

# Legals

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, AMENDING CHAPTER 11 LICENSES AND BUSINESS REGULATIONS OF THE TOWN OF MT. CRESTED BUTTE TOWN CODE

WHEREAS, the Town of Mt. Crested Butte, Colorado is a home-rule municipality organized under Article XX of the Colorado Constitution; and WHEREAS the Town is authorized to enact land use and licensing regulations; and WHEREAS, the Town Adopted Ordinance No. 3, Series 1984, which created the Business and Occupational License Tax ("BOLT"), and WHEREAS, BOLT is not a tax, but is rather a business licensing requirement with a set annual fee to be paid by persons or entities operating a business within the Town of Mt. Crested Butte; and WHEREAS, in connection with revisions to adjust the fee schedule, it was determined that the BOLT provisions should be amended to change the name to Business and Occupational License, remove references to "tax," and place the provisions in Chapter 11 of the Town Code, which Chapter deals with business licensing and regulation.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF MT. CRESTED BUTTE, COLORADO, AS FOLLOWS: Section 1. Chapter 11 Licenses and Business Regulations is hereby amended in its entirety to state as follows:

## Chapter 11 LICENSES AND BUSINESS REGULATIONS ARTICLE I. IN GENERAL Sec. 11-1 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

**Accommodation unit** shall mean any room or group of rooms with or without full kitchen facilities designed for or adapted to occupancy by guests, available for short-term rental by an individual or group of individuals which is intended to be rented on a short-term basis. Included within this definition are hotels, bed and breakfast establishments, condominiums, duplexes and single- or multi-family residences.

**Advertisement** shall mean a non-personal marketing communication to promote the rental of an accommodation unit. This includes paid and non-paid forms of marketing, including print (e.g., mailings, brochures) and electronic means (e.g., internet listings, blogs, e-mail, social media sites).

**Building Code** means the International Building Code, International Residential Code, International Mechanical Code, International Fuel Gas Code, International Property Maintenance Code, International Existing Buildings Code, and International Fire Code, as such are adopted by the town.

**Business** shall mean all kinds of vocations, occupations, professions, enterprises, establishments and all other kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly, on any premises in the town or anywhere else within its jurisdiction.

**Business licensee or licensee** shall mean any person holding a valid business and occupational license issued by the town under this article.

**Commercial**. The term "commercial" relates to or is connected with trade and traffic or commerce in general.

**Commercial solicitation**. A person is engaged in the act of commercial solicitation when by his/her conduct that person approaches or attempts to get the attention of another or others in order to promote a business, opportunity or item commercial in nature. Such act may be either oral, written or assertive conduct. By way of example, but not as any limitation, such acts include the distribution of cards, handbills or pamphlets and oral invitations or statements intended to induce or inform others of a business opportunity or item.

**Employee** shall mean any person

receiving compensation from a business subject to the provisions of this article subject only to the following: Any person who works twenty (20) hours or more per week is considered a full-time employee. Any combination of persons who together work twenty (20) hours or more per week are counted as one (1) full-time employee for each increment of twenty (20) hours, or fraction thereof, worked per week; an employee includes an owner, manager, partner, associate or proprietor who works for and receives compensation from his/her business; and, further, includes commissioned agents or independent contractors performing services for the business on more than a temporary basis.

**Nonprofit organization**. "Nonprofit organization" shall mean those groups which have been granted a Section 501(c)(3) or Section 503 tax-exempt status by the Internal Revenue Service.

**Peddler** shall mean a person who engages in a temporary business of selling and/or delivering wares or merchandise.

**Person** shall mean individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations, or any officers, agents, employees, factors or any kinds of personal representatives of any other person, under either personal appointment or pursuant to law.

**Premises** shall mean all lands, structures, places and also the equipment and appurtenances connected or used therewith, in any business, and also any personal property which is either affixed to or is otherwise used in connection with any such business connected on such premises.

**Public property** shall mean all real property owned, leased, or managed by the Town of Mt. Crested Butte, including but not limited to public rights-of-way, streets, sidewalks, parks, and parking areas.

**Sale or sell** shall mean the exchange of goods or services for money or other consideration, including the offering of goods or services for donations.

**Short-term rental** means any accommodation unit or portion thereof rented for a period of less than thirty (30) consecutive days. Rentals of entire dwelling units, individual rooms, or portions of rooms shall each be considered short-term rentals.

**Short-term rental license** means a license granted under the terms of this article.

**Solicitor**. The term "solicitor" is to be limited to a person engaged in the acts of commercial solicitation as defined in this section when such person is, or may be, receiving some form of compensation or in any way is employed by, represents or is associated with the promoted business opportunity or item.

**Town license officer or license officer** shall mean the town manager of the town or designee.

**Vending activity** shall mean the act of selling or offering for sale wares, goods, merchandise, food, or services from a vending cart, from a location outside of a building, and which activity is not an accessory use as defined in this Code.

**Vending cart** shall mean a non-permanent mobile structure for the display of goods, merchandise, food, wares, or services.

**Vendor** shall mean any established business not having an operating location within the town at any time during the calendar year, but which otherwise does business within the town.

(1) A seasonal vendor is a vendor doing business within the town during part of the calendar year, not exceeding four (4) calendar months, which months need not be consecutive.

(2) A regular vendor is a vendor doing business within the town in excess of four (4) calendar months within each calendar year, which months need not be consecutive.

**Zoning administrator** shall mean the town manager or designee whose duty it is to enforce the regulations of this chapter.

## ARTICLE II. SHORT-TERM RENTAL REGULATIONS

### Sec. 11-2 Applicability and purpose.

## —TOWN OF MT. CRESTED BUTTE— ORDINANCE NO. 3 SERIES 2021

The purpose of this article is to establish comprehensive licensing provisions to safeguard the public health, safety and welfare, by regulating the use, occupancy, and maintenance of short-term rental properties. This article shall apply to short-term rental properties only, as defined herein. This article shall not supersede or affect any private conditions, covenants or restrictions applicable to a particular property. This article shall not apply to properties which are required by recorded covenants or zoning limitations or restrictions to short-term rent units within the property.

### Sec. 11-3 Short-term rental license requirements.

(a) License required. All short-term rentals shall be licensed under the terms and provisions of this article prior to renting a property or listing it as a short-term rental in any fashion, whether individually, or through a broker or other advertising site. A short-term rental license may be issued in all zoning districts.

(b) Sales tax and business and occupational license. Prior to the issuance of a short-term rental license, the owner of the property shall provide to the town proof of current sales tax license and business and occupational license.

(c) Proof of ownership/right to possession. The property owner or lessee shall provide evidence of ownership or right to possession of the proposed short-term rental property.

(d) Homeowner association approval. Any property governed by a homeowners' association must provide written approval from the association prior receiving a short-term rental license from the town. This provision shall not apply to short-term rentals in the single-family residential district and single-family lots in planned unit developments.

(e) Any property owned by someone other than the applicant for a short-term rental license must provide written authorization by the owner of the property to allow short-term rental.

(f) Short-term rental licenses are valid only for the property for which the license is issued and are not transferrable upon conveyance of the property. Upon any conveyance of a licensed property, the new owner shall have thirty (30) days to receive a new license from the town without being in violation of this chapter.

(g) Fee. A fee in the amount set by the town council by resolution shall be paid to the town annually for a short-term rental license. The initial inspection and one (1) follow-up inspection are included in the fee. Any further inspections necessary to obtain compliance with the Town Code shall be at an additional cost set by town council by resolution.

(h) Self-compliance affidavit. No license shall be issued without a notarized affidavit, signed by the owner under penalty of perjury, certifying that the short-term rental property is in habitable condition and complies with the health and safety standards identified in the self-compliance affidavit form, and certifying that no additions of square footage, bedrooms, bathrooms, or pillow counts have been made to the property.

(i) Parking plan. The owner of the property shall provide to the town a site plan for the property showing the number of on-site parking spaces. If the property is governed by a homeowners' association, the parking plan must be approved by the association. This provision shall not apply to short-term rentals in the single-family residential district and single-family lots in planned unit developments, except for the Pitchfork Subdivision.

(j) Bedroom count. The number of bedrooms, or sleeping rooms and pillows, shall be confirmed by the zoning administrator. Any increase in bedrooms or pillows shall require a new inspection.

(k) Local representative. The owner must identify and provide contact information for a local representative located within a forty-five (45) minute drive of the property. The local representative shall be on call full time (24/7), shall have physical access to the accommodation unit, and shall be authorized to make decisions regarding the accommodation unit on behalf

of the licensee. The local representative may be a property management company. It is the owner's responsibility to update this information throughout the term of the license.

(l) Initial inspection. Upon filing a complete application, the property owner shall schedule an inspection of the property with the zoning administrator. The inspection shall include Building Code compliance related to life safety issues, as well as compliance with the approved parking plan. No property shall be granted a short-term rental license unless determined to be in compliance with applicable provisions of the Town of Mt. Crested Butte Municipal Code. A property that has been issued a certificate of occupancy for improvements permitted by the town and to which modifications cannot be reasonably made as to life safety Building Code provisions, shall be deemed to be in compliance with Town Code, subject to written acknowledgement by the owner or lessee of the property accepting liability and agreeing to indemnify the town against any claim for any injury occurring on the property due to such issues. The town may require modifications to any property seeking a license including, but not limited to, the addition of fire extinguishers, ladders, handrails, or other life safety equipment.

Through August 31, 2020 only: a property owner submitting a complete application, including the notarized self-compliance affidavit form, and meeting all other requirements, shall be issued a provisional short-term rental license. The owner shall then have until 12/31/2021 to complete the initial inspection of the property.

(m) Periodic life-safety inspections. Because short-term rentals 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 rentals is in the interest of public safety. Therefore, whenever it is necessary or desirable to make an inspection to enforce the requirements of this article, the zoning administrator or designee may enter such accommodation unit at all reasonable times to inspect the same for the purpose of enforcing such special conditions. Provided, that if such short-term rental is occupied, the zoning administrator shall first present the proper credentials and request entry, and if such short-term rental is unoccupied, shall first make a reasonable effort to locate the owner, the local representative, or other person having charge or control of the short-term rental and request entry. If such entry is refused, or if the short-term rental is locked, the zoning administrator shall have recourse to every remedy provided by law to secure entry. When the zoning administrator has obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner, occupant, or any other persons having charge, care, or control of any short-term rental shall fail or refuse, after proper request is made herein provided, to promptly permit entry therein by the zoning administrator for the purpose of inspection of the short-term rental. No inspection warrant or permission shall be required for the zoning administrator to enter and inspect a short-term rental in the case of an emergency involving the potential loss of property or human life.

(n) Posting of license and self-compliance affidavit. Each short-term rental property shall post the short-term rental license number and any license conditions (i.e., maximum pillow count, approved parking plan, local representative contact information) inside the property, and on any advertisement of the property. Each short-term rental property shall also post a copy of the self-compliance affidavit in a conspicuous location inside the property.

**Sec. 11-4 Duration and renewal.** A short-term rental license is valid for the duration or remainder of the calendar year. A license holder shall submit an application for license renewal sixty (60) days prior to expiration of the current license.

**Sec. 11-5 Taxes.** A short-term rental license holder shall collect and submit all taxes in compliance with state, county, and

local law, and remit the same to the proper taxing authority.

### Sec. 11-6 Enforcement.

The property owner of any property licensed as a short-term rental shall be liable for any violations of the Town of Mt. Crested Butte Town Code. The town may enforce the requirements of this article by any or all of the following means:

(a) The town may issue a warning letter pursuant to section 11-7 to any person or entity renting a property as a short-term rental without a license, or for any other violations of the Town Code, and providing a date for cessation or compliance.

(b) The town may suspend, revoke or refuse to renew a short-term rental license.

(c) The town may prosecute a civil action pursuant to Town Code provisions applicable to the violation.

The town shall not accept an application for a new license for the same property for a period of twelve (12) months from the date a license is revoked, unless ownership of the property has transferred to a new owner with no legal or other affiliation to the current ownership.

### Sec. 11-7 Notices.

Any notice required by this article is sufficient if mailed by first-class mail to the address provided by the owner of the property on the most recent license application, provided that notice to the local representative shall also be sufficient to satisfy notice requirements.

## Secs. 11-8—11-39 Reserved. ARTICLE III. BUSINESS AND OCCUPATIONAL LICENSE Sec. 11-40 Purpose.

The purpose of this article shall be to require the licensing and regulation of business activities, occupations and enterprises conducted within the town and provide the town with necessary information relating to businesses and professions operating within the town in order to protect the health, welfare and safety of its inhabitants, and to generate and raise additional revenues for the town for the purpose of marketing and promoting the town and its environs as a year-round resort, and to promote and market activities and events beneficial to the business community.

### Sec. 11-41 Double fee not intended.

It is the express intent of this article that there be no double fee for businesses operating in both the Town of Mt. Crested Butte and the Town of Crested Butte. To that end, any applicant under this article who has paid the full applicable fee for such business in the Town of Crested Butte shall, upon presentation to the town of a receipt for such license issued by the Town of Crested Butte, and payment of an additional fee to the town of twenty-five dollars (\$25.00) shall be entitled to a full business and occupational license under this article. All other licensing requirements remain in effect.

### Sec. 11-42 Exemptions from license requirement.

(a) The provisions of this article shall not be deemed or construed to require the procurement of a license to conduct, manage or carry on any business, occupation or activity, or require the payment of any license from any institution or organization which is conducted, managed or carried on wholly for the benefit of charitable, municipal or public purposes for which profit is not derived, either directly or indirectly, by any individual, firm or corporation.

(b) No license shall be required for the conducting of any entertainment, dance, concert, exhibition or lecture on scientific, historical, literary, religious or moral subjects, whenever the entire receipts from the same are to be appropriated to, or such projects are conducted under the auspices of, any church or school, or any religious, nonprofit or benevolent organization.

(c) No license shall be required for the conducting of any entertainment, dance, concert, exhibition or lecture, whenever the receipts from the same are to be appropriated for the purposes and objects for which such association or organization was formed and from which profit is not derived, either directly or indirectly, by any individual, firm or corporation.

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