

O-2021-24

AN ORDINANCE

AMENDING TITLE 5 OF THE LAKEWOOD MUNICIPAL CODE BY ADDING A NEW CHAPTER 5.55 REGARDING LICENSING OF SHORT-TERM RENTALS IN THE CITY OF LAKEWOOD, COLORADO

WHEREAS, the City of Lakewood (“Lakewood” or “City”) is a home rule municipality organized under Article XX of the Colorado Constitution and the authority of the Home Rule Charter for the City of Lakewood (Charter);

WHEREAS, Sections 1.2 and 2.1 of the Charter vests all municipal legislative powers in the City Council, and authorizes the City Council to establish those laws necessary and proper to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of such municipality and the inhabitants thereof;

WHEREAS, the City Council desires to impose business operating requirements and regulations for short-term rental businesses, including a business licensing requirement and establishment of applicable fees, to protect the health, safety and welfare of all persons and properties residing within the City;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. Addition of Chapter 55. Title 5 of the Lakewood Municipal Code is hereby amended by the addition thereto of a new Chapter 55, which shall read in its entirety as follows:

**Chapter 5.55 Short-Term Rental Licensing**

**5.55.10 Short Title; Intent and Purpose**

This Chapter shall hereinafter be known, and may be cited, as the City of Lakewood Short-Term Rental Licensing Code.

The intent and purpose of this Short-Term Rental Licensing Code (“STR Code”) is to ensure that residential properties in the City used for Short-Term rental purposes meet minimum standards of safety and habitability

and are operated in a manner compatible and consistent with surrounding residential uses and in compliance with applicable sales tax requirements.

### **5.55.020 Definitions**

As used in this STR Code, the following words and terms shall have the meanings ascribed thereto. Any word or term not defined hereinafter shall be defined in accordance with Chapter 17 of the Lakewood Municipal Code.

“Applicant” means an Owner seeking a License pursuant to this STR Code.

“Entity” means any firm, partnership, joint venture, corporation, limited liability company, estate or trust, receiver, trustee, assignee, lessee or any of the foregoing acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination of the foregoing acting as a unit, and includes a STR Facilitator. “Entity” shall not include an “Owner” for the purposes of this STR Code.

“Individual” means a natural person.

“License” means a license, or renewal thereof, granted pursuant to this chapter.

“Licensed Premises” means the property upon which a STR is authorized pursuant to a License.

“Licensee” means the Owner of a Primary Residence licensed for use as a Short-Term Rental pursuant to this STR Code.

“Owner” means the Individual who is the record owner of a Primary Residence for which a License is sought. A long-term renter is not an “Owner.”

“Primary Residence” means a dwelling unit (defined in Article 14 of the Zoning Ordinance), in which an Owner’s habitation is fixed and to which an Owner has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence. Residency is evidenced by actual daily physical presence, use and occupancy of the Primary Residence, including whether the Owner has occupied the dwelling unit for at least        (X) months during the immediately preceding twelve-month period. For purposes of this STR Code, an Owner shall have only one (1) Primary Residence.

“Short-Term Rental” or “STR” means the rental of any real property, or any portion thereof, for not more than twenty-nine (29) consecutive days, excluding hotels, motels, bed and breakfasts, or any other rental of property

for habitation purposes licensed in accordance with another Chapter of the Lakewood Municipal Code.

“Short-Term Rental Marketplace Facilitator” or “STR Facilitator”:

A. Means any Individual or Entity that:

1. Contracts with a Licensee to facilitate for consideration, whether or not the consideration is deducted as fees from the transaction, the use by a third-party renter of the Licensed Premises as a STR.
2. Engages directly or indirectly, through one or more affiliated Individuals or Entities, in transmitting or otherwise communicating the offer or acceptance between the third party renter and the Licensee for use of a STR; and
3. Either directly or indirectly, through agreements or arrangements with third parties, collects the payment from the third party renter on behalf of the Licensee for use of a STR.

B. “STR Facilitator” does not mean or include an Individual or Entity that exclusively provides internet advertising services or lists products for sale, and that does not otherwise meet this definition.

“Short-Term Rental Marketplace” or “STR Marketplace” means a physical or electronic forum, including, but not limited to, a store, a booth, an internet website, a catalog or a dedicated sales software application where a Licensed Premises is offered as a STR. This definition includes any Individual or Entity operating as a hosting platform to facilitate reservations or payments between a Licensee and those seeking lodging accommodations for a period of less than thirty (30) consecutive days.

“Zoning Ordinance” means Title 17 of the Lakewood Municipal Code.

#### **5.55.030 Limitations**

A. Only single-family dwelling units (as defined under the Zoning Ordinance) may be granted a License.

B. The following types of structures or spaces are not eligible for rental under this STR Code:

1. Recreational Vehicles (RVs), as defined in section 10.33.085 of the Lakewood Municipal Code
2. Boats
3. Mobile homes, as defined in Article 14 of the Zoning Ordinance
4. A dwelling unit, or any part thereof, in a multifamily structure, as those terms are used and defined in the Zoning Ordinance
5. Structures or spaces not approved as a dwelling unit, as defined in Article 14 of the Zoning Ordinance, such as shipping containers, portable storage units, or tents

- C. Distancing requirement. No License shall be granted to operate a STR on any parcel of land located within **three hundred feet (300')** of a Licensed Premises.
1. The distance shall be measured in a straight line, without regard to intervening structures, from the nearest property line of the closest, Licensed Premises to the nearest property line of the parcel upon which the proposed STR is to be operated.
  2. In the event more than one (1) application is received for premises located within **X** feet of each other, the City Clerk shall **[award Licenses by lottery] [OR] [in the event three (3) or more applications are submitted for locations within X feet,] [award Licenses in a manner that results in the greatest/fewest number of Licenses being awarded].**
- D. Only one dwelling unit per lot may operate as a STR. The dwelling unit to be used as the STR must be identified in the application for licensure.
- E. A Licensee may not provide STR accommodations for more than **X** days per calendar year.
- F. Address numbers at the Licensed Premises must be no less than four inches (4") in height and well-lit but not exceed the exterior lighting standards in Article 6 of the Zoning Ordinance.
- G. Any STR Facilitator used by the Licensee must be licensed with the City in accordance with Chapters 3.01 and 3.03 of the Lakewood Municipal Code.

#### **5.55.040 Minimum Health and Safety Standards**

- A. Each Licensed Premises shall comply with all applicable building, fire, housing and health codes.
- B. Each Licensed Premises shall contain a working smoke detector, carbon monoxide detector and fire extinguisher.
- C. No License shall be issued or renewed until the Licensed Premises is inspected by a licensed home inspector in accordance with the requirements of this STR Code and all associated laws and regulations of the City, and a safety inspection report verifying conformance with this STR Code, signed by a licensed home inspector, is submitted to the City as part of the application for licensure/re-licensure.

#### **5.55.050 Recordkeeping**

- A. Licensees must keep records identified in the Regulations promulgated by the City Clerk pursuant to section 5.55.160 hereof.
- B. The City may audit required documentation for compliance with the requirements of this STR Code and applicable laws and regulations, including the City of Lakewood Sales and Use Tax Code.

**5.55.060 Licensing Requirements**

- A. It shall be unlawful for any Individual or Entity to provide lodging, or offer to provide lodging, in the form of a STR within the City of Lakewood without a valid, current License.
- B. Licenses are neither transferable nor assignable to any other party or property.
- C. The Licensee shall notify the City Clerk within thirty (30) days after any change to the information submitted as part of the STR application.
- D. The License shall be prominently displayed within the Licensed Premises in a manner that assures the License is clearly visible to renters and shall be made available for inspection by City Code Enforcement staff at all reasonable hours.
- E. The License number must be included in all advertising of the Licensed Premises.

**5.55.070 License Application; Review**

The Applicant shall file with the City Clerk an application for a License on forms to be provided by the City Clerk. Each application shall include and/or be accompanied by the following:

- A. The full name and phone number for the Applicant.
- B. The address of the proposed Licensed Premises and a description or illustration of the area(s) of the premises that will be used for STR purposes.
- C. A signed and verified affidavit attesting, under penalty of perjury, that the proposed Licensed Premises is both owned by and the Primary Residence of the Applicant
- D. Proof of insurance that covers use of the proposed Licensed Premises for use as a STR.
- E. A copy of the signed and verified safety inspection report.
- F. A parking plan that provides a minimum of two (2) parking spaces on the Licensed Premises, either with improved parking surfaces in accordance with Chapter 9.80.020 of the Lakewood Municipal Code, or in a garage or carport. Any additional parking must be confined to the street frontage of the Licensed Premises.
- G. The application fee.
- H. A notarized affidavit attesting to all of the following:
  - 1. The Applicant has followed all requirements of this STR Code;
  - 2. There are no private rules or covenants prohibiting the use of the Licensed Premise as a STR;

3. All renters will be informed of applicable City laws and rules concerning noise, vehicle parking, garbage and common area usage;
  4. The Applicant has provided notice to neighbors in accordance with the provisions of this STR Code;
  5. The Applicant agrees to accept service of notice of violation of the provisions of this STR Code at the address of the Licensed Premises either: 1) personally; or 2) upon posting of notice upon the Licensed Premises;
  6. The application is complete in all material respects and contains no false, misleading or fraudulent statements; and
  7. The Applicant has read and understood the entire STR Code, including those provisions associated with enforcement and penalties for submitting fraudulent or misleading documents to the City.
- I. A copy of a City sales and use tax license for the STR.
- J. A copy of a City accommodations tax license for the STR.
- K. Any additional information determined by the City Clerk to be reasonably necessary to evaluate compliance with the requirements of this STR Code.

**5.55.080 License Issuance; Denial.**

- A. Upon the receipt of a completed application and all required fees, the City Clerk shall inspect all documents mandated by this STR Code and review the application packet for compliance with this STR Code. If all documents are in compliance with this STR Code and all other requirements of this STR Code have been met, the Clerk shall issue a License within 30 days, which period may be extended by the City Clerk for good cause.
- B. No License shall be issued if credible evidence indicates that one or more of the following bases for denial exists:
1. The information presented in or with the application is incomplete, inaccurate or false;
  2. The Applicant seeks a License for a location prohibited under either this STR Code or the Zoning Ordinance;
  3. The Applicant has failed to comply with all applicable City, state or federal laws that pertain to the proposed use;
  4. The Applicant is not qualified under this STR Code to hold a License due to ownership, residency, or inspection issues; or
  5. The Applicant has been convicted of violations of this STR Code occurring during the previous License period.
  6. The Applicant has failed to strictly comply with the notice requirements set forth in section 5.55.100 hereof.

7. The Applicant and failed to strictly comply with the regulations promulgated by the City Clerk pursuant to section 5.55.160 hereof.
- C. If the City Clerk denies issuance of a License, the City Clerk shall notify the Applicant in writing by regular mail, postage prepaid, to the address provided in the application for service of all notices associated with this STR Code. The notice of denial shall include the grounds for the denial. Notice is deemed to have been properly given upon mailing.

#### **5.55.090 Fees**

- A. Fees shall be assessed and collected on applications for new Licenses and on applications for License renewals.
- B. All fees associated with this Code shall be established from time to time by City Council resolution based on the cost of administration and enforcement of this STR Code, including, but not limited to, issuing a License; administering the provisions of this STR Code; Licensee education and training; Licensee inspections; compliance checks; documentation of violations; and prosecution of violators. Such fees shall not exceed the estimated cost of the regulatory program authorized by this STR Code.
- C. Fees are nonrefundable except as may be required by law.

#### **5.55.100 Notice Requirements**

- A. Specific Notice. The Applicant shall provide to the occupant of each property located within two hundred fifty (250) feet of the property line of the parcel on which the proposed Licensed Premises is located a written notice, on a form approved by the City, of Applicant application for a License. Such notices shall be mailed or hand-delivered to each such occupant within ten (10) days of submission of the License application.
- B. General Notice. The Applicant shall provide notice of intent to apply for a License by placing an unobstructed sign in the front yard of the proposed Licensed Premises. The contents, dimensions, placement, and initial date and duration of posting shall be in accordance with the rules and regulations for this STR Code as promulgated by the City Clerk.

#### **5.55.110 License Term; Renewal; Expiration.**

- A. Term. A License shall be valid for a term of one (1) year from the date of issuance.
- B. Renewal.
  1. A Licensee desiring to renew a License shall apply for renewal on forms approved by the City, and submit the renewal fee, no later than sixty (60) days prior to expiration of the then-current License term.

2. The License renewal application shall be accompanied by the same information and documentation required for the original License application. In addition to the foregoing, if, during the then-current License term, the Licensee received a notice of violation, or was subject to a disciplinary action, associated with the License, the renewal application shall include a copy of such notice or disciplinary action.
  3. Provided the License renewal application is complete, such application and fee are timely submitted, and the City Clerk is not aware of any fact that would have prevented issuance of the original License, the City Clerk shall renew the License prior to the end of the then-current term.
  4. Unless otherwise stated herein, renewal applications shall be granted or denied in the same manner and under the same requirements as new License applications.
    - a. An application for renewal will be denied for any reason set forth in section 5.55.080(B).
    - b. An application for renewal will be denied if there are causes for denial, suspension, revocation or other sanctions, as provided in this STR Code.
- C. Expiration. A License not timely renewed shall expire at the end of its term. The failure to timely renew a License requires submission of a new application. The Licensee is prohibited from using the premises as a STR after a License has expired and before a new License is issued.

#### **5.55.120 False Information/False Statement within Verification**

It is unlawful for any Applicant to knowingly make a false statement or to knowingly give false information in connection with an application under this STR Code. Violations of this provision are subject to the penalties set forth in Lakewood Municipal Code 1.16.020. See also, C.R.S. § 18-5-114.

#### **5.55.130 Suspension and Revocation of License**

##### **A. Authority to Suspend and/or Revoke.**

1. Violation of any of the provisions of this STR Code, or any rules or regulations adopted pursuant hereto, or any violation of the terms and conditions of a License, shall be grounds for the suspension or revocation of a License, or the imposition of a civil penalty, or any combination of suspension/revocation and civil penalty.
2. A License shall be automatically revoked:
  - a. Upon the sale or transfer of more than ten percent (10%) of the legal interest in a Licensed Premises.
  - b. When a Licensed Premises is leased/rented for thirty (30) days or longer.



- B. Summary Suspension. The City Clerk may order the summary suspension of a License if the City Clerk, or other enforcing officer, has probable cause to believe a Licensee has deliberately and willfully violated any applicable law, rule or regulation or has engaged in conduct which imposes an undue risk to the public health, safety or welfare. Summary suspension shall be in the form of a written order and shall be personally delivered to the Licensee or posted upon the Licensed Premises and shall be mailed to the address provided by the Licensee for receipt of notices pursuant to this STR Code.
- C. Administrative Hearing.
1. Following a summary suspension the City Clerk shall file a complaint for non-compliance with this STR Code. In such event, the Licensee shall appear before a hearing officer appointed by the City to show cause why the License should not be suspended or revoked.
  2. Hearings regarding violations of this STR Code, or for the suspension or revocation of a License, shall be before a hearing officer and shall be conducted pursuant to the rules of procedure for quasi-judicial hearings adopted by the City.
  3. For purposes of suspending or revoking any License, the Licensee shall be deemed to have permitted an act or condition if a reasonable Licensee would have been aware of the act or condition and taken action to stop the act or eliminate the condition.
  4. A suspension shall be for a period of time not to exceed 60 days upon a finding by the hearing officer that Licensee has deliberately and willfully violated any applicable law, rule or regulation or has engaged in conduct which imposes an undue risk to the public health, safety or welfare.
  5. A revocation shall be a loss of such license when the hearing officer determines that the violation(s) are either egregious or have occurred on more than one occasion and have not been addressed by the owners.
- D. Revocation. If a License is suspended or revoked, the address of the premises associated with the revoked License may not be used for STR unless the ownership of the property changes and the new owner submits an application for a new License and such application is granted in accordance with this STR Code.
- E. Appeals. Appeals shall be to a court of competent jurisdiction in accordance with the Colorado Rules of Civil Procedure.

#### **5.55.140 Appeal of Denial of a New or Renewal License**

- A. Denials. An Applicant has the right to appeal the denial of a new License or a renewal License to a hearing officer appointed by the City. Such appeal shall be initiated by submitting to the City Clerk, within 20 days of the date of the notice of denial, a written appeal and request for review by the hearing officer on a form provided by the City Clerk. Such hearing

- shall be conducted pursuant to the rules of procedure for administrative hearings adopted by the City.
- B. Appeal of Hearing Officer Decisions. An appeal of the Hearing Officer's decision shall be to a court of competent jurisdiction in accordance with the Colorado Rules of Civil Procedure. Only the City or an Applicant or Licensee aggrieved by a decision of the hearing officer pursuant to this STR Code may appeal such decision.
  - C. Waiver. Failure to timely appeal any decision available for appeal under this STR Code shall act as a waiver of a party's right to contest the decision.

#### **5.55.150 Rules and Regulations**

The City Clerk is hereby authorized to promulgate such rules, regulations and forms as deemed necessary to carry out the provisions of this STR Code.

#### **5.55.160 Enforcement**

- A. The City's Police Agents and Code Enforcement Officers are hereby authorized to enforce the provisions of this STR Code.
- B. Enforcement may consist of routine compliance monitoring and complaint-based investigation through the City.
- C. The remedies provided by this STR Code are cumulative and in addition to any other remedies available at law or in equity.
- D. Causing, permitting, aiding, abetting or concealing a violation of any provision of this STR Code is unlawful and shall cause the offender to be subject to the general penalty provisions of the Lakewood Municipal Code.
- E. In addition to other remedies provided by this STR Code or by other law, any violation of this STR Code may be remedied by a civil action brought by the City Attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

SECTION 2. In accordance with the provisions of section 7.4 of the Lakewood home rule charter, this ordinance shall become effective thirty (30) days after final publication; **provided, however, that enforcement of the provisions of Chapter 5.55 of the Lakewood Municipal Code adopted hereby shall not begin until [REDACTED] 1, 2022, in order for residents to prepare for and come into compliance with the regulations established by such Chapter 5.55.**

SECTION 3. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion,

provided that such remaining portions or application of this Ordinance are not determined by the court to be inoperable.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a virtual regular meeting of the Lakewood City Council on the 9<sup>th</sup> day of August, 2021; published by title in the Denver Post and in full on the City of Lakewood's website, [www.lakewood.org](http://www.lakewood.org), on the 12<sup>th</sup> day of August, 2021; set for public hearing to be held on the 23<sup>rd</sup> day of August, 2021; read, finally passed and adopted by the City Council on the 23<sup>rd</sup> day of August, 2021; and signed by the Mayor on the \_\_\_\_\_ day of August, 2021.

\_\_\_\_\_  
Adam Paul, Mayor

ATTEST:

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Bruce Roome, City Clerk

APPROVED AS TO FORM:

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Alison McKenney Brown, City Attorney