

ORDINANCE NO. 3
Series 2017

AN ORDINANCE OF THE TOWN OF PITKIN, COLORADO, RESTRICTING
ADVERTISEMENTS RELATING TO RESIDENTIAL RENTALS IN THE TOWN OF
PITKIN, COLORADO

WHEREAS, Colorado Revised Statutes (2009), Section 31-15-101, et seq., authorizes a municipality to enact regulations that promote the health, safety and welfare, and improve order, comfort, and convenience of the municipality and inhabitants thereof; and

WHEREAS, Colorado Revised Statutes (2009), Section 31-23-301, et seq., authorizes a municipality to enact regulations that regulate the location and use of buildings, structures and land for trade, industry, residence, or other purposes; and

WHEREAS, the Board of Trustees finds that identifying reasonable limitations relating to advertising for residential rental properties would benefit the health, safety, and welfare of the Town's residents, and therefore is in the Town's best interests; and

WHEREAS, the Town of Pitkin, Colorado has a duty to adopt local regulations consistent with the State of Colorado's Regulation 43 (Colorado Department of Public Health and Environment Water Quality Control Commission On-Site Wastewater Treatment System Regulation, Regulation 43, 5 CCR 1002-43 Effective June 30, 2013, referred to hereinafter as "Regulation 43"), and

WHEREAS, Regulation 43 at 43.6 (A)(2) provides criteria for wastewater flows that provides the assumed number of persons per bedroom shall be two for design purposes, and

WHEREAS, the Town of Pitkin's OWTS regulations, as set forth in the Town of Pitkin Ordinance No. 4, Series 2015, or as later amended (the "OWTS Ordinance"), were adopted pursuant to Regulation 43, and

WHEREAS, the limitation on advertising the maximum occupancy for rental properties at two persons per bedroom is consistent with the provisions of Regulation 43 and the OWTS Ordinance, and

WHEREAS, Regulation 43 empowers the local health agency to facilitate permitting and inspection of OWTS systems, and

WHEREAS, the Town of Pitkin Board of Trustees serves as the local board of health, which by definition in Regulation 43 the local board of health is also deemed to be the local health agency, and

WHEREAS, this ordinance is adopted pursuant to Regulation 43 and is deemed to supplement the OWTS Ordinance, and

WHEREAS, Regulation 43 provides the protocol for adoption of regulations by the Local Board of health at 43.4 (A)(3), which provides the following:

- (a) A local board of health must submit its proposed regulations to the Division for preliminary review at least 30 days prior to a public hearing before a local board of health.
- (b) The local board of health must hold a public hearing on the proposed regulations before adopting final regulations.
- (c) The local board of health must give notice of the time and place of the public hearing at least once and at least 20 days in advance in a newspaper of general circulation within its area of jurisdiction.
- (d) The local board of health may make changes or revisions to the proposed regulations after the public hearing and prior to final adoption, and no further public hearing shall be required regarding the changes or revisions.
- (e) All local regulations must be transmitted to the Division no later than five days after final adoption and become effective 45 days after final adoption unless the division notifies the local board of health before the forty-fifth day that the regulations or any portions of the local regulations determined by the Division are not as stringent as the OWTS Act or this regulation. Any portions of the local regulations determined by the Division not to be in compliance with the OWTS Act and this regulation shall not take effect or be published as regulations of the local board of health. For those portions of its regulations that do not comply, the local board of health may submit revisions to the Division. Only after the Division has determined that the local board of health's revised regulations comply with the OWTS Act and this regulation may the local board of health's revised regulations take effect and be published. Until the Division makes this determination, this regulation controls the unapproved portions of the local regulations; and

WHEREAS, the Town of Pitkin's Board of Trustees, acting as the local board of health, has complied with protocol for adoption of regulations.

NOW, THEREFORE, be it ordained by the Board of Trustees of the Town of Pitkin, Colorado, as follows:

1. A property owner, property manager, or agent of either a property owner or property manager; shall not make advertisements, either written or verbal, for residential rentals in all zoned districts in the Town of Pitkin, that offer occupancy in excess of two persons per bedroom, based upon the number of bedrooms originally built.

2. A property owner may request a variance, provided granting such variance is consistent with the Town of Pitkin's OWTS ordinance.
3. Any person with reason to believe that a rental property owner, property management company, or other agent of the owner has violated the provisions of this ordinance, may file a complaint with the Town Clerk, who shall distribute such complaint to the Board of Trustees.
4. At the next regular meeting of the Board of Trustees held no less than twenty days after the complaint is filed with the Town Clerk, the Board of Trustees, acting as the local health board, shall determine if there was a violation of this ordinance. The owner, property manager, or agent shall have the right to appear and present their defense. The property owner, property manager, or agent may be granted a continuance to the next regular meeting upon showing good cause.
5. If the Board of Trustees, acting as the local health board, determines there has been a violation of this ordinance a civil penalty in accordance with the Town of Pitkin fee schedule, as adopted by Resolution, or other such sanction consistent with the State of Colorado's Regulation 43 and/or the Town of Pitkin's OWTS regulations, as set forth in the Town of Pitkin Ordinance No. 4, Series 2015, or as later amended, may be levied against the subject property owner, property manager, or agent.

INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED this 11, day of April, 2017, on first reading, and introduced and adopted this 9 day of may, 2017.



(SEAL)

Rachel New

Rachel New, Mayor

ATTEST: *SJG*

Sara Gibb, Town Clerk

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