

TOWN OF LYONS, COLORADO

ORDINANCE 1019

**AN ORDINANCE ADDING A NEW ARTICLE 7 TO
CHAPTER 6 OF THE LYONS MUNICIPAL CODE AND
AMENDING CERTAIN SECTIONS OF CHAPTER 16 OF
THE LYONS MUNICIPAL CODE REGULATING SHORT-
TERM RENTALS**

WHEREAS, pursuant to C.R.S. § 31-23-301, the Town of Lyons ("Town") possesses the authority to zone, rezone, change, supplement, and revise the zoning classifications or designation of property and to regulate land uses within the Town; and

WHEREAS, the Town is authorized by C.R.S. § 31-23-301 to regulate zoning and land use within the Town's boundaries, and the Town has in fact adopted a comprehensive zoning scheme; and

WHEREAS, pursuant to C.R.S. §31-15-103 and the Local Government Land Use Control Enabling Act of 1974 set forth in Article 20 of Title 29, C.R.S., the Board of Trustees of the Town of Lyons (the "Board") has the power to regulate land use on the basis of the impact thereof on the community or surrounding areas and to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the Town; and

WHEREAS, the Board recognizes that residents and property owners are currently renting their dwelling units to overnight guests for periods of time of less than thirty (30) days ("Short-term Rentals" or "STRs"); and

WHEREAS, the Board recognizes that there are benefits to permitting owners of dwelling units to rent those units or portions thereof as STRs, such as providing additional diversity in the lodging options available for commercial and recreational travelers, bringing

additional visitors to Town, increasing additional revenue through the collection of related taxes, and facilitating a mechanism by which owners of dwelling units can offset costs of owning those units; and

WHEREAS, the text of Chapter 16 of the Lyons Municipal Code ("LMC") shall not be amended unless such amendment complies with any of the criteria set forth in § 16-15-50 of the LMC, which permits amendments that accommodate innovations in land use and development practices that were not contemplated at the time and adoption of Chapter 16 or that provide for changes in administrative practices as may be necessary to accommodate changing needs of the community, or that further the implementation of the goals and objectives of the Comprehensive Plan; and

WHEREAS, the Board finds that the use of dwelling units as Short-term Rentals is an innovation in land use not contemplated at the time that the provisions in Chapter 16 of the LMC were adopted, and therefore amendment of Chapter 16 is permitted; and

WHEREAS, the Lyons Comprehensive Plan sets forth the goal of focusing on encouraging the development of lodging facilities in Economic Development Strategy 2.2.1, in furtherance of making Lyons a retail and recreational destination for residents and visitors pursuant to Economic Development Objective 2.2, and therefore amendment of Chapter 16 of the LMC is permitted; and

WHEREAS, the Board finds that the renting or leasing of dwelling units as STRs may have adverse impacts upon adjacent properties, the character of residential neighborhoods, the availability of affordable housing, public services, and the public health, safety, and welfare of the citizens of the Town and visitors to the Town; and

WHEREAS, in order to protect residential integrity within the Town, the Board finds that it is necessary to adopt regulations and restrictions on the renting or leasing of real property for residential occupancy for periods of less than thirty (30) days, and desires to adopt such regulations and restrictions; and

WHEREAS, pursuant to Section 2-8-170(b)(1) of the LMC, the Planning and Community

Development Commission ("PCDC") is charged with advising, recommending, and assisting the Board of Trustees in matters relating to planning the physical growth of the Town in accordance with the powers granted pursuant to Article 23 of Title 31, C.R.S.; and

WHEREAS, in furtherance of the goals, strategies, and directives stated above, Town staff and the PCDC have studied what additional strategies may be employed to encourage the regulation of STRs; and

WHEREAS, the PCDC has determined that certain changes to Chapters 6 and 16 of the LMC are required to regulate STRs and to protect the health, safety, and welfare of the citizens of the Town, and consequently directed staff to prepare this Ordinance; and

WHEREAS, pursuant to §16-15-30(f) of the LMC ("Step 6: PCDC Public Hearing and Action on Zoning Amendment"), the PCDC held a public hearing to review this Ordinance, including certain amendments to Chapter 16 of the LMC; and, following conclusion of said hearing, adopted Resolution 2017-PCDC-03, recommending that the Board of Trustees proceed with the consideration and adoption of this Ordinance; and

WHEREAS, as required by law, the Board of Trustees conducted a duly noticed public hearing, considered the evidence presented, and approved this Ordinance; and

WHEREAS, the Town Clerk is in possession of the publisher's affidavits of publication concerning the notice of public hearings before the PCDC and the Board of Trustees on this Ordinance; and

WHEREAS, pursuant to Article 23 of Title 31, C.R.S., as amended, the Board of Trustees finds that the amendments to the Town's regulations as set forth in this Ordinance further the public health, safety, convenience and general welfare of the community; generally conform with the Town's Comprehensive Plan, as amended and updated; and otherwise meet the applicable criteria set forth in Chapter 16 of the LMC; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the Board of Trustees desires to comply with state law and the LMC by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the

proposal. Approval of this Ordinance on first reading does not constitute a representation that the Board of Trustees, or any member of the Town Board, supports, approves, rejects, or denies this Ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LYONS, BOULDER COUNTY, COLORADO:

Section 1. Recitals Incorporated. The recitals set forth above are hereby incorporated by reference and are adopted as findings and determinations of the Board of Trustees.

Section 2. The Lyons Municipal Code is hereby amended to include a new Article 7 in Chapter 6, entitled Short-Term Rental Licenses, to read in full as follows:

Article 7 - Short-term Rental Licenses

Section 6-7-10. – Purpose.

The purpose of this Article is to establish procedures and standards by which short-term rentals, as defined in Section 16-1-160 of this Code, may be licensed within the Town to promote a mix of lodging options that support tourism and the local economy; to uphold health, safety and welfare of the public; to ensure that all applicable taxes are paid as required by law, and to ensure that the impacts of short-term rentals do not adversely affect the residents and the character of a neighborhood.

Section 6-7-20. – Definitions.

For purposes of this Article, the following terms shall have the meanings indicated:

Booking party means one (1) or more persons who as a single group rent a short-term rental pursuant to a single reservation and payment.

Licensed premises means a dwelling unit, or portion thereof, that has a valid license issued pursuant to this Article allowing short-term rental of such dwelling unit.

Short-term rental shall have the same meaning as the term is defined in Section 16-1-160 of this Code.

Town Administrator shall mean the Town Administrator or his or her designee.

Section 6-7-30. – License required.

- (a) No dwelling unit may be used or operated as a short-term rental within the Town unless a short-term rental license has first been issued as required by this Article.
- (b) The requirement to obtain a short-term rental license is in addition to the requirement to obtain any other license, permit, or approval required by the Town, including but not limited to any required land use approval and any required building permits.

Sec. 6-7-40. – Eligibility for licenses.

- (a) To be eligible for a short-term rental license, the premises proposed for such licensure must be the principal residence of the owner of such dwelling unit. For purposes of this Article, "principal residence" means that the owner of the dwelling unit resides in such dwelling unit for a minimum of nine (9) months per calendar year, unless a lower minimum is approved by the Town Administrator. Under this definition, a person has only one (1) principal residence at a time.
- (b) Accessory Dwelling Units (ADUs) or other detached accessory structures are not eligible for a short-term rental license, and such use is prohibited.
- (c) 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.

Section 6-7-50. – License application; application fee.

(a) Any eligible applicant for a short-term rental license that seeks a short-term rental license shall file a completed application for such license with the Town Clerk on forms to be provided by the Town. In addition to the requirements set forth in Section 6-1-20 of this Code, the application for a short-term rental license shall contain the following information:

- (1) The applicant must provide documentation satisfactory to the Town Administrator that the applicant is the owner of the dwelling unit or is the beneficiary of a trust owning such unit and that the dwelling unit is his or her primary residence.
- (2) A description of which portion of the dwelling unit will constitute the licensed premises available for use as a short-term rental.
- (3) A certification by the owner 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 IRC Building Code and Fire Code.
- (4) 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 suspension of the short-term rental license or revocation proceedings pursuant to Section 6-1-110 of this Code.
- (5) The names and telephone numbers of both a primary and a secondary owner's representative that reside or are physically located within sixty (60) miles of the short-term rental property and that are available by phone 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 complaints regarding the condition, operation, or conduct of occupants of the rental unit; and (2) taking remedial action to resolve such

violations and complaints. The owner's representatives shall be responsible for ensuring compliance with all applicable provisions of the Lyons Municipal Code including, but not limited to, compliance with this Article, ensuring reports for sales tax and other applicable taxes are submitted, maintaining a current short-term rental business license, maintaining the premises of the short-term rental, removing snow and ice, and other property maintenance requirements.

- (6) Evidence that the applicant has either (i) a current Colorado sales tax license for the short-term rental of the licensed premises within the dwelling unit, or (ii) a contractual commitment from a third-party or parties with a current Colorado sales tax license(s) to collect, report, and pay sales tax on the applicant's behalf for all short-term rentals of the licensed premises.
- (7) A certification by the applicant that the information on the application is accurate and truthful under penalty of perjury under the laws of the State of Colorado.

(b) Each individual applicant for a short-term rental license shall pay an application processing fee at the time of submitting such application to the Town Clerk. Such fee shall be set by resolution of the Town Board of Trustees, and may be amended from time to time by resolution of the Board of Trustees. The application fee may be refunded at the discretion of the Town Administrator if the applicant demonstrates that the dwelling unit proposed for licensure has certain modifications that make it more accessible and accommodating to individuals with disabilities. The modifications required for a refund shall be established in administrative regulations adopted pursuant to Section 6-7-130 of this Code. Licensees that receive this fee refund shall include information regarding the enhanced accessibility on all advertising and promotional materials concerning the licensed dwelling unit.

(c) The Town Clerk shall not accept any application that is not complete in every detail. If the Town Clerk discovers an omission or error, the application shall be rejected and returned to the applicant for completion or correction without further action by the Town Clerk. All fees shall be returned with any rejected application. For the purposes of this Article, the date the Town Clerk accepts an application that is complete in

every detail shall be considered the filing date.

- (d) Upon determining that the application is complete in every detail, the Town Clerk shall forward the application to the Town Administrator for review for compliance with all requirements of this Code. The Town Administrator may require additional information and documentation as necessary to determine whether an application meets the requirements of this Article.

Sec. 6-7-60. – Process for application review and license issuance.

- (a) The Town Administrator, after reviewing the license application for compliance with this Article, is authorized to approve, approve with conditions, renew, renew with conditions, or deny an application for a short-term rental license. The Town Administrator shall render a decision on such application within forty-five (45) days after receiving a complete application. If the Town Administrator approves an initial or a renewal application, the Town Clerk shall issue such license in accordance with this Chapter upon payment of an annual licensing fee. Annual licensing fees shall be set by resolution of the Board of Trustees.
- (b) The Town Administrator shall deny a short-term rental license application for any of the reasons set forth in Section 6-7-70 for otherwise failing to comply with this Code. Any decision to deny an application shall be made in writing stating the specific reasons for denial, and the decision shall be promptly mailed to the applicant. The applicant may appeal a denial by the Town Administrator to the Town Administrator by submitting a request for appeal to the Town Clerk within (10) days of the date of the written decision denying the application. The Town Administrator shall administratively consider an applicant's timely request for an appeal. Following consideration of the application and the appeal, the Town Administrator may affirm, modify, or reverse the Town Administrator's initial decision. The Town Administrator's decision on this appeal shall be final.
- (c) The Town shall inform the Town's fire and law enforcement service providers when a short-term license has been issued for a particular address, and shall update that information annually.

Sec. 6-7-70. – Denial of license.

The Town Administrator shall deny issuance of a short-term rental license upon a finding of any of the following:

- (1) The applicant has failed to provide all information required on the application form or as otherwise required pursuant to this Article, or, in the case of a renewal, if a licensee has failed to cure any non-compliance with the provisions of this Article to the satisfaction of the Town Administrator.
- (2) The applicant has knowingly provided false information on the application form or as otherwise required pursuant to this Article.
- (3) The applicant has failed to pay any required fees.
- (4) After the effective date of this ordinance, the applicant has previously failed to comply with the ordinances and regulations of the Town relating to operating a short-term rental.
- (5) The dwelling unit does not comply with all applicable federal, state, and local laws.

Sec. 6-7-80. - Contents of license; license term.

In addition to the information required by Section 6-1-40 of this Code, each short-term rental license shall show the Town of Lyons business license number and indicate the portion of the dwelling unit that will constitute the licensed premises available for use by renters. Licenses issued pursuant to this Article shall be valid from the time of issuance through December 31 of the same calendar year. Licenses must be renewed annually and a renewed license shall be valid for an additional period from January 1 through December 31.

Sec. 6-7-90. Renewal and revocation; suspension.

- (a) The provisions of Sections 6-1-100 and 6-1-110 of this Code are hereby incorporated by reference.
- (b) Licensees seeking renewal shall pay a license renewal application processing fee set by resolution by the Board of Trustees.
- (c) At the time of each annual local short-term rental license renewal, each licensee shall, as a condition of renewal, provide the Town proof of payment of sales tax

and all other tax-related documentation as required by the Town.

- (d) The Town Administrator may suspend a short-term rental license if the Town Administrator determines that the licensee has failed to comply with the terms of the license, the provisions of this Article, or any other applicable provision of federal, state, or local law, including, but not limited to, the Town of Lyons Municipal Code.
- (e) The Town Administrator may impose conditions upon a suspended license to address non-compliance or life safety concerns described in this sub-section. Upon satisfaction of such conditions, the license shall be reinstated. Failure to comply with such conditions shall result in continued suspension or the Town may institute revocation proceedings.
- (f) The licensee may appeal a suspension by the Town Administrator to the Town Administrator by submitting a request for an appeal to the Town Clerk within (10) days of the effective date of the suspension. The Town Administrator shall administratively consider a licensee's timely request for an appeal. Following consideration of the suspension and the appeal, the Town Administrator may affirm, modify, or reverse the Town Administrator's initial decision. The Town Administrator's decision on this appeal shall be final.
- (g) The Town Administrator shall, in his or her sole discretion, suspend or seek revocation of a short-term rental license if the Town receives repeated complaints about the operation of a short-term rental from Town residents or law enforcement that are not resolved to the satisfaction of Town staff. Such unresolved complaints shall constitute grounds for revocation pursuant to Section 6-1-110 of this Code.

Section 6-7-100. – Licenses not transferable; expiration upon change of ownership.

Short-term rental licenses are only effective for the property for which they are issued. No license issued pursuant to this Article may be transferred from one (1) licensee to another, or from one (1) dwelling unit to another. Notwithstanding the provisions of Section 6-1-50, all short-term licenses shall expire immediately upon a change of ownership in the licensed dwelling unit.

Sec. 6-7-110. – Signage and advertising.

- (a) All signage and advertising for a short-term rental shall comply with all applicable provisions of the Lyons Municipal Code.
- (b) Every advertisement for a short-term rental, whether online or in print, shall include the Town of Lyons business license number and the maximum occupancy permitted in the short-term rental.
- (c) The owner of a licensed short-term rental shall post in a Town-approved location on the interior of the licensed dwelling unit a 10"x12" legible sign that contains the name and telephone number of the designated owner's representatives, the Town of Lyons business license number, and occupancy limits.

Section 6-7-120. – Operation of short-term rentals.

In addition to the restrictions imposed by this Article, and in addition to any other limitations imposed by federal, state, or local law, the provisions listed in this Section shall apply to all short-term rentals within the Town.

- (a) The owner of a licensed short-term rental shall maintain functional smoke and carbon monoxide detectors in all bedrooms and other rooms as required by the building code.
- (b) The owner of a licensed short-term rental shall provide to the Town updated contact information of the owner's representatives, including address and telephone number, if such information changes.
- (c) Properties and structures in which short-term rentals occur shall comply with all applicable Town ordinances and regulations including, but not limited to, zoning, noise, nuisance, lighting and building codes.
- (d) Failure to provide the Town Administrator with proof of passing any inspection by appropriate building, fire, and zoning officials shall be a violation of this Article and shall constitute grounds for suspension or revocation of a short-term rental license.

Sec. 6-7-130. – Reasonable regulations.

The Town Administrator is hereby authorized to adopt reasonable administrative regulations as are deemed necessary to implement the provisions of this Article. No administrative regulations, or amendments thereto, shall be effective unless and until they are posted in the office of the Town Clerk and on the Town's official website at least seventy-two (72) hours in advance of the effective date of the administrative regulations.

Sec. 6-7-140. – Violation; penalties.

- (a) Any person violating any provision of this Article shall be subject to the general penalty provision set forth in Article 4 of Chapter 1 of the Lyons Municipal Code. Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense.
- (b) All remedies and penalties provided for in this Article shall be cumulative and independently available to the Town, and the Town shall be authorized to pursue any and all remedies to the full extent allowed by law.
- (c) Nothing herein contained shall prevent or restrict the Town from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or non-compliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

Sec. 6-7-150. – Implementation.

The license requirements of this Article shall be in effect January 1, 2018.

Sec. 6-7-160. – Termination of Licensing Program; no creation of legal nonconforming use.

If the Board of Trustees terminates the short-term rental licensing program, all dwelling units licensed under that program shall cease operating as a licensed short-term rental no later than the expiration date of the license then in effect. Nothing in this Code shall be deemed to create, nor shall be construed to create, a legal nonconforming use of any dwelling unit as a short-term rental.

Section 3. Revised Definition of Bed and Breakfast. Section 16-1-160 of the Lyons Municipal Code is hereby amended by repealing and replacing the definition of bed and breakfast in 16-1-160 to read in its entirety as follows:

Bed and breakfast means an establishment operated in a private dwelling or portion thereof in which the owner of the dwelling concurrently resides and:

- (1) provides temporary accommodations to one or more booking parties at the same time for a fee; and
- (2) may serve at least one meal daily for overnight guests only.

A bed and breakfast shall not constitute or be regulated as a short-term rental.

Section 4. New Definitions - Short-Term Rental and Sleeping Room. Section 16-1-160 of the Lyons Municipal Code is hereby amended by adding the following definitions:

Short-Term Rental means the use of any dwelling, dwelling unit, or portion of any dwelling unit, that is located in the A-1, A-2, E, EC, R-1, R-2, C, CD, and CEC zone districts that is rented or leased to no more than one booking party per night for valuable consideration for individual occupancy periods of less than thirty (30) days with or without provision of meals. This definition does not include commercial hotels or motels. A short-term rental is a use that is accessory to the primary residential use of the dwelling unit, for which the principal use remains occupancy by the owner as their primary residence. As such, the short-term rental use must remain incidental and subordinate to the primary use of the dwelling as a permanent residence.

Sleeping room means any room that has a bed, bunk beds, daybed, or other furniture for sleeping, including, without limitation, a roll-out couch or futon. To

qualify as a sleeping room, the sleeping room shall comply with all pertinent building code regulations, including, without limitation, requirements regarding exit or egress, ceiling height, and windows.

Section 5. The Lyons Municipal Code is hereby amended to include a new Section 16-10-80 within Chapter 16, Article 10, entitled Short-Term Rentals, to read in full as follows:

Sec. 16-10-80. – Short-term Rentals.

- (a) Districts permitted. It shall be unlawful to operate or to cause or permit the operation of a short-term rental except in zone districts A-1, A-2, E, EC, R-1, R-2, C, CD, and CEC. All operation of short-term rentals within such zone districts shall be subject to the owner obtaining all licenses required by Chapter 6, Article 7 of this Code.
- (b) No RVs or temporary structures. Recreational Vehicles (RVs), which includes all vehicles that bear a Vehicle Identification Number (VIN), tents, campers or other temporary structures may not be used as a short-term rental.
- (c) Occupancy caps. No short-term rental may have more than two (2) adults per bedroom or sleeping room, subject to a maximum of eight (8) overnight guests, regardless of age, unless a greater occupancy limit is approved by conditional use review.
- (d) Parking requirements. No more than two (2) vehicles may be parked overnight on a public street outside of a licensed short-term rental property. Parking of short-term rental occupant vehicles in alleys or in such a manner as to block emergency access is prohibited.
- (e) Prohibited activities. The following activities are prohibited while a short-term rental is in use:
 - a. Outdoor sleeping.

- b. Installation of tents, canopies, or other temporary structures or shelters.
- c. Attendance at any outdoor activity at the property on which the short-term rental is located by more than twice the number of permitted overnight occupants. A short-term rental may be used for overnight lodging only.
- d. Solicitation, advertising, rental, or use of a short-term rental for the purpose of holding a party, special event, social gathering, wedding or similar use are prohibited at all times.
- e. No kitchen facilities or cooking shall be allowed in guest rooms, sleeping rooms, or bedrooms.
- f. Owner occupancy of a detached accessory dwelling unit (ADU) while the principal dwelling unit is in use as a short-term rental is prohibited.

(f) Nothing in this Section 16-10-80 eliminates or shall be construed to eliminate the requirement for bed and breakfasts to obtain a conditional use permit as required by this Code.

Section 6. Board of Trustees Review of Ordinance. The Town of Lyons Board of Trustees shall review this ordinance eighteen (18) months after its effective date to determine if amendments are needed. Such review shall include and consider the following data: complaints, licensure and the licensing process, sales tax, and other pertinent information that may assist the Board of Trustees in determining whether amendments to this ordinance might be appropriate.

Section 7. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 8. Repeal. All other ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this Ordinance are hereby repealed, provided that such repeal shall not repeal any repealer clauses in such ordinances nor revive any ordinance thereby.

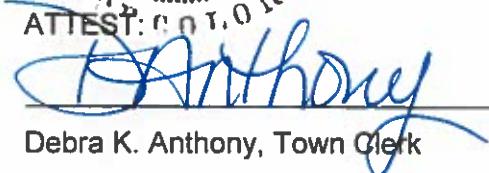
Section 9. Effective Date. This Ordinance shall become effective thirty (30) days after publication following final passage in accordance with Section 2-2-160 of the Lyons

Municipal Code.

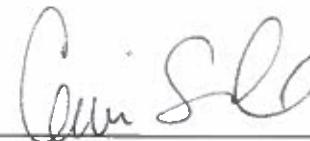
Section 10. Codification Amendments. The codifier of the Town's Municipal Code, Municipal Code Corporation, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of Sections 2, 3, 4, and 5 of this Ordinance within the Lyons Municipal Code.

INTRODUCED AND PASSED ON FIRST READING THIS 5th DAY OF SEPTEMBER, 2017.

INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED THI 18th DAY OF SEPTEMBER, 2017.


ATTEST: 
Debra K. Anthony, Town Clerk

TOWN OF LYONS, COLORADO



Connie Sullivan, Mayor