

**ORDINANCE NO. 21
SERIES 2022**

**AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL
REPEALING AND REPLACING CHAPTER 6 ARTICLE 6 (VACATION
RENTAL LICENSES) AND CHAPTER 16, ARTICLE 14, SECTION 90
(LIMITATION ON VACATION RENTALS).**

WHEREAS, the Town of Crested Butte, Colorado ("the Town") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and public under and by virtue of the Colorado Constitution and laws of the State of Colorado; and

WHEREAS, pursuant to Article XX, Section 6 of the Colorado Constitution, Section 29-20-101, et seq., C. R. S. and other authorities granted to municipal governments, the Town has enacted and enforces regulations governing the use of property as a vacation rental within the Town's jurisdiction; and

WHEREAS, the Town has found that the commercial aspects of vacation rentals can have detrimental effects on adjacent residential uses and therefore should be regulated to protect the public health, safety, and welfare; and

WHEREAS, on May 28, 2021, the Governor of Colorado signed RB 21- 1117, which amended Section 29- 20- 104 of the Land Use Control Enabling Act to confirm that local governments have the authority to regulate development or redevelopment in order to promote the construction of new affordable housing units; and

WHEREAS, Colorado HB 21- 1271 establishes programs offering assistance to communities to promote the development of innovative affordable housing strategies; and

WHEREAS, the Town is experiencing a severe shortage of housing for the local workforce at all income levels which is threatening the livelihood and character of the Town, its citizens, and its businesses and the Town Council declared a disaster emergency regarding affordable housing on June 7, 2021, in response to this shortage; and

WHEREAS, the Town imposed a twelve month moratorium on accepting and processing applications and issuing licenses for non-primary residence vacation rentals through Ordinance 12, Series 2021, on July 19, 2021, to allow the Town time to conduct a comprehensive study in order to re-evaluate the Town's vacation regulations by evaluating the impacts on the Town's housing stock, economic livelihood, neighborhood livability and availability of affordable housing in the Town, and to promote the public health, safety, and welfare of the community by allowing for a deliberate and well-reasoned decision-making process; and

WHEREAS, the moratorium was extended by an additional 6 months through Ordinance 09, Series 2022 to complete the comprehensive study in 2022 with the initiation of the Town's Comprehensive Master Plan, referred to as the Community Compass; and

WHEREAS, Town staff have completed the Town's Comprehensive Community Compass, as well as the study evaluating the impact of vacations rentals upon the Town's zoning requirements, the Town's housing stock, its economic livelihood, neighborhood livability, and the availability of affordable housing in the Town and have recommended amendments to the Town Code; and

WHEREAS, Town Council finds that these amendments are consistent with the Community Compass and other Town policies, do not conflict with other provisions of the code, are necessary to address a demonstrated community need, are necessary to respond to substantial changes in conditions and/or policy, and are consistent with the general purpose and intent of the code; and

WHEREAS, Town Council finds it is necessary and proper to amend Chapter 6, Article 6 and Section 16-14-90 of the Crested Butte Municipal Code as provided in this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE COLORADO:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Chapter 6, Article 6 of the Crested Butte Municipal Code is hereby amended as provided for on the attached **Exhibit A**

Section 3. Section 16-14-90 of the Crested Butte Municipal Code is hereby amended as provided for on the attached **Exhibit B**.

Section 4. The moratorium enacted by Ordinance 12, Series of 2021 and extended by Ordinance 09, Series 2022 is hereby repealed effective 11:59PM, December 31, 2022.

Section 5. The codifier is hereby authorized to renumber the Code in conformance with these amendments.

INTRODUCED, READ, AND SET FOR PUBLIC HEARING THIS 7th DAY OF November 2022.

ADOPTED BY THE TOWN COUNCIL UPON SECTION READING IN PUBLIC HEARING THIS 21st DAY OF November 2022.

TOWN OF CRESTED BUTTE, COLORADO

By:



Ian Billick, Mayor

ATTEST:




Lynelle Stanford, Town Clerk

EXHIBIT A

The following section of the Municipal Code is amended as follows with double underlined text added and ~~strike-through~~ text deleted.

ARTICLE 6 Vacation Rental Licenses

Sec. 6-6-10. Purpose.

The purpose of this Article shall be to require the licensing of vacation rentals. Such licensing shall provide the Town with necessary information relating to the operation of vacation rentals in order to protect the health, safety and welfare of the residents and visitors of Crested Butte.

Sec. 6-6-20. Effective date.

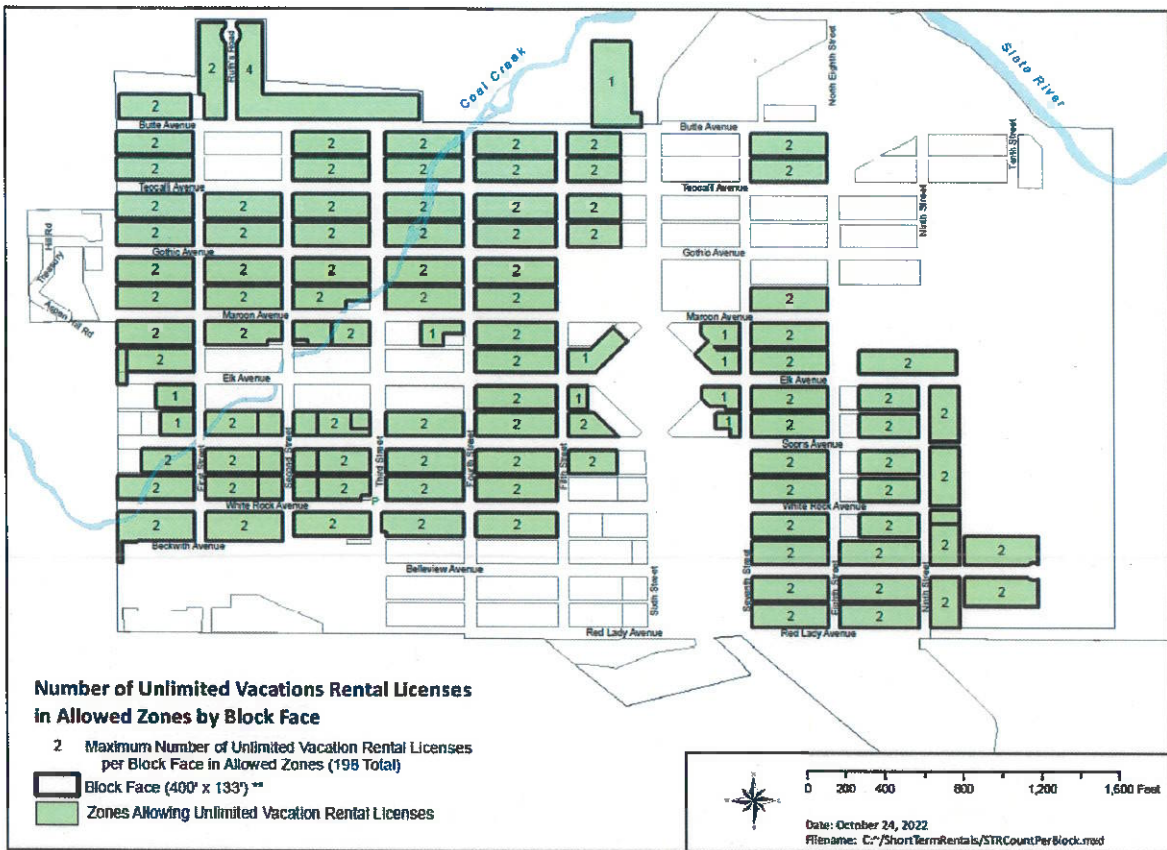
This Article shall be effective January 1, 2023 ~~commencing on January 1, 2018~~, and shall govern all applications submitted to the Licensing Official for the licensing of vacation rentals. ~~Prior to such date, the owner of an existing vacation rental must make application for a vacation rental license as described herein. Any property operated as a vacation rental after such date without a vacation rental license shall be in violation of this Article.~~

Sec. 6-6-30. Definitions.

[The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Licensing Official means the Town Building Official or such other officers as designated by the Town Manager.

Block Face: A block face is defined as 400 linear feet long along one side of a Town block, typically running north to south, and 133 linear feet wide, typically running east to west, as shown below. A block face is generally bounded by the public right of way, typically by two street intersections and an alley.



** One block face is considered 400' of block length. For block faces smaller in length than 200 linear feet, a maximum of 1 vacation rental license will be allowed at any given time. For block faces 200 – 400 linear feet long, a maximum of 2 vacation rentals licenses will be allowed at any given time. A total maximum number of 198 vacation rental licenses will be allowed within the Town of Created Butte as based on this calculation.

Owner shall mean any person or entity with more than a 15% ownership interest in a property either individually or as a member of an LLC, corporation, trust, or partnership.

Property as used in this Section means the unit or residence for which a license is being applied.

Sec. 6-6-40. Vacation rentals allowed.

- (a) ~~Vacation rentals are allowed only as prescribed in Section 16-14-90. For vacation rentals of individual sleeping units, the owner of the property, or its duly authorized representative must be present on the subject premises during use as a vacation rental.~~
- (b) ~~The use of any property as a vacation rental shall not frustrate any limitation on the use of the property pursuant to a deed restriction, covenant or other Town restriction or requirement regarding occupancy.~~

Sec. 6-6-5040. License required; compliance.

- (a) It shall be unlawful and a violation of this Article for any person to use any property as a vacation rental without first having obtained a vacation rental license from the Licensing Official. All vacation rentals shall strictly comply with the requirements of the Code.
- (b) The owner of any property found to be operating a vacation rental without a license after January 1, 2018, shall be ordered to cease such activity on the property. Any property that is being operated in violation of these regulations shall be ineligible for a vacation rental license for a period of two (2) years from the discovery of the violation.
- (c) No vacation rentals shall be operated without a valid license issued pursuant to this Section 6-6
- (d) Classes of Vacation Rental Licenses.
 - (1) Primary license.
 - a. Primary licenses may be held by any natural person who is a primary occupant of the Property for a minimum of six months every calendar year for which the license is issued.
 - b. Primary occupant may be the owner of the Property or a long-term lessee.
 - c. Primary licenses are permitted in any zone district within the town.
 - d. Primary licenses are limited to no more than 90 nights of vacation rental in any calendar year.
 - e. Primary licenses are not permitted for any property which is subject to a deed restriction or private covenant prohibiting Vacation Rental or Short-Term Rental of the Property.
 - f. No more than one license may be held by any Primary Occupant.
 - (2) Unlimited license
 - a. Unlimited licenses may be held by any natural person.
 - b. Unlimited licenses are permitted only in the following zone districts. R1, R1A, R1C, R1D, R1E, R2, R2C, R3C, B3, B4.
 - c. Unlimited licenses must rent a minimum of 30 nights in any calendar year.
 - d. Unlimited licenses are not permitted for any property which is subject to a deed restriction or private covenant prohibiting Vacation Rental or Short-Term Rental of the Property.
 - e. No more than one license may be held by any owner.
 - f. A maximum of 2 Unlimited Licenses will be allowed per Block Face in allowed zones, as shown below. For Block Faces smaller in length than 200 linear feet, a maximum of 1 vacation rental license regardless of type will be allowed at any given time. For block faces

200 – 400 linear feet long, a maximum of 2 unlimited licenses will be allowed at any given time.

- g. A total maximum number of 198 unlimited vacation rental licenses will be allowed within the Town of Crested Butte.

(3) Pre-existing Non-Conforming license.

- a. Any license issued and active as of December 1, 2022.

(e) Issuance, Renewals and Transfers.

(1) New license applications will be accepted annually between October 1 – October 31 for the following calendar year subject to the process outlined in paragraph (2) below. Applications will be on forms provided by the Town and shall include the following:

- a. Type of license being applied for.
- b. Evidence of ownership or evidence of a long-term lease for the Property with written permission of the owner
- c. Evidence that the Property is not subject to a deed restriction or private covenant prohibiting vacation or short-term rentals.
- d. Evidence that the Property currently meets all applicable Town regulations, including but not limited to zoning, which will be verified by the Town via an inspection.

(2) New license issuance.

- a. Primary licenses. On or before December 31 annually the Town shall issue Primary Licenses to those applicants that meet the requirements Sec. 16-40-90 and are in compliance with all other requirements of the Town Code that apply to the applicant and the Property the license has been applied for.
- b. Unlimited licenses. If, on or before December 31 of any year, there are more available licenses than applications the Town shall issue Unlimited licenses to those applicants that meet the requirements of Sec. 16-40-90 and are in compliance with all other requirements of the Town Code that apply to the applicant and the Property the license has been applied for. If there are more applicants than available licenses the Town shall issue licenses by lottery.

(3) Renewal applications will be accepted annually between October 1 – October 31 for the following calendar year. Applications will be on forms provided by the Town and shall include all those items specified for a new application and in addition shall include the following:

- a. Type of license being renewed.

- b. For Primary Licenses, evidence that the Property has not been rented for more than 90 nights in the current calendar year (this shall include evidence of bookings for November and December).
 - c. For Unlimited Licenses, evidence that the Property has been rented for a minimum of 30 nights in the current calendar year (this may include evidence of bookings for November and December).
 - d. Applicants shall provide an affidavit confirming compliance with all applicable town codes including but not limited to zoning. The Town may confirm via an inspection at such times and intervals as the Town determines.
 - e. To be eligible for renewal, a license must be in good standing. The Town reserved the right to deny any renewal based on: complaint history whether a citation was issued or not; failure to timely pay taxes; failure to meet any criteria set forth in the Town Code and the seriousness of any violation prosecuted under Section 6-6-120.
 - f. For good cause shown, an applicant for renewal may request a waiver of the minimum nights rented as applicable. The Town Manager shall render a decision regarding the waiver. Good cause shall include but not be limited to the long-term rental of the Property, temporary relocation for work or personal obligations, and permitted construction of the unit. Good standing for compliance with zoning regulations, demonstrated on a bi-annual basis.
- (4) Pre-existing non-conforming renewals. Renewal applications will be accepted annually on a between October 1 - 31 for the following calendar year. Applications will be on forms provided by the Town and shall include all information specified in subsections (1) and (2) above. Applicants for renewal of Pre-existing Non-Conforming Licenses shall not be required to comply with Ownership nor Block Face limitations. Beginning with the renewal cycle for 2024, Applicants for renewal of Pre-existing Non-Conforming Licenses must be natural persons and they must meet the renewal requirements listed above.
- (5) No license regardless of type is transferable from one owner or primary occupant to another. In the event of sale of the Property or termination of a long-term lease, the license shall automatically terminate.

Sec. 6-6-60. Application.

- ~~(a) Application, whether initial or for any renewal, for a vacation rental license shall be made on a form provided by the Town. At the least, the application shall include the vested title property owner's name and address, address of the vacation rental, maximum occupancy of lease or rental guests, owner representative and contact information, parking plan for guests, acknowledgement of payment of all taxes and the required application fee.~~

~~(b) The vested title property owner shall be the licensee for the vacation rental. Application fees shall be set by annual resolutions of the Town Council.~~

~~(c) Vacation rental licenses shall have a term of two (2) years. Subject to the requirements of this Article, a license may be renewed annually, extending the term for one (1) additional year from the expiration of the current license.~~

Sec. 6-6-9050. No transfer.

A vacation rental license attaches only to the property for which it is issued and is non-transferrable upon sale or other transfer of ownership of the property. Upon such transfer of ownership, the new owner of the property shall apply for a vacation rental license if it wishes to continue the use of the property as a vacation rental.

Sec. 6-6-1060. Sales tax and vacation rental excise tax.

The owner of a vacation rental shall cause sales tax and vacation rental excise tax to be collected and remitted to the Town as required under the Code.

Sec. 6-6-1170. Business occupation license.

The owner of a vacation rental property must possess a current Town business license. The business license must be renewed annually where the owner desires to use the property as a vacation rental. A vacation rental license may be denied or revoked if the owner of the vacation rental property does not have a current business license.

Sec. 6-6-120. Bi-annual inspection.

~~All vacation rental properties are subject to inspection every other year, or for cause. Vacation rental licenses may be limited, suspended, revoked or not renewed by the Licensing Official if all conditions and requirements of the vacation rental license and the Code are not satisfied.~~

Sec. 6-6-130. Administration.

~~(a) The Licensing Official shall prescribe forms and make reasonable rules and requirements in accordance with the Code for, without limitation, application requirements, "Good neighbor" educational materials, the inspection of all vacation rental properties, the verification of the capacity and safety of such vacation rental properties and administration and enforcement of the requirements of this Article and the Code.~~

~~(b) Applicants must pay their license fee at the time of application, whether initial or for any renewal.~~

Sec. 6-6-140. Licensee duties.

It shall be the duty of the fee title owner of the vacation rental to ensure the following:

- ~~(1) Obtain a renewal of the vacation rental license annually, if the property remains a vacation rental.~~
- ~~(2) Cause the vacation rental to comply with the Code continuously and without interruption.~~
- ~~(3) Promptly notify the Licensing Official upon any change of local contact.~~

Sec. 6-6-15080. Local contact.

All vacation rental licenses shall include a local responsible contact person capable of physically responding to issues that may arise at the vacation rental property within one (1) hour of the initial attempt to contact the vacation rental property owner. The local contact must have physical access to the vacation rental property and shall be authorized to make decisions regarding the vacation rental property on behalf of the owner.

Sec. 6-6-16090. License ~~number~~ and Good Neighbor Policy display.

- (a) Every vacation rental license shall be issued a unique number. The vacation rental license number shall be displayed in all advertisements for the vacation rental property. Advertisements for the vacation rental property shall include any act, regardless of medium, of drawing the public's attention to the vacation rental property in order to promote the availability of the vacation rental property.
- (b) Each vacation rental property shall prominently display on site and available to all renters the "Good neighbor" policy, including the rules and regulations of the Town that apply to the occupancy of the vacation rental property. Such information shall include information pertinent to the neighborhood where the vacation rental property is located, including, but not limited to, parking restrictions, restrictions on noise and amplified sound, trash disposal, storage and collection schedule, relevant water restrictions and any other information as required by the Licensing Official.

Sec. 6-6-170100. Parking required.

All vacation rental properties must keep and maintain all off street parking approved in conjunction with the Town zoning code or an approved development approval ~~any Town land use approval~~ for the vacation rental property and made available for year-round use by vacation rental tenants.

Sec. 6-6-190110. Maximum occupancy.

The maximum occupancy of any vacation rental property is ten (10) people. Occupancy may be adjusted following physical inspection of the vacation rental property. The basis for the occupancy determination shall be an allowance of two (2) occupants per legitimate bedroom plus two (2) additional occupants. Any increase above ten (10) people in a vacation rental property shall include an on-site parking space for each four (4) additional occupants (or part thereof) in addition to any parking required by this Article. Such parking requirements shall be in addition to any other parking requirements that must be satisfied under the Code.

Sec. 6-6-190. Renter requirements.

Each vacation rental property shall prominently display on site and available to all renters the "Good neighbor" policy, including the rules and regulations of the Town that apply to the occupancy of the vacation rental property. Such information shall include information pertinent to the neighborhood where the vacation rental property is located, including, but not limited to, parking restrictions, restrictions on noise and amplified sound, trash disposal, storage and collection schedule, relevant water restrictions and any other information as required by the Licensing Official.

Sec. 6-6-200120. Violation Enforcement, Suspension, and Revocation.

- ~~(a) Violations of this Article shall be enforced pursuant to Chapter 1, Article 4 of the Code.~~
- (a) A violation of Section 16-14-90 of the Code shall also be punishable by denial of a license for a vacation rental for the property that has offended such limitation for a period of two (2) years from Town's discovery of the unlawful lease or rental.
- ~~(b) All amounts due and owing the Town in connection with any violation of this Article shall constitute a first priority lien on the vacation rental property and may be collected by any means including by way of those matters addressed in Section 4-8-10 of the Code.~~
- (b) Any license holder may be subject to fines up to the maximum allowed pursuant to Section 1-4-20, suspension or revocation of their license for violating any provision of the Town code and such rules or regulations. Each day of a continuing violation shall be considered a separate offense and shall be subject to the maximum fines allowed for each day of the violation. may be adopted.
- (c) Specific Violations.
- (1) Failure of an owner or the designated responsible party to respond to an inquiry or complaint from an occupant or the Town within 1 hour
 - (2) Failure to prominently display the properties vacation rental licensing number in any advertisement regarding the rental of the property.

- (3) Failure of the occupants of the building to not adhere to the parking required by the zoning code or approved development plan
 - (4) Failure to adhere to the total allowed occupancy limit
 - (5) Failure to prominently display the "Good neighbor" guidelines
 - (6) Failure to remit sales and excise taxes
- (d) Three strike policy. If any license holder or Owner is convicted, pleads guilty or nolo contendere to three or more violations on a rolling one year basis, the Town shall revoke the license and the license holder or any Owner of the Property shall be banned from applying for any type of license for a period of two years.

EXHIBIT B

The following section of the Municipal Code is amended as follows with double underlined text added and ~~strike through~~ text deleted.

Sec. 16-14-90. Limitation on vacation rentals.

- (a) Intent. The use of property as a vacation rental has impacts on the neighborhoods not unlike that of bed and breakfasts, hotel or lodges and motels. The impacts of vacation rentals on neighboring uses can be significant when the vacation rental property is occupied by multiple tenants in consecutive tenancies throughout the year. The commercial aspects of vacation rentals can have detrimental effects on the quiet enjoyment, dignity, and neighborliness of adjacent residential uses and therefore should be regulated to protect the health, safety, and welfare of Crested Butte.
- (b) Limitations. There shall be imposed limitations on vacation rentals as follows:
- (1) Vacation rentals are not allowed in bed and breakfasts, condo hotels, hotels or lodges, motels or short-term residential accommodations uses as defined in the Code, as amended.
 - (2) Vacation rentals which have been issued an unlimited license pursuant to Sec. 6-6 are permitted in the "R1," "R1A," "R1C," "R1D," "R1E," "R2," "R2C," "R3C," "B3," and "B4" Districts.
 - (3) Vacation rentals which have been issued a Primary Occupant license are permitted in any zone district.
 - (4) In no case shall any vacation rentals be operated without a valid license issued pursuant to Section 6-6
 - ~~(2) Vacation rentals are not allowed in any property that is subject to a deed restriction, covenant or other Town restriction or requirement regarding occupancy where the use as a vacation rental is inconsistent with the intent of such deed restriction, covenant or other Town restriction or requirement.~~
 - ~~(3) Vacation rentals are permitted in the "R1," "R1A," "R1C," "R1D," "R1E," "R2," "R2C," "R3C," "B3," and "B4" Districts, provided that the number of vacation rentals shall at all times be limited to thirty (30) percent of the total free market residential units in such Districts cumulatively. Vacation rentals beyond the thirty (30) percent limit will be issued if the vacation rental also serves as a primary residence of the vested title property owner. Vacation rentals that are licensed in primary residences shall be limited to no more than sixty (60) nights of use per year. Primary residences may apply for a non primary residence license in which case they will be subject to the thirty (30) percent of free market residential unit limitation.~~

~~(4) Vacation rentals are not permitted in the "R1B," "R4," "R2A," "B1," "B2," "M," "T," "C," "AO," and "P" Districts unless the vacation rental also serves as a primary residence of the vested title property owner in which case they will be limited to no more than sixty (60) nights of use per year.~~

~~(5) Any property for which a Business Occupation License for a Short Term Rental as of June 14, 2017 has been approved in 2017 in any zone may continue to operate as a vacation rental where such property owner has and maintains a vacation rental license as required by Chapter 6, Article 6, until such time as the property is no longer licensed and used as a vacation rental for a period of one year or the title to the property has been transferred to a new entity and the transfer is subject to the "Land Transfer Excise Tax."~~