

## LICENSING OF BUSINESSES

### ARTICLE III Licensing of Short Term Rental Property [Added 01-08-19, Ord. 18-10]

#### § 110-36. Purpose.

The purpose of this Article III is to safeguard the public health, safety and welfare by establishing comprehensive licensing regulations to control the use, occupancy and maintenance of short-term rental properties in the Town.

#### § 110-37. Definitions.

As used in this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

**ACCOMMODATION UNIT:** A separate and distinct living unit or area, including a condominium, townhouse, house, duplex, trailer, studio unit, lock-off unit or any other such similar building, room, group of rooms or any portion or room thereof or therein, designed for or used as a dwelling; provided, however, that an accommodation unit shall not include any unit or area within a hotel, motel, condominium hotel, hostel or boarding, rooming or lodging facility as such uses are defined in Chapter 180 of this Code, so long as such defined use is conducted within an area within which it is permitted by applicable zoning regulations.

**LEASE:** 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.

**LEASEE:** The party to a lease that has obtained the temporary right to use and occupy property or a portion thereof.

**RESPONSIBLE AGENT:** A management company or individual who is identified by a licensee as the licensee's responsible agent pursuant to section 110-39.A.2, and who is available 24 hours per day, 7 days per week to respond as the initial point of contact for the short-term rental property.

**OWNER:** The owner of an accommodation unit in the Town who intends to lease or leases the unit or portion of the unit as a short-term rental property.

**SHORT-TERM RENTAL PROPERTY:** An accommodation unit available for lease for a term of less than thirty (30) consecutive days.

#### § 110-38 License Required. Limitations on Number of Licenses Issued. [Amended 10-11-22, Ord. 22-10]

Effective May 1, 2019, it shall be unlawful for an owner to lease or advertise for lease, or to permit the leasing or advertising for lease, of any short-term rental property within the Town of Frisco without a valid license for the same issued pursuant to this Article. No person who has obtained a license pursuant to this Article shall be required to hold a general business license pursuant to Article I of this Chapter for the same business activity. No person who has obtained a license pursuant to this Article shall be required to hold a sales tax license pursuant to Chapter 160 of this Code for the same business activity.

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Except as otherwise set forth in this Section, at no time shall the Town issue a license that would cause the total number of licenses issued pursuant to this Article to exceed the number that is equal to twenty-five percent (25%) of the total number of residential housing units within Town boundaries. For purposes of this Section, the Town determines that as of October 11, 2022, and until January 3, 2023, the total number of residential housing units within the Town boundaries is Three Thousand Six Hundred (3,600). On the first business day of each calendar year, the Town's Community Development Director shall determine and certify in writing to the Town Clerk the then-current number of residential housing units within the Town boundaries. Such determination shall be made by the addition (if any) and the subtraction (if any) of residential housing units completed or demolished during the immediately prior calendar year from the number initially established herein, as modified from year to year in accordance with this Section. Such number shall remain the total number of residential housing units for purposes of this Section until the next subsequent certification on the first business day of the subsequent calendar year.

Any part of the foregoing paragraph notwithstanding, if a person has made a complete application for a building permit for the construction of a new residential unit on or before October 11, 2022 and, within twenty (20) days from the date of issuance of a certificate of occupancy for such unit, has made a complete application to the Town for a license to be issued pursuant to this Article, the person shall be eligible to receive such a license and the renewal of such license regardless of the fact that the license could not otherwise be issued or renewed due to the limitation on the total number of licenses that may be issued under this Section.

Any part of the foregoing paragraph notwithstanding, if a person has entered into a written agreement to purchase a residential unit on or before October 11, 2022 and, within twenty (20) days after the closing of the sale on the unit, has made a complete application to the Town for a license to be issued pursuant to this Article, the person shall be eligible to receive such a license and the renewal of such license regardless of the fact that the license could not otherwise be issued or renewed due to the limitation on the total number of licenses that may be issued under this Section.

### **§ 110-39. License Application; Term; Renewal; Non-Transferable. [Amended 03-24-20, Ord. 20-05; 10-11-22, Ord. 22-10]**

A. *License application.* Applications for a short-term rental license shall be submitted to the Finance Director on a form provided by the Town, and the Finance Director shall accept no incomplete applications. It is the duty of each short-term rental property 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 the information provided is no longer accurate. Applications shall provide the following:

1. The full name, residential address and telephone number of the applicant, who must be the owner of the short-term rental property;
2. The full name, business address and telephone number of the responsible agent for the short-term rental property, 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 and agreeing that the responsible agent shall comply with the requirements and limitations of this Article;

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3. 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, along with a statement of the maximum occupancy of the area(s) pursuant to the limitations of Section 110-40.A.3;
  4. 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;
  5. An application fee in an amount set by the Finance Director from time to time. The application fee shall not be prorated for a portion of a license year, and shall be set at an amount that reasonably reimburses the Town for the costs of implementing and enforcing the provisions of this Article. Such costs shall include the Town's direct and indirect costs in (i) accepting, reviewing and issuing decisions on short term rental property license applications; and (ii) inspecting or otherwise engaging in enforcement activities related to the requirements of this Article;
  6. A copy of (i) the information notices that comply with the requirements of section 110-40.A.4 and has been posted or placed on or in the subject property; and (ii) the parking plan that complies with the requirements of section 110-40.A.1;
  7. A copy of a valid Colorado sales tax license for the rental activity or the pending application therefor unless, due to the specific nature of the short-term rental property's booking platform, a separate sales tax license is not required by the State of Colorado;
  8. Such other information determined necessary or desirable by the Finance Director to evaluate the compliance of the application, licensed premises or proposed short-term rental activity with the requirements of this Article; and
  9. An affidavit signed by the owner or authorized leasee, under penalty of perjury, certifying that the short-term rental property complies with the life safety standards set forth in Section 110-40.A.5, and that the information notices required by section 110-40.A.4 have been and will remain posted or placed at a conspicuous location on or in the short-term rental property.
- B. *Updating of application.* 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. *Term and renewal of license.* Each license issued under this Article shall be valid from the date of issuance until the next subsequent April 30. An application for renewal of a license shall confirm the information presented in the original application. An application for renewal of a license issued under this Article shall be made not less than thirty (30) days prior to the expiration of the existing license.
- D. *Transferability of license.* 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, excepting spouses and partners in a civil union. The issuance and renewal of a license pursuant to this Article is a privilege, not a right, and the Town may determine at any time that the allowance of the use of property as short-term rental property is not, or is no longer, in the

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best interests of the health, safety or welfare of the citizens of the Town, and may amend or repeal this Article accordingly.

Any part of the first sentence of the foregoing paragraph notwithstanding, a license issued under this Article shall not be deemed to have been transferred if there has been a transfer in legal title or beneficial interest to the property that is the subject of the license as a result of:

1. Any transfer where the United States or any agency of the state, any county, city, municipality, district or other political subdivision of the state is either the grantor or the grantee;
2. A gift of real property, where there is no consideration other than love and affection or a charitable donation;
3. A transfer between the same parties creating or terminating a co-ownership in real property;
4. The transfer of title or change in interest in real property by reason of death, pursuant to a will, or the law of descent and distribution;
5. A reorganization, merger or consolidation of corporations, or by a subsidiary to a parent corporation for no consideration other than cancellation or surrender of the subsidiary's stock, or transfers made to a corporation, partnership, limited partnership, joint venture, business trust or other association or organization, in each instance if that entity, association or organization is owned by the persons by whom such transfer was made and so long as such owners have the same relative interests in the new entity, association or organization as they had in the real property immediately prior to said transfer and there is no consideration other than their respective interests in the new entity, association or organization, or transfers made from a corporation, partnership, limited partnership, joint venture, business trust or other association or organization to a corporation, partnership, limited partnership, joint venture, business trust or other association or organization if, at the time of the transfer, the identities and ownership interests of the persons who own the transferor entity, association or organization are the same as the identities and ownership interests of the persons who own the transferee entity, association or organization, whether or not consideration is provided;
6. A transfer made pursuant to a confirmed bankruptcy plan or pursuant to an order by a court of competent jurisdiction under the Bankruptcy Code or in an equity receivership proceeding;
7. A transfer made and delivered without consideration for the purpose of confirming, correcting, modifying or supplementing a transfer previously recorded for the purpose of making minor boundary line adjustments, removing clouds of titles, or granting rights-of-way, easements or licenses;
8. Any decree or order of a court of record quieting, determining or vesting title, including a final order awarding title pursuant to a condemnation proceeding;
9. Any transfer between spouses or former spouses made pursuant to a separation agreement, decree of legal separation or dissolution of marriage;

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10. Any transfer by deed in lieu of foreclosure if the grantee is the person holding the obligation being cancelled in whole or part;
11. Any transfer by sheriff's deed, trustee's deed or other conveyance of real property in connection with an execution sale, foreclosure sale by the public trustee under a power of sale, court decree foreclosing a mortgage, deed of trust or other security instrument or court decree of lien foreclosure, provided that the grantee is the person holding the obligation or instrument upon which the proceeding is based; or
12. Any transfer pursuant to IRS 1031 regulations concerning like-kind exchanges that is from an Exchange Accommodation Titleholder that has obtained a license pursuant to this Article, to the person for whose benefit the Exchange Accommodation Titleholder took title to the property.
13. For purposes of enforcing the provisions of this Subsection D, the Town's Finance Director may require that any person claiming that a license issued under this Article should not be deemed to have been transferred provide an affidavit, signed under penalty of perjury, that alleges fact sufficient to cause the Director to believe, in the Director's reasonable discretion, that the transfer should not be deemed to be a transfer pursuant to this Subsection.

### § 110-40. Limitations and Requirements.

- A. *Special requirements.* In addition to the other requirements of this Article, an accommodations unit licensed pursuant to this Article shall, as a condition of such license, be subject to the following requirements and limitations:
  1. *Parking.* The motor vehicles of all occupants of a short-term rental property shall be parked only on the site of the short-term rental property. No motor vehicles shall be parked on the lawn or landscaped area of a short-term rental property, or in the public street or right-of-way adjacent to the property. No person shall be permitted to stay overnight in any motor vehicle which is parked at a short-term rental property. The owner of a short-term rental property shall provide a parking plan for the property, and it shall be unlawful for a person renting a short-term rental property to park or allow the parking of vehicles by occupants of the property other than in locations set forth in the plan;
  2. *Trash collection.* The storage and disposal of all trash and garbage from a short-term rental property shall comply with the requirements of section 127-17 of this Code, including but not limited to the requirement that any person in charge of real property within the Town that is served by curbside garbage pickup shall place a garbage can or similar refuse receptacle at the curb only on the day of pickup;
  3. *Occupancy.* The maximum occupancy for overnight use of a short-term rental property shall be no more than two (2) people per bedroom, plus four (4) people

The maximum occupancy may be adjusted by a written determination of the Town Manager or his or her designee, following physical inspection of the property. The basis for any increase in maximum occupancy shall be a determination of the actual number of sleeping places, within one or more beds, that are located within a room or rooms that conform to the requirements of the applicable building code for a bedroom.

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It shall be unlawful to for the renter of a short-term rental property to allow the overnight occupancy of a short-term rental property by more than the maximum number of people permitted under this subsection;

4. *Renter information notices.* An owner shall post and maintain a sign in a conspicuous location within each short-term rental property that shall contain the following information:
  - a. contact information for police, fire, and ambulance service in the case of an emergency;
  - b. the physical address of the short-term rental property;
  - c. contact information for the responsible agent or property owner;
  - d. the Town of Frisco's short-term rental property license number; and
  - e. the location of fire extinguishers, if any, and fire escape routes.

An owner shall place and maintain at a conspicuous location within in each short-term rental property written information that provides:

- a. the maximum number of people permitted for overnight occupancy;
  - b. the location, by description or depiction, for vehicle parking and maximum number of parked vehicles permitted for the property;
  - c. alternative parking locations (if any) for extra vehicles, trailers and campers;
  - d. the location of trash and recycling receptacles and the rules and regulations regarding the handling of the same;
  - e. snow removal instructions or information;
  - f. policies regarding noise;
  - g. policies regarding pets; and
  - h. applicable homeowners association policies (if any) specific to the property;
5. *Life safety.* Each premises licensed under this Article shall:
  - a. conform to the applicable requirements of the Town's building, technical and safety codes adopted by reference in Chapter 65 of this Code;
  - b. have smoke detectors, carbon monoxide detectors and fire extinguishers installed and maintained in operable condition; and
  - c. have wood burning fireplaces and stoves cleaned on an annual basis;
6. *Noise and nuisance.* While occupying a short-term rental property as a short-term leasee, no person shall amplify music outdoors, make any noise that violates any provision of

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Section 127-53 of this Code, nor engage in any act or allow any condition on the premises that constitutes a nuisance under Chapter 124 of this Code;

7. *Camping and temporary structures.* While occupying a short-term rental property as a short-term leasee, no person shall camp outdoors, pitch or use any tents, or construct or use any temporary structure or recreational vehicle or trailer, for overnight purposes; and
  8. *Advertising.* All advertising for a short-term rental property shall include a reference to the Town of Frisco short-term rental property license number, which license number shall appear immediately following the first description of the property, as well as a statement of the maximum occupancy permitted for the property.
- B. *Owner liable.* Compliance with, and ensuring compliance with, the special requirements set forth in Subsections A.4, A.5 and A.8 of this Section shall be a nondelegable responsibility of the owner of a short-term rental property, and each owner of a short-term rental property shall be strictly liable for complying with, and ensuring compliance with, the conditions and limitations set forth in said subsections.
- C. *Inspections.* Because short-term rental properties are, by their nature, intended to be occupied by numerous guests for short periods of occupancy, it is determined that the Town's ability to inspect short-term rental properties is in the interest of public safety. Therefore, whenever it is reasonably necessary to make an inspection to enforce the requirements and limitations of Subsection A of this Section, an authorized public inspector may enter such property at all reasonable times to inspect the same for the purpose of enforcing such requirements and limitations. Provided, that if such short-term rental property is occupied, the authorized public inspector shall first present proper credentials and request entry, and if such property is unoccupied, shall first make reasonable effort to locate the owner, the responsible agent or other person having charge or control of the property and request entry. If such entry is refused, or if the short-term rental property is locked, the authorized public inspector shall have recourse to every remedy provided by law to secure entry. When an authorized public inspector has obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, occupant or other person having charge, care or control of the short-term rental property shall fail or refuse to promptly permit entry therein by the authorized public inspector for the purpose of inspection of the property. No inspection warrant or permission shall be required for an authorized public inspector to enter and inspect a short-term rental unit in the case of an emergency involving the potential loss of property or human life.
- D. *Municipal court warrant.* The municipal court judge may issue an inspection warrant authorizing the inspection of a short-term rental unit pursuant to this Section in accordance with rule 241(b) of the Colorado Municipal Court Rules of Procedure. The municipal court judge may impose such conditions on the inspection warrant as may be necessary in the judge's opinion to protect the private property rights of the owner of the premises to be inspected, or to otherwise make the warrant conform to applicable law.

### **§110-41. Denial of License.**

- A. A short-term rental property license application shall be denied by the Finance Director based on any of the following grounds:
  1. All applicable provisions of the town code have not been met;

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2. The required application fees have not been paid;
  3. The application is incomplete or contains false, misleading or fraudulent statements; or
  4. Any reason that would justify suspension or revocation of a license.
- B. In the event of a denial, the Finance Director shall mail or deliver to the applicant a written order of denial stating the reason or reasons for the denial within ten (10) days of the denial.

### **§110-42. Suspension or Revocation of License.**

- A. *Suspension.* The Finance Director may suspend a short-term rental property license upon determining that a licensee has:
1. Been found guilty on more than one occasion within the last year by the Frisco Municipal Court of having violated a provision of this Article;
  2. Operated the business in violation of a building, fire, health or safety code adopted by the Town, said determination being based on investigation by the department, division, or agency charged with enforcing said code. In the event of such a code violation, the Finance Director shall promptly notify the licensee of the violation and shall allow the licensee a twenty (20) day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the twenty (20) day period, the Finance Director shall forthwith suspend the license and shall notify the licensee of the suspension; for purposes of this subsection, code provisions regulating noise shall not constitute a health or safety code violation for which a period to correct the violation is required;
  3. Failed to file tax returns or to pay taxes due to the Town pursuant to applicable provisions of the Town Code; or
  4. Failed to pay the annual license fee.

The Finance Director may suspend a short-term rental property license license for a period not to exceed one hundred fifty (150) days. The suspension shall remain in effect until and including the last day in the Finance Director's order or until such time as the violation in question has been corrected, whichever is later.

- B. *Revocation.* The Finance Director shall revoke a short-term rental property license upon determining that:
1. A cause for suspension in subsection A of this section occurred and the short term rental property license has been suspended more than once within the preceding twelve (12) months;
  2. A licensee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a short term rental property license;
  3. A licensee knowingly operated the business during a period of time when the licensee's short term rental property license was suspended; or



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4. Any fact or condition exists that, if it had existed or had been known to exist at the time of the application for the license, would have warranted the denial of the license.

C. *Effect of revocation.* When the Finance Director revokes a short-term rental property license, the revocation shall continue for one (1) year and the licensee shall not be issued a short-term rental property license for one (1) year from the date revocation became effective.

### § 110-43. Appeal Hearing on Denial, Suspension or Revocation.

A. *Appeal.* An applicant or licensee may appeal a denial, suspension, or revocation of his or her short-term rental property license to the Town Manager and shall be entitled to a hearing before the Town Manager. Said appeal shall be made in writing, stating the grounds for appeal, within five (5) working days of the decision of the Finance Director. In the event of a suspension or revocation hearing, the business may continue to operate during the hearing process.

B. *Hearing.* At the hearing, the Town Manager shall hear such statements and consider such evidence as is offered that is relevant to the grounds alleged for denial or the violation alleged for suspension or revocation. The Town Manager shall make findings of fact from the statements and evidence offered as to whether such grounds exist or such violation occurred. If the Town Manager determines that grounds for denial or a cause for suspension or revocation exists, he or she shall issue an order denying, suspending, or revoking the license within thirty (30) days after the hearing is concluded, based on the findings of fact. A copy of the order shall be mailed to or served on the licensee at the address on the license.

C. *Final order.* The order of the Town Manager made pursuant to subsection B above shall be a final decision and may be appealed to the municipal court pursuant to Colorado Rule of Civil Procedure 106(a)(4). Failure of a licensee to appeal said order in a timely manner constitutes a waiver by him or her of any right he or she may otherwise have to contest the denial, suspension, or revocation of the short-term rental property license.

D. *Hearing powers.* The Town Manager shall have the power to administer oaths, issue subpoenas, and when necessary grant continuances. Subpoenas may be issued to require the presence of persons and production of papers, books and records necessary to the determination of any hearing that the Town Manager conducts. It is unlawful for any person to fail to comply with any subpoena issued by the Town Manager. A subpoena shall be served in the same manner as a subpoena issued by the District Court of the State of Colorado.

E. *Recording.* All hearings held before the Town Manager regarding denial, suspension, or revocation of a short-term rental property license issued under this code shall be recorded stenographically or by electronic recording device. Any person requesting a transcript of such record shall post a deposit in the amount required by the Town Manager and shall pay all costs of preparing such record.

F. *No refund of license fee.* In the event of suspension, revocation, or cessation of business, no portion of the short-term rental property license application fee shall be refunded.

### § 110-44. Violation, Penalty and Enforcement.

A. It is unlawful for any owner, responsible agent or occupant of a short-term rental property to violate any provision of this Article.

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B. In addition to the suspension and revocation actions pursuant to Section 110-60 of this Article, violations of this Article are subject to the penalties set forth in Section 1-14 of this Code, and each day or portion thereof during which any violation is committed, continued or permitted shall constitute a separate offense and shall be punishable as a separate offense.