

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF GILPIN**

RESOLUTION IMPOSING A TEMPORARY 90-DAY SUSPENSION ON THE SUBMISSION, ACCEPTANCE, PROCESSING, AND APPROVAL OF ANY APPLICATION FOR A COUNTY OF GILPIN PERMIT RELATED TO THE OPERATION OF A SHORT TERM RENTAL BUSINESS AND DECLARING THE INTENTION OF THE BOARD OF COUNTY COMMISSIONERS TO CONSIDER THE ADOPTION OF AMENDMENTS TO EXISTING COUNTY REGULATIONS CONCERNING THE LOCATION, NUMBER, AND MITIGATION OF IMPACTS OF SUCH BUSINESSES AND THE POSSIBLE ADOPTION OF LIMITATIONS ON THE LOCATION, NUMBER, AND MITIGATION OF SUCH BUSINESSES WITHIN UNINCORPORATED AREAS OF GILPIN COUNTY

WHEREAS, the County of Gilpin (“County”) is as statutory county organized and existing under Colorado Constitution Art. XIV, Sec. 1 as an administrative arm of the State to serve as the legislative, policy-making, and administrative body governing unincorporated areas of the Gilpin County; and

WHEREAS, On April 16, 2021 the County adopted amendments to the Gilpin County Zoning Regulations that allow, subject to various time, place and manner limitations, for the conduct of short-term rental businesses within the unincorporated area of Gilpin County; and

WHEREAS, a majority of adjacent counties and municipalities within the state and within the Denver and Boulder metropolitan areas have determined to either prohibit or limit within their jurisdictions, or have imposed temporary suspensions on the establishment of any such operations pending either a decision to permit and regulate or to prohibit such operations; and

WHEREAS, those jurisdictions that allow short-term rentals are being presented with applications and proposals for such uses that greatly exceed the reasonable needs and desires of the community for such uses; and

WHEREAS, over the past months, the Gilpin Board of County Commissioners (“Board”) have been advised of a dramatic increase in concerns regarding the operation of short-term rentals (AirBnB, VRBO, etc.) in Gilpin County. This has prompted discussions regarding our current regulations and how they could be modified to mitigate the concerns being raised, or if any change in policy is warranted; and

WHEREAS, general health, welfare, and safety concerns raised included negative impacts to residents and neighborhoods including increased traffic congestion, increased vehicular speeds along rural roadways, trash, increased noise levels, loose dogs, lack of understanding related to fire danger, and disruption of the sense of community within the county; and

WHEREAS, there is also concern over the availability of long-term housing options, including reduced workforce housing options for residents being adversely affected by the increasing amount of housing units being devoted solely to short-term rental use; and

WHEREAS, concern also exists related to the use of property intended to be used for residential purposes that is now being used commercially in residentially zoned areas; and

WHEREAS, concern exists in the high demand of staff time needed in the administration and enforcement of this short-term rental program and that the fee structure does not adequately cover administration costs of the program; and

WHEREAS, the Gilpin Board of County Commissioners (“Board”) has concerns that the pressure for the establishment of more short-term rental operations within the County could threaten to create undue concentrations of such uses, and threaten to remove from the marketplace residential properties that are necessary to provide for the broad range of long-term residential accommodations that are needed and desired in the community; and

WHEREAS, the imposition of a temporary suspension to and through June 5, 2022, on the submission, acceptance, processing, and approval of any applications for County permits and licenses concerning the operation of short-term rentals will allow the County staff, the Planning Commission, and the Board to investigate, study, and consider the benefits, burdens, issues and impacts short-term rentals create in Gilpin County and then, if warranted, move forward with the formal public hearing process by the Gilpin County Planning Commission and the Board to formally review, consider, determine and then develop and implement regulations designed to limit the concentration and/or number of short-term rental businesses within Gilpin County or such other actions determined to be necessary. Such a suspension is reasonable; and

WHEREAS, Gilpin County is empowered to temporarily suspend County Zoning Regulations or Building Codes per C.R.S. §30-28-121 and as otherwise may be allowed under Colorado law; and

WHEREAS, additionally Colorado law referred to as the pending resolution doctrine is a legal doctrine under Colorado law that allows a local government to apply regulations that have yet to be officially enacted, but that are legally pending on the date of a permit application; and

WHEREAS, the pending ordinance doctrine permits a county to amend its ordinances and regulations without the threat of landowners or applicants racing to beat the clock by filing an application and thus obtaining vested rights under existing ordinances or regulations; and

WHEREAS, the County finds that under C.R.S. §30-28-121 and the pending ordinance doctrine, the County is authorized to apply this pending temporary suspension resolution to short-term rental permit applications that have not been deemed fully complete as of March 6, 2022; and

WHEREAS, the Gilpin Board of County Commissioners hereby finds, determines, and declares that this Resolution is necessary and proper to provide for safety, welfare, preserve the health, promote the prosperity, and improve the order, comfort, and convenience of the County of Gilpin and the inhabitants thereof.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GILPIN, AS FOLLOWS:

Section 1. Findings. The above recitals are incorporated herein by reference and adopted as findings of the Gilpin Board of County Commissioners.

Section 2. Imposition of Temporary Suspension. Subject to the provisions of Section 3 below, a temporary suspension is hereby imposed on the submission, acceptance, processing, and approval of any application for a County permit to operate a short-term rental business within the unincorporated areas of Gilpin County pursuant to applicable County, state and local laws. Subject to the provisions of Section 3 below, the Gilpin County Community Development Department and County staff are directed to refuse to accept for filing, and not to process or review any application for a short-term rental business permit within the unincorporated areas of the County during the temporary suspension period.

Section 3. Applicability and Effective Date of Temporary Suspension. The Gilpin Board of County Commissioners finds and determines that, in the context of the permitting of short-term rental businesses, it is unfair and inequitable to impose new licensing standards on permit applications that were pending, but not yet approved, at the time the new standards were adopted. Accordingly, it is the intent of the Board of County Commissioners that the temporary suspension established by this Resolution 22-05 shall not be applied to any application for a permit that has been deemed fully complete and is pending approval as of March 6, 2022. The temporary suspension imposed by this Resolution shall commence as of the effective date of this Resolution, and shall expire on June 5, 2022, unless sooner repealed.

Section 4. Staff to Investigate and Prepare Proposed Regulations. Before the expiration of the temporary suspension imposed by this Resolution, County staff, working with the County Attorney, shall investigate, review, and analyze potential new County regulations for short-term rental businesses including possible limits on the concentration and/or number of short-term businesses within unincorporated Gilpin County. Such investigation, review, and analysis shall be completed promptly and with due diligence, and submitted to the Board of County Commissioners for consideration. The Board of County Commissioners declares that it will give due and timely consideration to the adoption of any proposed regulations.

Section 5. Existing Short-Term Rental Businesses. The provisions of this Resolution shall

not affect the validity of any lawfully existing short-term rental business operating pursuant to state law and Gilpin County Zoning Regulations Section 3.10.

Section 6. Authority. The Gilpin County Board of County Commissioners hereby finds, determines, and declares that it has the power to adopt this Resolution pursuant to C.R.S. §30-28-121 and other Colorado law.

Section 7. Severability. Should any one or more sections or provisions of this Resolution be judicially determined invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Resolution, the intention being that the various sections and provisions are severable.

Section 8. Repeal. Any and all resolutions, ordinances, or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such resolution, ordinance, or code or part thereof shall not revive any other section or part of any resolution, ordinance, or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any resolution or ordinance hereby repealed prior to the effective date of this Resolution.

Section 9. Effective Date. On March 1, 2022, the Board voted in their public meeting to approve suspending the issuance of new short-term rental permits, which suspension would be effective on March 7, 2022. This written Resolution encompasses that prior decision as approved by the Board and repeated herein. This Resolution hereby ratifies that prior Board decision. This Resolution is effective commencing at 12:00 a.m. MDT, March 7, 2022 *nunc pro tunc*.

ADOPTED in writing this 5th day of April, 2022 and effective March 7, 2022 commencing at 12:00 a.m. MDT by a vote of _____ to _____, *nunc pro tunc*.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF GILPIN COUNTY

Deputy Clerk to the Board

Sandy Hollingsworth, Chair

