipped with operational smoke detectors, carbon monoxide detectors, fire extinguishers, and other life safety equipment as required by the locally adopted International Residential Code (IRC) Building Code and Fire Code.

~~(12) (10)~~ A completed short-term rentals self-inspection form, which form shall be provided by the Town Clerk, signed by the applicant under penalty of perjury.

~~(13) (11)~~ An acknowledgement that the licensed premises of the dwelling unit may be subject to a request for a pre-arranged inspection by appropriate building, fire, and zoning officials, and that a failure to allow such pre-arranged inspection shall, in the discretion of the Town Administrator, result in a suspension of the short-term rental license pursuant to Section 6-10 of this Code.

(~~4~~12) Such other information determined necessary by the Town Clerk to evaluate the compliance of the applicant, licensed premises or proposed short term rental activity with the requirements of this Code.

(b) 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.

(c) Each license issued under this Article shall be issued on a calendar year basis and shall expire with the calendar year for which issued.

(d) The renewal of a license under this Article shall follow the annual renewal process and requirements set forth under Section 6-9 of this Code.

(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.

(f) Upon the issuance or renewal of a license, the Town Clerk shall send written notice of such issuance to each distinct mailing address within two hundred (200) feet of the licensed premises. The Town Clerk shall notify the Town Administrator of any objective, Code-based concerns or alleged violations identified by such property owners responding to said written notice, and the Town Administrator, or his or her designee, may refer to these concerns at the applicable time.

(g) The Town Administrator is hereby authorized to promulgate any necessary rules or regulations associated with the license application.

(h) Upon receipt by the Town Clerk of an alleged violation of this Article or a discrepancy in the rental license application and the use of the building, the information provided on the application shall be updated by the landlord.

Sec. 6-293. Minimum health and safety standards; inspections.

(a) Each licensed premises licensed under this Article shall comply with all building, housing and health codes which, if violated, would constitute an imminent danger.

(b) No license under this Article shall be issued until the applicant submits a completed short-term rentals self-inspection form, which form shall be provided by the Town Clerk, signed by the applicant under penalty of perjury, as well as an acknowledgement that the licensed premises of the dwelling unit may be subject to a request for a pre-arranged inspection by appropriate building, fire, and zoning officials, and that a failure to allow such pre-arranged inspection shall, in the

discretion of the Town Administrator, result in a suspension of the short-term rental license pursuant to Section 6-10 of this Code.

(c) A short-term rentals self-inspection form of the license premises shall be completed and signed by the applicant before the initial issuance of any license under this Article, and shall be submitted every year thereafter.

Sec. 6-294. Limitations; Requirements.

(a) Each licensee shall submit to the Town, on a yearly basis, an affidavit, signed by the licensee and notarized, ~~attesting to the duration and frequency of the prior year's short term rental history, as well as confirmation of~~ confirming payment of all applicable sales and lodging taxes.

(b) Each licensee shall post at a prominent place inside the premises a notice containing the following:

- (1) Licensee's contact information;
- (2) Emergency contact information if the licensee cannot be reached;
- (3) Local trash and recycling schedule;
- (4) Parking restrictions, if applicable;
- (5) Water restrictions, if applicable;
- (6) Evacuation directions in the event of fire or emergency;
- (7) Location of the fire extinguisher;
- (8) Contact information of the owner or agent authorized to respond to emergencies or inquiries; and
- (9) Town contact information for purposes of complaints concerning the licensed premises.

(c) There shall be an owner or representative who is on call full time to manage the property during any period which the property is occupied as a short term rental. The owner or representative shall be required to respond to an active guest within three (3) hours by phone or in person.

(d) The license number shall be prominently displayed on all hosting sites and advertising listings of the licensed premises.

(e) Sales tax must be collected and remitted on each short-term rental stay in accordance with State and Local requirements.

(f) Recreational Vehicles (RVs), which includes all vehicles that bear a Vehicle Identification Number (VIN), tents, campers or other temporary structures are not eligible for a short term rental license, and such use is prohibited for short term rentals.

(g) Accessory Dwelling Units (ADUs) or other detached accessory structures are not eligible for a short-term rental license, and such use is prohibited for short term rentals.

(h) Each licensee/applicant may only obtain one license within the Town limits. No individual/family/legal entity shall obtain more than one short term rental license by the Town, nor may any individual/family/legal entity rent out more than one residence or property within the Town under this Article.

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Sec. 6-295. Suspension and revocation; appeal.

Each license issued under this Article is subject to suspension and revocation proceedings, including the availability to appeal the outcome thereof, as set forth under this Code.

Sec. 6-296. Unlawful acts.

It is unlawful for any person to:

(a) Operate a short term rental without a smoke detector, carbon monoxide detector and fire extinguisher on the licensed premises during each short term rental occupancy period.

(b) Operate a short term rental ~~in any location other than the person's primary residence.~~

~~(c) Operate a short term rental~~ that does not comply with all applicable State and Town laws and codes.

~~(d)~~ Advertise any short term rental without including in such advertisement the short term rental license number issued by the Town under this Article.

~~(e)~~ Fail to collect or remit sales tax due on the sale of short term rentals as required by law.

~~(f)~~ Operate a short term rental or permit the use or occupancy of the same in violation of any the requirements of this Code, concerning zoning, including but not limited to occupancy limitations.

~~(g)~~ Construct or modify a licensed premises for short term rental purposes in violation of this Code, concerning building regulations, including any code adopted by reference therein.

Secs. 6-297—6-310. Reserved.

Section 2. Section 16-32, entitled “Use Groups,” is hereby amended as follows:

Sec. 16-32. Use groups.

USE GROUPS	DISTRICTS						
	F	MR LDR MDR HDR	NC	CBD	GC	I	P ⁷
<i>Commercial Use Groups</i>							
Hotels and motels	N	N	R	R	R	N	N
Campgrounds and resort cabins	R	N	N	N	N	N	R
<u>Short-term Rental Units</u>	<u>N</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>N</u>

"N" = use groups prohibited
 "R" = use groups permitted by special review
 "Y" = use groups permitted outright

Section 3. 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 4. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

Section 5. Effective Date. This ordinance shall take effect six months days after adoption by the Board of Trustees.

INTRODUCED, ADOPTED AND ORDERED PUBLISHED THIS _____ DAY OF _____, 2018.

TOWN OF NEDERLAND, COLORADO

 Kristopher Larsen, Mayor

ATTEST:

Nicole Cavalino, Town Clerk

APPROVED AS TO FORM:

Nina Petraro, Town Attorney

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