

**TOWN OF PONCHA SPRINGS, COLORADO**

**ORDINANCE NO. 2022-2**

**(SERIES OF 2022)**

**AN ORDINANCE OF THE TOWN OF PONCHA SPRINGS, COLORADO, AMENDING THE PONCHA SPRINGS LAND USE CODE AND ORDINANCE 2020-1 AND 2021-5 BY THE AMENDMENT OF SECTION 6.15.5, ELIGIBILITY FOR SHORT-TERM RENTAL PROPERTIES**

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF PONCHA SPRINGS, COLORADO:**

**Section 1.** The Poncha Springs Land Use Code is hereby amended with definitions as follows:

**Hotels & Motels:** A nonresidential structure, or portion thereof, in which at least one (1) habitable space is made available to paying guests for thirty (30) consecutive days or less; provided that two (2) or more cabins or similar structures on a single parcel or under common ownership on adjacent parcels, that are designed, intended, or available for occupancy for thirty (30) consecutive days or less shall be considered hotels or motels.

**Short-term rentals:** A residential structure, or portion thereof, in which the entire structure, or two (2) or fewer habitable spaces, are made available to paying guests for thirty (30) consecutive days or less; provided that bed and breakfasts, and hotels and motels shall not constitute short-term rental properties.

**Section 2.** The Poncha Springs Land Use Code is hereby amended by the addition of Section 6.15 to read as follows:

**6.15 – Short-Term Rental Properties**

**6.15.1 – Purpose and Applicability**

- (a) The purpose of this Section is to establish licensing regulations to safeguard the public health, safety and welfare by regulating and controlling the use, occupancy, location and maintenance of short-term rental properties in the Town.
- (b) This Section shall apply to short-term rental properties only as defined herein. This Section shall not apply to motels, hotels, bed and breakfasts, or other establishments providing lodging for the general public.
- (c) This Section shall not supersede or affect any private conditions, covenants or restrictions applicable to a parcel of property.

**6.15.2 – Definitions**

As used in this Section, the following words shall have the meaning ascribed below:

*Bed and Breakfast* shall have the same meaning as in the Town of Poncha Springs Land Use Code.

*Hotel and motel* shall have the same meaning as in the Town of Poncha Springs Land Use Code.

*Lease* means an agreement or act by which an owner gives to a tenant, for valuable consideration, possession, and use of property or a portion thereof for a definite term, at the end of which term the owner has an absolute right to retake control and use of the property.

*Owner* means the record owner of a dwelling or dwelling unit who intends to lease or who leases the unit as a short-term rental.

*Short-term rental* shall have the same meaning as in the Town of Poncha Springs Land Use Code.

**6.15.3** Short-Term Rentals as defined in the Land Use Code shall be an allowable in all zones where residential units are allowed except for T5-Urban Center Zone.

**6.15.4 – License Required**

- (a) A valid license and a certificate of occupancy are required for each short-term rental in the Town.
- (b) Licenses shall be issued by the Town Clerk, provided the requirements of this Section are met.

**6.15.5 – Eligibility**

- (a) To be eligible to apply for a Short-Term Rental license the owner of the property to be rented must be a bona fide resident of Chaffee County, documented by *the applicant's 1) valid driver's license or Colorado state identification card reflecting the address of the owner being in Chaffee County ~~or~~ and 2) current registration to vote in Chaffee County provided as a signed Certificate of Registration from the Chaffee County Clerk and Recorder no more than 30-days old; or document(s) designating a primary residence for income tax purposes with the IRS for the prior year.* This documentation must be provided for all new and renewal applications. The name of the license applicant must match the name of the owner on the deed for the property, or the person controlling a corporate owner of the property.
- (b) *Each licensee shall submit to the Town, on an annual basis, for all new and renewal applications, an affidavit, signed by the applicant and notarized, attesting, under penalty of perjury, to bona fide residency in Chaffee County, as well as confirmation of the validity of all documentation submitted pursuant to this Article.*

(b c) All licensed Short-Term Rentals, as of the effective date of Ordinance 2021-5: June 24<sup>th</sup>, 2021, may continue to operate and renew annually regardless of the eligibility requirements of this Section 6.15.5 until such time that the property changes ownership. Owners of property purchased between March 1, 2021 and the effective date of Ordinance 2021-5 may apply for a Short Term Rental license regardless of the eligibility requirements of this Section, provided: (1) such application is filed on or before July 31<sup>st</sup>, 2021 and (2) the applicant first obtains approval of the Board of Trustees, which may be granted or denied in the sole discretion of the Board.

#### **16.15.6 – Application/Fee**

- (a) Applications shall include all material required by the Town's Short-Term Rental Housing Standards and Specifications.
- (b) The license fee shall be set by the Town of Poncha Springs Board of Trustees and reflected on the Short-Term Rental License Application.
- (c) Applications for structures or other temporary dwellings that do not have a certificate of occupancy permitting such a use shall not be processed for a license.

#### **16.15.7 – License Term**

- (a) A short-term rental license shall be for a one calendar year, subject to annual renewal on or before January 31<sup>st</sup> of each year or when title to the short-term rental property transfers to a new owner, whichever occurs first. A license shall terminate immediately upon a change in ownership.
- (b) Issuance of a short-term rental license shall not create a continued right to operate a short-term rental beyond the annual term of the license. All short-term rentals shall be subject to amendments to this Section or the Town's Short-term Rental Housing Standards and Specifications.
- (c) An application for renewal of a short-term rental license shall be submitted between ninety (90) and thirty (30) days prior to the expiration of the existing license.

#### **6.15.8 –Health and Safety Standards**

Each short-term rental property shall be licensed and in compliance with the Town of Poncha Springs Short-Term Rental Housing Standards and Specifications during all times the property is being leased.

#### **6.15.9 – Advertising**

All advertising for a short-term rental property shall include the short-term rental license number immediately following the description of the short-term rental

property. No short-term rental property may be advertised for lease until a license has been issued.

#### **6.15.10 – Suspension/Revocation**

The Town shall have the authority to suspend or revoke and assess administrative penalties for a short-term rental license for a violation of this Section. The following procedures shall be used when determining revocation:

- (a) A suspension/revocation notice shall be delivered via first class mail to the address of the licensee (as listed on the applicable license), which shall list in detail the violation upon which the suspension/revocation is based, and the effective date of the suspension or revocation, which shall commence no earlier than ten (10) days after the date of the notice. The notice shall inform the licensee of licensee’s appeal right as set forth herein.
- (b) The licensee may appeal the suspension/revocation notice by filing an appeal with the Town Clerk within ten (10) days of the date of the notice. An appeal shall stay the suspension or revocation until a final written decision is issued. The appeal shall state why a suspension or revocation is not warranted, which may include a statement contesting the violation itself and information addressing how the licensee has taken measures to address the violation. Upon receipt of the appeal, the matter shall be set for a hearing before the Town Administrator or his/her designee, at which the owner of the subject property and the Town may present evidence and testimony concerning the violation and the appeal. In determining whether to uphold the suspension or revocation, or modify its terms, consideration shall be given to the criteria set forth in Section 6.15.40 *II* (b) for renewal of a license. The decision shall be reduced to writing and shall constitute a final decision.
- (c) Any properties used for short-term rental purposes in violation of this Section, shall be subject to the following penalties in addition to those set forth in Section 6.15.10 of this Section:
  - (1) First offense: thirty (30) day suspension with \$100.00 fine.
  - (2) Second offense: one (1) year suspension with \$250.00 fine.
  - (3) Third offense: revocation of license without possibility of reapplication for five (5) years with \$500.00 fine.

Failure to pay the penalty shall constitute a further violation of this Section, which shall subject the license to suspension or revocation; provided that there shall be no administrative appeal right for a suspension or revocation based upon failure to pay the penalty.

#### **6.15.11 – Renewal.**

- (a) Upon receipt of a timely renewal application, the Town Clerk shall review the application and shall administratively approve renewal of the license, provided that in the year immediately preceding the date of renewal, the property has not been in violation of this Section, has not had its short-term rental license suspended, and has not been the subject of a nuisance violation conviction or plea of guilty or no contest. Otherwise, the renewal application shall be reviewed by the Board of Trustees at a public hearing upon notice being delivered via certified mail to the owners of all properties within 200 feet of the subject property, and posting of notice of the hearing at a conspicuous location on the subject property.
- (b) In deciding whether to renew the license, the Board of Trustees shall consider the severity of the violation, the culpability of licensee, any measures taken to remedy the violation and to ensure it will not reoccur. Statements shall be taken by Town staff, the owner and/or operator of the short-term rental property, and the neighbors subject to the 200-foot notice.
- (c) If a renewal application is denied, no application for a short-term rental license shall be accepted for such property for one (1) year.

**16.15.12 – Violations and Penalty**

- (a) It is unlawful for any owner or occupant of a short-term rental property to violate any provision of this Section or any other applicable provisions of this Code.
- (b) In addition to the suspension and revocation proceedings pursuant to Section 6.15.10, violations of this Section shall be subject to the penalties set forth in Section 13 of this Code. Each separate act in violation of this Section, and each and every day or portion thereof during which any separate act in violation of this Section is committed, continued, or permitted, shall be deemed a separate offense. Any remedies provided for in this Section shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

**Section 3.** The Board of Trustees hereby finds, determines and declares that this ordinance is necessary and proper for the health, safety and welfare of the Town and inhabitants thereof.

**Section 4.** The amendment of any provision of the Poncha Springs Land Use Code, as provided in this ordinance, shall not affect any right which has accrued, any duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision amended. The amendment of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

