



AGENDA BRIEF

MEETING: Town Council - 07 Sep 2021
FROM: Clayton Buchner, Town Attorney

PROJECT: Ordinance 958 Adopting Short-Term Rental Eligibility and Density Restrictions
ACTION: Adoption of Ordinance - 2nd Reading

PURPOSE/BACKGROUND:

The 1st Reading of Ordinance 958 passed UNANIMOUSLY at the regular meeting dated August 19, 2021.

Currently, Municipal Code Article 7 – Vacation Rentals, does not restrict the eligibility for short-term rentals or the density of short-term rentals (STRs). This ordinance directly reflects the recommendations of the Town Planning Commission and the Town Council's direction regarding restrictions for STRs.

Ordinance 958 includes:

- 1. **A blanket exemption for current STR owners;**
- 2. 2-year ownership requirement for new STR applicants;
- 3. 1-STR-per-property limit, no exceptions but with fair treatment of multi-family developments;
- 4. 10% cap of STR properties per zoning district, with exception;
- 5. 250 ft. buffer zone between STRs, with exception;

Ordinance 958 only applies to the eligibility and density of properties requiring a conditional use permit.

These restrictions do NOT apply to any property outside of the Town boundaries of Pagosa Springs (please see Exhibit A - Map).

- Restrictions do NOT apply to existing STR owners.
- Restrictions do NOT apply to "owner-occupied" residences.
- Restrictions do NOT apply to residences located within 'use-by-right' zoning, but only those residences which require conditional use permits.

Paragraph (3)(d) addresses proximity limits of STRs and references a 250 ft. buffer between STRs. As written, the 250 ft. buffer would apply as a linear buffer zone applied to the street frontage distance between properties and not as a radial zone. The linear application is a typical approach to buffer zones, but such application could be clarified, amended, or otherwise addressed in a future amendment, for example if data shows current language proves problematic. Note that paragraph (2) will create a 2-year cooling period for most applications, which will allow the Town Council to further discuss any clarifications and/or amendments if necessary that arise due to unforeseen issues regarding the application of any portion of the Ordinance.

The Town Staff is confident that it can effectively administer the necessary internal policies and processes required for the smooth implementation of Ordinance 958 as currently written and proposed.

Proposed action is to adopt Ordinance 958 at Second Reading.

ATTACHMENTS:

[Ord. STR Eligibility and Density Restrictions final](#)
[Ord 958 Exhibit A - Zoning Map 8.5 x 11](#)

FISCAL IMPACT:

N/A

TOWN COUNCIL GOALS & OBJECTIVES:

N/A

RECOMMENDATIONS:

1. I motion that the Town Council adopt the Ordinance No. 958 as proposed.
2. I motion that Town Council adopt the Ordinance No. 958 with the following non-substantive amendments.

TOWN OF PAGOSA SPRINGS,
COLORADO

ORDINANCE NO. 958
(SERIES 2021)

AN ORDINANCE OF THE TOWN OF PAGOSA SPRINGS AMENDING THE
PAGOSA SPRINGS MUNICIPAL CODE WITH RESPECT TO SHORT-TERM
VACATION RENTALS

WHEREAS, the Town of Pagosa Springs ("Town") is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003, as amended; and

WHEREAS, pursuant to Section 1.4 (A) of the Charter, the Town has all power of local self-government and home rule and all power possible for a municipality to have under the Constitution and laws of the State of Colorado; and

WHEREAS, Town Council previously directed Town staff to study the impacts of short-term vacation rentals and present any proposed amendments to the Town of Pagosa Springs Municipal Code (the "Municipal Code") to Town Council, which Town staff has done; and

WHEREAS, Town Council hereby finds that the use of residential property as a short-term vacation rental can pose a public safety hazard if such property is not in compliance with building, fire, health, and zoning codes; and

WHEREAS, the Town Council previously adopted Ordinance 894 (series 2018) amending the Municipal Code to include new Article 7, Chapter 6 of the Municipal Code, which sets forth numerous regulations applicable to short-term vacation rentals and requires that short-term vacation rental operators obtain a Vacation Rental License from the Town; and

WHEREAS, in conjunction with the aforementioned Municipal Code amendment, Pagosa Springs has contracted with an outside monitoring company to monitor the internet spaces where short-term vacation rentals are advertised to determine compliance with the regulations; and

WHEREAS, over the last five to ten years, the advent and increasing popularity of individuals and companies purchasing, advertising, and renting out residential properties as short-term rentals has resulted in approximately 16% of Pagosa Springs' housing stock being utilized as short-term vacation rentals; and

WHEREAS, Town Council hereby finds that the use of residential property as a short-term vacation rental impacts the Town and its residents in various ways, including but not limited to increased utilization of public services and increased noise, parking, trash complaints, and the transient nature of the occupants, which may have a negative effect on the residential character of a neighborhood; and

WHEREAS, Town Council hereby finds and determines that it is necessary to add a new Section 6.7.12, to Article 7, Chapter 6 of the Municipal Code with respect to the eligibility and density of short-term vacation rentals in Pagosa Springs' residential zones; and

WHEREAS, Town Council hereby finds and determines that regulation of allowance and density of short-term vacation rentals within the Town is appropriate and necessary to the function and operation of the Town.

Town of Pagosa Springs
Ordinance No. 958 (Series 2021)

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
PAGOSA SPRINGS, COLORADO, as follows:

- I. **Amendment to Article 7, Chapter 6 of the Municipal Code.** Chapter 6 of the Municipal Code is hereby amended by the addition of a new Section 6.7.12, as follows:

Section 6.7.12 – Restrictions on Eligibility and Density

- (1) **Application.** The eligibility and density restrictions prescribed in this section shall not apply to any property owner with a current conditional use permit and a short-term vacation rental license in good standing. If an exempted property owner sells, assigns, transfers, or otherwise conveys the property connected with the property owner's conditional use permit or short-term vacation rental license, such property owner's exemption is thereby terminated, and the eligibility and density restrictions outlined in this section shall be applied to any future property owner of said property.
- (2) **Eligibility.** The Licensing Officer shall not accept applications under Section 6.7.5 of this Chapter until the applicant for a short-term vacation rental license requiring a conditional use permit can demonstrate ownership of the subject dwelling unit of the property for at least two (2) years prior to the date of the application. In the case of a vacant property, the Licensing Officer shall not accept applications under Section 6.7.5 of this Chapter until the applicant for a short-term vacation rental license requiring a conditional use permit has held a certificate of occupancy for at least two (2) years prior to the date of application. Applicant must submit an acknowledgment, signed by both property owner and the local agent (if different) that they have read and understand all other requirements of this Chapter.
- (3) **Density.** The Licensing Officer shall not issue a short-term vacation rental license requiring a conditional use permit to an applicant if any of the following limitations apply to the subject property:
- (a) **Residential Lots.** A short-term vacation license has already been issued by the Licensing Officer for the subject property. Not more than one (1) short-term vacation rental shall be located on any residential zoned property, including zone districts; RA, RT, R6, R12, R22, an MU-R.
- (b) **Districts.** No more than ten percent (10%) of the single-family residential units in each residentially zoned district of the Town, as defined by Exhibit A – District Map, may be eligible for short-term vacation rental licenses. Once the Licensing Officer has determined that the limit has been reached in any district, no further licenses shall be issued in that district. This limitation shall not apply to short-term vacation properties which are occupied year-round by the owner thereof.
- (c) **Multi-Family Developments.** No more than one (1) unit or ten percent (10%) of the dwelling units, whichever number is greater, contained in a multi-family or townhome development may be eligible for short-term vacation rentals.
- (d) **Proximity Limits.** Any single-family or multi-family or townhome short-term vacation property may not be located within two-hundred and fifty feet (250 ft.) of or be adjacent to another single-family or multi-family or townhome vacation rental property. This limitation shall not apply to multi-family or townhome short-term vacation properties located in the same multi-family or townhome

UNFINISHED BUSINESS VI.2.

Town of Pagosa Springs
Ordinance No. 958 (Series 2021)

development. This limitation shall not apply to short-term vacation properties which are occupied year-round by the owner thereof.

INTRODUCED, READ, AND ORDERED PUBLISHED BY TITLE ONLY PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE _____ DAY OF _____, 2021.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: _____
Don Volger, Mayor

Attest:

April Hessman, Town Clerk

FINALLY ADOPTED, PASSED, APPROVED, AND ORDERED PUBLISHED BY TITLE ONLY PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOMERULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE _____ DAY OF _____, 2021.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: _____
Don Volger, Mayor

Attest:

April Hessman, Town Clerk

Town of Pagosa Springs
Ordinance No. 958 (Series 2021)

CERTIFICATE OF PUBLICATION

I, the duly appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 958 (Series 2021) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the _____ day of _____, 2021, and was published by title only, along with a statement indicating that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on _____, 2021, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this _____ day of _____, 2021.

April Hessman, Town Clerk (SEAL)

I, the duly appointed, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 958 (Series 2021) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the this _____ day of _____, 2021, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on _____, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this _____ day of _____, 2021.

April Hessman, Town Clerk (SEAL)