

O-2023-5

AN ORDINANCE

ADOPTING TITLE 5, CHAPTER 5.55 OF THE MUNICIPAL CODE OF THE CITY OF LAKEWOOD, COLORADO, IN CONNECTION WITH ESTABLISHING BUSINESS AND LICENSE REGULATIONS FOR SHORT TERM RENTALS, ALL WITHIN 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. Chapter 5.55 of the Lakewood Municipal Code shall be adopted as follows:

5.55.005 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 is to ensure that on and after September 1, 2023, residential properties in the City used for Short-Term rental purposes meet minimum standards of safety and habitability, are operated in a manner compatible and consistent with surrounding residential uses and comply with applicable sales tax requirements.

5.55.010 Definitions.

As used in this Chapter, the following 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.

- A. *Applicant* means an Owner seeking a License pursuant to this Chapter.
- B. *Authority* means the Lodging Facility Licensing Authority of the City of Lakewood.
- C. *Calls for service (CFS)* means and includes, but is not limited to, any and all calls to law enforcement that result in a law enforcement representative being dispatched or directed to the STR.
 - 1. Calls for service includes:
 - a. A call to emergency services that results in a response by a law enforcement representative to the STR that results in a criminal report.
 - b. Any police-initiated call for service to the STR that results in a criminal report.
 - c. Any call to emergency services or police-initiated call for service within the STR's surrounding neighborhood regarding activity that results in a criminal report, when such activity is associated with current STR guests and/or invited guests of the STR guests. Any individual attending a party or gathering hosted by an STR guest is a de facto invited guest.
 - 2. Calls for service shall not include traffic citations in which the STR property address is used as the location of violation or law enforcement responses to the STR premises for incidents unrelated to the use of the Licensed Premises as an STR regardless of whether a criminal report is generated.
- D. *City Clerk* means the City Clerk or designee.
- E. *Dwelling Unit(s)* shall have the same meaning ascribed thereto in Article 14 of the Zoning Ordinance.
- F. *Enforcement Officer* means the City Clerk, or the Clerk's designee. The City Clerk may utilize any applicable inspector or enforcement officer of the City or of the City's fire code enforcement partners to carry out the requirements of this Chapter, including: zoning enforcement officer, building official, code enforcement officer, or law enforcement personnel, any of whom will have all legal powers necessary to enforce this Chapter.
- G. *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 an STR Facilitator. "Entity" shall not include an "Owner" for the purposes of this Chapter.

- H. *Hosting Platform* means an entity that facilitates reservations or payments between a Short-Term Rental Licensee and a person seeking lodging accommodations for a period of less than thirty (30) consecutive days.
- I. *Individual* means a natural person.
- J. *Inspector* means an ASHI certified professional residential property inspector or a residential property inspection company with ASHI certification
- K. *Investigator* means a member of the Police Department.
- L. *License* means the license required pursuant to this Chapter.
- M. *Licensed Premises* means the property upon which an STR is authorized pursuant to a License.
- N. *Licensee* means the Owner of a Primary Residence licensed for use as a Short-Term Rental pursuant to this Chapter and to whom such license is granted under this Chapter.
- O. *Lodging facility* means any place subject to licensing under Chapter 5.56 of the Lakewood Municipal Code.
- P. *Lodging room* means and includes any room, guestroom or sleeping accommodation that accommodates one or more guests within a licensed STR.
- Q. *LPD* means the Lakewood Police Department.
- R. *Owner* means any person that is the record owner of real property as listed with the Jefferson County, Colorado Assessor upon which an STR is located. "Owner" shall also mean any part owner or joint owner of the whole or part of the land or buildings associated with a licensed STR. An owner is the only individual licensed to offer and/or accept payment for any STR, and who retains the right of access to, and control of, the STR. A long-term renter is not an "Owner."
- S. *Police Chief* means the Chief of Police of the Lakewood Police Department.
- T. *Primary Residence* means the place in which a person's habitation is fixed for the term of the license and is the person's usual place of return. A person can only have one primary residence. A permitted Accessory Dwelling Unit, as defined by the Zoning Ordinance, that is on the same lot as a Licensee's Primary Residence shall be deemed to be a part of, and not separate from, the Primary Residence for the purposes of this code.
- U. *Renter* or *Lessee* means the party contracting to rent the STR for a term of not more than twenty-nine (29) consecutive days.
- V. *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. The underlying use designation of a property

pursuant to Chapter 17 of the Lakewood Municipal Code, i.e. the Zoning Ordinance, shall remain unchanged notwithstanding a property being licensed as a Short-Term Rental. Due to the residential nature associated with operating an STR, the use of a Primary Residence as a Short-Term Rental shall not be considered either a major or minor home business as those terms are defined within the Zoning Ordinance.

W. *Short-Term Rental Marketplace Facilitator* or *STR Facilitator* 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 an 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 an 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 an STR.

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.

X. *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 an 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.

Y. *Zoning Ordinance* means Title 17 of the Lakewood Municipal Code.

5.55.020 License required; Licensing Authority established; Rules and Regulations.

A. On and after September 1, 2023 (effective date) it is unlawful for any person to maintain or operate an STR without first obtaining an annual license from the City Clerk's Office.

Unlicensed STRs. All owners of unlicensed properties offering some form of short term residential lease within the City of Lakewood, when such lease meets the definition of short term rental as set forth within this Chapter, (hereinafter "unlicensed rental") shall cease offering such unlicensed service until such properties conform to the licensing provisions of this Chapter.

Existing Nuisances. All properties within the City of Lakewood providing an unlicensed rental who seek to license such property pursuant to this Chapter, when such property has had two or more calls for service within the previous 12-month period or two (2) or more calls for code enforcement matters based on data provided by the Lakewood Police Department (LPD), shall meet with representatives from the LPD or Code Enforcement to discuss measures to mitigate any future criminal or nuisance activity occurring on the premises. Such meeting shall occur before an STR license is granted.

- B. Lodging Facility Licensing Authority (hereinafter, the "Authority") established in conformance with §5.56.020 of the Lakewood Municipal Code, is hereby appointed the Authority in accordance with carrying out the goals and intent of this Chapter.
- C. The City Clerk is hereby authorized to promulgate rules, regulations and forms necessary to carry out the provisions of this Chapter. The City Clerk may establish a set length of time (grace period) during which any application for a license under this chapter will be allowed to proceed to final review and the Applicant/Licensee will not be issued a citation for violation of a specific section of this chapter when the City Clerk has reason to believe that compliance with such specific section of this chapter is not possible due to factors that impact all applicants equally and are outside the control of applicants. Any grace period will be identified in a document posted to the appropriate City website.

5.55.030 Application for new license; renewal license.

- A. License Form. All Owners of a property that is subject to an application for a license issued under this Chapter shall file and sign an application for a license with the City Clerk on forms provided by the City Clerk.
- B. New License. The City Clerk shall accept no application that is not complete in every detail. If any application is deposited with the City Clerk and found, upon examination, to contain any omission or error, it shall be returned to the applicant for completion and correction. No further action may be taken upon any incomplete application by the Clerk or Authority. No application shall be deemed complete unless accompanied by the following:
 - 1. The full name and phone number of all Owners of the premises, and designation of the Owner/Applicant.
 - 2. 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.
 - 3. Proof of insurance that covers the proposed Licensed Premises for use as an STR, which adequately covers the short term rental liability and in no event is less than \$500,000.00.

4. A copy of an inspection report, in accordance with §5.55.050, signed and dated by the Inspector within thirty days of the application for license.
5. A notarized affidavit attesting to all of the following:
 - a. The Applicant has followed all requirements of this Chapter;
 - b. There are no private rules or covenants prohibiting the use of the Licensed Premises as an STR;
 - c. All renters will be informed of applicable City laws and rules concerning noise, vehicle parking, garbage and common area usage, and all sleeping areas will contain a posted notice containing the phone numbers for both emergency services and to report safety concerns identified at the accommodations”.
 - ~~d.~~—The Applicant has provided notice to neighbors in accordance with the provisions of this Chapter, including § 5.55.110.
 - e. The Owner/Applicant agrees to accept service of any notice from the City Clerk, including notice of violation of the provisions of this Chapter, at the address of the Licensed Premises, or such other address as specifically provided within the application, either: 1) personally; 2) via registered mail, or 3) by posting of notice upon the Licensed Premises;
 - f. The application is complete in all material respects and contains no false, misleading or fraudulent statements; and
 - g. The Owner/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.
6. For properties subject to private rules and covenants, in addition to the affidavit required under 5.55.030(7)(b), Applicants must provide a copy of the private rules and covenants as evidence that STRs are not prohibited.
7. A signed and verified affidavit submitted by each property owner attesting, under penalty of perjury, that the proposed Licensed Premises is owned by the Owner/Applicant.
8. A floor plan of the STR that specifies the number of rooms contained in the STR. The floor plan need not be professionally prepared.
9. A copy of a City sales and use tax license for the STR pursuant to §3.01 of the LMC.
10. A copy of a City hotel/motel accommodations tax license for the STR pursuant to §3.03 of the LMC.

11. Any additional information determined by the City Clerk to be reasonably necessary to evaluate compliance with the requirements of this Chapter.
 12. Payment in full of City license and application fees.
- C. License renewal. All license renewal applications shall be submitted to the City Clerk on the prescribed forms no later than 45 days prior to the date upon which the license expires, except that the City Clerk, for good cause, may waive the time requirement set forth herein. The forms shall be accompanied by all required fees and such additional materials as required for the initial application as the City Clerk deems necessary for the renewal license. The City Clerk shall accept no renewal application that is not complete in every way. The City Clerk shall not grant any renewal unless the licensee has paid all applicable fees and taxes. A License not timely renewed shall expire at the end of its term. The Licensee is prohibited from using the premises as an STR after a License has expired and before a new License is issued.

5.55.040 Application fee; Applicable fees.

The City of Lakewood shall impose fees, adopted by City Council resolution, necessary to defray the costs of training, inspection, mediation, and processing of the documentation associated with the STR licensure, all as allowed by law, such fees to include, but not be limited to, fees for a new license and renewal of a license.

5.55.050 Property Safety Inspection; Investigation.

- A. Duty to Comply with Law. Each STR shall comply with all applicable building, fire, housing and health codes.
- B. Minimum Property Safety Inspection. Prior to any STR license being approved for an initial term, the owner shall have the property inspected by an Inspector in accordance with this Chapter. Subsequent inspections shall only be required upon a safety complaint against the Licensed Premises being lodged with the Licensing Authority. A Licensee applying for renewal of a License that is in good standing and that is not the subject of any safety complaints shall not be required to complete a new inspection. The Inspector shall inspect the premises for conformance with the provisions of this Chapter and shall provide a safety inspection report on a form provided by the City verifying conformance with the minimum health and safety standards mandated by this Chapter.
- C. Minimum Health and Safety Requirements. All STRs shall contain the following: a minimum of one operable fire extinguisher per floor (or more if deemed necessary during the premises inspection), operable carbon monoxide detectors in all rooms used for sleeping purposes, and operable smoke detectors on each floor of the STR. An STR with living or sleeping areas within a basement area shall be equipped with egress windows or other

exit systems. Please note: This Code only mandates minimum health and safety requirements. Property owners who utilize their home as an STR are solely responsible for compliance with all applicable property maintenance laws.

- D. Additional Investigation; Reports. Any application for a license or license issued pursuant to this Code may be subject to any other investigation deemed necessary by the City Clerk to determine the application's or STR's conformance with any requirement of this Chapter, including, but not limited to investigation of the proposed STR's conformance with the Lakewood Zoning Ordinance or other applicable laws. Any reports of the results of any investigation conducted by any City of Lakewood department shall be delivered to the City Clerk for review. Not less than ten business days prior to the date of any hearing before the Authority to Show Cause why a license should be denied, suspended or revoked, the City Clerk shall mail the report of findings based on the investigation to the Applicant/Licensee and, upon request, to other interested parties.

5.55.060 Decision - Applications; Appeal.

- A. A completed application, including all mandatory components as set forth within this Chapter, shall be administratively approved or denied by the City Clerk within 30 days of the date of the filing of the complete application. The City Clerk shall administratively deny a license application if:
1. The application demonstrates or establishes that the proposed STR fails to conform to any requirement of this Chapter, including the type of dwelling unit, the minimum health and safety standards as set forth herein, residency status, or other applicable law or provision herein;
 2. The Applicant knowingly made a false statement or knowingly gave false information in connection with the application;
 3. The Owner has had an STR license revoked or suspended within five years prior to the application, or the Owner/Applicant has failed to comply with all applicable provisions of this Code while previously licensed to provide STR rental within the City;
 4. The premises of the STR have been cited by the City at any time within the previous twelve months for violation of the City's public nuisance code or the property has been the location of a substantiated noise complaint, or two or more summons have been issued alleging a violation of 9.52.040. A noise complaint is substantiated upon conviction of a noise violation in municipal court.
 5. The STR is listed on a hosting platform or Short-Term Marketplace Facilitator site without including the Lakewood Short-Term license number of the STR.

- B. Those provisions of §5.56.060 (C), (D) and (E) regarding administrative approval and denial of license applications are hereby made applicable to this Chapter.

5.55.070 License revocation, suspension or nonrenewal, penalty.

- A. Show Cause to Suspend or Revoke. The City Clerk may request that the Authority suspend, revoke or not renew a license, and the Authority may issue an Order to Show Cause why a license should not be suspended or revoked, for any one or more of the following:
1. The STR is listed on a hosting platform or Short-Term Marketplace Facilitator site without including the Lakewood Short-Term license number of the STR;
 2. The STR has received two citations for violation of any of the City's nuisance codes, or been convicted of any one violation of the City's nuisance codes;
 3. The STR has received two citations for violation of the City's excessive noise (such excessive noise verified by a member of the City's law enforcement team), or one conviction for a violation of the City's noise ordinance;
 4. The STR has outstanding official orders from West Metro Fire;
 5. The Licensed Premises' calls for service is at or above two (2) or more calls for service for any twelve (12) month period, or a significant criminal act, as defined by §5.56.010(Q) of the Lakewood Municipal Code, has occurred on the STR's premises;
 6. The operation of the STR is such that it is or has objectively negatively impacted the health, safety and/or welfare of its guests or the residents or businesses of the neighboring community;
 7. The STR is delinquent to the City of Lakewood for any taxes imposed pursuant to Lakewood Municipal Code Chapter 3.01 or 3.03;
 8. An investigation performed by the City of Lakewood demonstrates or establishes that the STR fails to conform to any requirement of this Chapter, the Lakewood Zoning Ordinance, Lakewood Subdivision Regulations, or other applicable law, and/or the Owner has failed to abate or remediate any premises condition as directed by an official of the City;
 9. The Applicant knowingly made a false statement or knowingly gave false information in connection with the application.
- B. Summary Suspension. The Licensing Authority 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 via certified mail to the address provided by the Licensee for receipt of notices pursuant to this Chapter.

5.55.080 Hearings.

- A. Hearing before the Authority. A hearing before the Authority may be requested:
 - 1. By the Owner/Applicant or Owner/Licensee to appeal a decision of the City Clerk to deny an application for an STR license, renewal of an STR license, or to appeal summary suspension of a license.
 - 2. By the Authority when the Authority, upon evidence presented by the City Clerk, issues an order to show cause why a License should not be suspended or revoked.
- B. Adoption of §5.56.070. All provisions of §5.56.070 regarding the Hearing process, not otherwise superseded by any provisions of this Chapter, are hereby adopted and made applicable to this Chapter.
- C. Penalties. The Authority shall be authorized to determine the appropriate penalty for any violation, including placing the license on a probationary period of no less than the remainder of the term of the license, imposing a civil fine in association with an adopted fine schedule, or revoking/rescinding the license. The Authority shall impose mandatory terms of compliance with any probation to help reduce nuisance activity at the STR and guide the licensee to comply with the terms of this code.

5.55.090 Conditions, Limitations and Restrictions of the Short Term-Rental License.

- A. Zoning. An STR may be operated within any Zoning District.
- B. Types of Premises. Only Dwelling Units which are the Primary Residence of their Owners will be granted a License to operate as an STR within the City.
- C. Visibility of Address. 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.
- D. STR Facilitator License. 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.
- E. Only one STR rental contract is permitted at any time in any STR. Irrespective of the number of lodging rooms available within an STR, Owners may not

enter into multiple rental contracts that would allow separate parties to use a licensed STR at the same time.

- F. Publication of License. The License number must be included in all advertising of the Licensed Premise. Additionally, 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.

5.55.100 Transferability; change of ownership; change of information of license.

- A. In the event the Owner sells the premises licensed as an STR, the Owner/Licensee shall immediately report such change to the City Clerk.
- B. The Owner/Licensee shall notify the City Clerk within fifteen (15) days after any change to the information submitted as part of the STR application.
- C. No license issued under this Chapter shall be transferable to another person or subsequent owner of such property.

5.55.110 Community Notice Requirements.

- A. Specific Notice. The Applicant shall provide to the occupant of each abutting property located within the City of Lakewood a written notice, on a form approved by the City, of Applicant's application for a License, including opportunity for mediation of concerns. Abutting properties include all properties touching the parcel on which the proposed STR premises is to be located, including abutting corners or properties directly across any street, alley or easement.
- B. Mailing Requirements. Such notices shall be mailed via certified mail to each abutting property within ten (10) days following the date of submission of the License application and shall maintain proof of delivery and be able to provide to the authority upon request.

5.55.120 Additional remedies; violations.

Notice of Criminal Penalties associated with violation of this Chapter. Causing, permitting, aiding, abetting or concealing a violation of any provision of this Chapter is unlawful and shall cause the offender to be subject to the general penalty provisions of the Lakewood Municipal Code. Enforcement may be pursuant to this Chapter or pursuant to any applicable criminal code violations.

Notice of Criminal Penalties associated with making a false statement. It is unlawful for any Owner/Applicant to knowingly make a false statement or to knowingly give false information in connection with an application for a new or renewal license issued under this Chapter. 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.

Additional Remedies. In addition to other remedies provided by this Chapter or by other law, any violation of this Chapter 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.

Separate Violations. Each day of violation of this Code shall be a separate violation.

Mediation. STR Licensees agree to participate in mediation in good faith with any abutting property owner alleging harms to such abutting property or its residents arising out of operation of an STR. Participation in mediation shall not be a waiver of any individual's right to seek other redress for harms arising out of the operation of an STR. See section 5.55.030(B)(7) for definition of abutting.

5.55.130 Program Review.

There shall be a lookback presentation concerning the STR program to the City Council in June of 2024.

5.55.140 Severability.

Should any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or application thereof to any person or circumstance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Chapter, or its application to any other person or circumstance, and to this end, the provisions of this Chapter are declared to be severable.

SECTION 2. This ordinance shall take effect on September 1, 2023.

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 hybrid regular meeting of the Lakewood City Council on the 23rd day of January, 2023; published by title in the Denver Post and in full on the City of Lakewood's website at www.lakewood.org, on the 26th day of January, 2023; set for public hearing to be held on the 13th day of February, 2023 and continued to the 13th day of March, 2023; read, finally passed and adopted by the City Council on the 13th day of March, 2023; and signed by the Mayor on the 14th day of March, 2023.

Adam Paul, Mayor

ATTEST:

Jay Robb, City Clerk

APPROVED AS TO FORM:

Alison McKenney Brown, City Attorney