

RESOLUTION 2022 - _____

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF ARCHULETA COUNTY, COLORADO,
IMPOSING A TEMPORARY MORATORIUM ON THE SUBMISSION,
ACCEPTANCE, PROCESSING AND APPROVAL OF ANY APPLICATION FOR A
PERMIT OR OTHER LAND USE APPROVAL RELATED TO THE OPERATION OF
A VACATION RENTAL IN UNINCORPORATED ARCHULETA COUNTY**

WHEREAS, in recent years, the advent and increasing popularity of individuals and companies purchasing, advertising, and renting out residential properties as short-term lodging has resulted in almost 12% of all unincorporated Archuleta County's housing stock being utilized as a vacation rental; and,

WHEREAS, the conversion of residential properties to vacation rental units has a variety of effects on the neighborhoods in which such units are located, as well as on the community as a whole, including without limitation, issues with increased noise at all hours, parking and traffic problems, life and safety issues related to noncompliance with the building code, and trash not being kept or disposed of properly; and,

WHEREAS, in 2020, the Colorado legislature passed HB 1093, which established a new subsection in Title 30, Article 15, Section 401 of Colorado Revised Statutes, providing counties the authority to "license and regulate an owner or owner's agent who rents or advertises the owner's lodging unit for a short-term stay, and to fix the fees, terms, and matter for issuing and revoking licenses issued therefor"; and,

WHEREAS, in order to combat the above issues and pursuant to its authority to regulate land use granted by law including, without limitation, Article 20 of Title 29 and Article 28 of Title 30, Colorado Revised Statutes, in May 2021, the Archuleta County Board of County Commissioners (the "Board") adopted rules and regulations regarding the operation of vacation rentals in Section 5.5.6 of the Archuleta County Land Use Regulations ("LUR"), including the requirement that all owners and operators of vacation rentals obtain an annual permit; and,

WHEREAS, the LUR (a) required vacation rental owners and operators to obtain an annual permit, and (b) included additional provisions regarding enforcement, appeals, and fine for violations of the LUR; and,

WHEREAS, since the adoption of the amended LUR, the number of vacation rentals in the County has continued to significantly increase, causing continued conflict within neighborhoods, and contributing to the continued loss of local workforce housing stock as housing units in traditionally local areas transition from long-term to short-term occupancy; and

WHEREAS, the County is continuing to experience a housing crisis whereby local workers are unable to find housing and are leaving the community, resulting in local businesses being understaffed and cutting hours and services due to the lack of employees; and,

WHEREAS, to address similar issues, including overcrowding and the limitations of existing infrastructure to support the influx of visitors, the Town of Pagosa Springs has imposed an additional tax on short-term vacation rentals within the Town; and,

WHEREAS, the Board of County Commissioners has serious concerns that because of the above-referenced impacts from vacation rentals, unincorporated Archuleta County will continue to experience substantial additional loss of housing stock to vacation rentals in addition to what has already occurred; and,

WHEREAS, based on information presented to the Board by the staff of the Archuleta County Planning Development Services Department, as well as the businesses and citizens of Archuleta County, it appears that the existing rules and regulations in the LUR do not adequately address the impacts the County is experiencing and expects to experience in the coming months from vacation rentals; and,

WHEREAS, the imposition of a six (6) month moratorium on the submission, acceptance, processing, and approval of new vacation rental permits and other land use approvals related to vacation rentals will allow the County staff and Board to more thoroughly investigate the relevant issues and develop any additional appropriate regulations related thereto; and,

WHEREAS, because the County does not have adequate current regulations pertaining to vacation rentals, the County will suffer irreparable harm if a moratorium on the submission, acceptance, processing and approval of new County permits and other land use approvals related to the operation of such businesses is not imposed; and,

WHEREAS, the duration of the moratorium imposed by this Resolution is reasonable in length, and is no longer than is required for the County to properly investigate, develop, and, if appropriate, adopt and implement any regulations deemed necessary with respect to vacation rentals.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, COLORADO THAT:

Section 1: Upon the adoption of this Resolution, a moratorium is imposed upon the submission, acceptance, processing, and approval of any new application for a permit related to the operation of a vacation rental in unincorporated Archuleta County, including any land use approvals associated with vacation rentals. Archuleta County will continue to accept and process renewal applications for existing and already issued vacation rental permits pursuant

to the current LUR. To the extent practicable in light of limitations posed by the website and software system used to process vacation rental permits, County staff is directed to refuse to accept for filing any such applications during the moratorium period, and regardless of whether an ineligible application is inadvertently filed or accepted for filing by the website and software system, Staff shall not process or approve any such application and shall refund any fees paid.

Section 2: The moratorium imposed by this Resolution shall commence as of the date of the adoption of this Resolution and shall expire six (6) months thereafter, unless sooner repealed or thereafter extended. Applications deemed complete by County staff for vacation rental permits or associated vacation rental land use approvals submitted prior to the date of adoption of this Resolution shall be processed per existing LUR. If a new complete application has been made for a permit for a vacation rental prior to the date of adoption of this Resolution and approved during the moratorium, such applicant will be eligible to receive a vacation rental permit. Additional limited exceptions may be made per the terms of Exhibit A, attached hereto.

Section 3: Before the expiration of the moratorium imposed by this Resolution, the County staff, working with the Planning Commission and the County Attorney, shall carefully review the existing rules and regulations regarding vacation rentals and promptly and with due diligence present potential changes to said rules and regulations to the Board as may be necessary to address the concerns of the Board.

Section 4: The Board hereby finds, determines, and declares that this Resolution is necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the order, comfort and convenience of the County of Archuleta and the inhabitants thereof.

Section 5: The Board hereby finds, determines, and declares that an emergency exists, and that this Resolution is necessary for the immediate preservation of the public health, welfare, peace or safety. The adoption of this Resolution on an emergency basis is necessary in order to prevent a person from filing an application for a new County permit to operate a vacation rental until the County has had a reasonable opportunity to determine: (a) where the existing rules and regulations are failing to address the impacts created by vacation rentals; and (b) what additional regulations, if any, should be imposed by the County upon such businesses. Failure to immediately impose the moratorium provided for in this Resolution will potentially allow a person to apply for a permit from the County before the County has the reasonable opportunity to evaluate the immediate and ongoing community impacts associated with the continual growth of vacation rentals in residential neighborhoods. Further delay would lead to additional adverse impacts on the subject neighborhoods and community as a whole. Such adverse community impacts include but are certainly not limited to the loss of long-term housing in the County, and the consequent loss of local workers, so that businesses, residents, and visitors alike would be significantly negatively impacted. In addition, the County being forced to continue to accept and process vacation rental permits or other types of land use applications could cause irreparable negative impacts to the quality of life of existing Archuleta County residents and negatively affect the cultural, environmental, and

neighborhood areas of the County. The Board further determines that the adoption of this Resolution as an emergency Resolution is in the best interests of the citizens of Archuleta County.

Section 6: Should any one or more sections or provisions of this Resolution be judicially determined to be invalid or unenforceable, such determination shall not affect, impair, or invalidate the remaining sections or provisions of this Resolution, it being the intent of the Board that such invalid or unenforceable provisions are severable.

Section 7: This Resolution shall take effect immediately upon adoption.

APPROVED AND ADOPTED THIS 19th DAY OF JULY, 2022.

ATTEST:

**Board of County Commissioners
Archuleta County, Colorado**

County Clerk & Recorder

Alvin Schaaf, Chair

EXHIBIT A

1. Special Exception Petition. One goal of the Moratorium is to allow for reasonable and fair exceptions while preserving the Moratorium's purpose and intent, which is to limit the issuance of vacation rental permit ("VRP") approvals as much as possible. To that end, the Board finds that establishing a special exception petition process for certain discrete situations is in the best interests of the entire community, including property owners who will benefit from having a clear understanding of whether and when they might be eligible to apply for a VRP.
2. Applicant. Any developer, person, or entity that either (a) is under contract to purchase a dwelling unit prior to the date on which this Resolution took effect, or (b) has received a building permit prior to the date on which this Resolution took effect and achieved substantial construction of a dwelling unit (which shall be defined as having passed the foundation inspection by the Building Department) within thirty (30) days after the Resolution took effect, is authorized to submit a special exception petition for such property with the Development Services Department.
3. Timing of Filing. The applicant shall file a complete special exception petition for a review of a VRP application with the Development Services Department no later than thirty (30) calendar days following the adoption of this Resolution. The applicant shall provide all the information necessary for the review to be completed pursuant to this section.
4. Required Information. Such petition shall include the following information:
 - (a) Name and business address of the applicant and contractual interest or property interest in the subject property.
 - (b) Name and business address of the current owner of the property, form of ownership, whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture or other, and if owned by a corporation, partnership or joint venture, name and address of all principal shareholders or partners.
 - (c) For applicants in subsection 2(a) above, a copy of the fully executed contract to buy and sell real estate, including the price to be paid and other terms of the sale.
 - (d) For applicants in subsection 2(b) above, evidence of issuance of a building permit by Archuleta County Building Department issued prior to the date the Resolution took effect as well as results of a successful foundation inspection conducted within the first thirty (30) days of the Moratorium. If necessary due to timing, applicants may submit evidence showing that their foundation

inspection is scheduled to occur within the first thirty (30) days of the Moratorium. The applicant must submit the results of the inspection to the Development Services Department within two (2) business days after the inspection is completed in order to have their application considered.

- (e) The nature of the potentially protected interest claimed to be affected, such as, but not limited to, fee simple ownership or leasehold interest.
 - (f) A signed affidavit by the applicant stating that the information and statements in the petition are true and correct under penalties of perjury.
 - (g) The Development Services Director or her designee may request additional information when it is determined to be reasonably necessary to arrive at a conclusion regarding the petition.
5. Petition Review. The Development Services Director or her designee shall review a completed petition within ten (10) business days after submission of such petition and may conduct any additional investigations or request any additional information as deemed necessary.
 6. Standard for Special Exception. For purposes of this Resolution only, a special exception is the right to proceed with the submission and consideration of vacation rental permit application under existing land use regulations or pursuant to an approved permit or site-specific development plan where the applicant can demonstrate it detrimentally changed position in good faith, justifiable reliance on a land use decision or other representation made by Archuleta County. The finding of qualification as a special exception hereunder shall allow the applicant the right to submission and processing of a vacation rental permit only; any such permit application shall be subject to all applicable laws, rules and regulations and may be denied, approved, or conditionally approved.
 7. Burden of Proof; Decision. The applicant shall have the burden of proving by a preponderance of the evidence their eligibility for a special exception as provided herein.
 8. Criteria for Decision. The Development Services Director or her designee shall, based on the evidence and information available and considering all relevant circumstances, make the determination as to whether the applicant has met the criteria set forth herein.
 9. Appeal of Petition Decision. An applicant shall be provided notice of the decision regarding the petition within three (3) business days of such decision. The applicant may appeal any such decision as provided in Section 2.2.12 of the Archuleta County Land Use Regulations.