

BY AUTHORITY

ORDINANCE NO. **4199**

COUNCILLOR'S BILL NO. **27**

SERIES OF 2023

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING TITLE 5 OF THE WESTMINSTER MUNICIPAL CODE BY THE ADDITION OF A NEW CHAPTER 24 CONCERNING SHORT-TERM RENTAL LICENSING, AND AMENDING TITLE XI, CHAPTER 4, OF THE WESTMINSTER MUNICIPAL CODE BY THE ADDITION OF A NEW SECTION 18 CONCERNING SHORT-TERM RENTALS AS A LAND USE

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title V OF THE WESTMINSTER MUNICIPAL CODE is hereby AMENDED to add the following Chapter 24 as set forth below:

5-24-1 – General Intent

(A) This Chapter 5-24 shall be known and cited as the Short-Term Rental Licensing Code or STR Code and shall apply to any Short-Term Rental operating in the City.

(B) The licensing system implemented pursuant to this STR Code is designed to mitigate the impacts of Short-Term Rentals on the neighborhoods in which they are located, maintain and enhance neighborhood livability, and ensure the health and safety of those who rent Short-Term Rentals. The licensing system promotes a fair operating environment and allows for ongoing data collection to further evaluate the impact of Short-Term Rentals on the neighborhoods in which they are located.

5-24-2 – Definitions

The following words, terms and phrases, when used in this STR Code, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Advertise, Advertising or Advertisement means any intentional act of drawing the general public's attention to a Short-Term Rental in the City for the purpose of promoting the same for rent or occupancy.

Applicant means the applicant for a License pursuant to this STR Code.

Application means the form, to be provided by the City, which an Applicant must submit to obtain a License in accordance with this STR Code.

City means the City of Westminster, Colorado.

Director means the City Director of Community Development or designee.

Dwelling Unit shall have the same meaning as “*Dwelling unit*” in Section 11-2-1 of the Westminster Municipal Code.

Hosting Platform means any Person or internet web site that facilitates reservations or payments between a Licensee and a Person seeking Short-Term Rental lodging accommodations.

License means the license required under this Article to offer or provide Short-Term Rental lodging within the City.

Licensee means the Person granted a License in accordance with this STR Code.

Licensed Premises shall mean a Dwelling Unit, or portion thereof, that has a valid license issued pursuant to this Article allowing such Dwelling Unit to be used and occupied as a Short-Term Rental.

Party means one (1) or more Persons which, as a single group, rents a Short-Term Rental pursuant to a single reservation and payment for a single, continuous period of days.

Person means one or more individuals or business entities, including any form of partnership, corporation, limited liability company and any other association of individuals or business entities.

Renter means the Party contracting to rent the Short-Term Rental.

Responsible Agent means the Person designated on the Application as such.

Short-Term Rental or *STR* means the rental for monetary consideration of a residential dwelling unit, or portion thereof, within the City with or without a morning meal, excluding hotels, motels, bed and breakfasts, for periods of less than thirty (30) days, including but not limited to a single-family dwelling, duplex, townhome, condominium, or similar dwelling. The term *Short-Term Rental* shall not include the rental of a dwelling unit to the former owner immediately following the transfer of ownership of such dwelling unit and prior to the former owner vacating the dwelling unit.

STR Code shall mean the provisions of this Chapter 24.

W.M.C. means Westminster Municipal Code.

5-24-3. – License Required

(A) Any person providing or offering to provide lodging in the form of a Short-Term Rental within a residential property located within the City must first obtain and maintain a License from the City.

(B) Each License is separate and distinct, and no Person shall exercise any of the privileges granted under any License other than that which is expressed on the License.

(C) Each License shall specify the date of issuance, the period during which it is valid, the name of the Licensee, the Licensed Premises, and the portions of the Licensed Premises, if so limited, that may be used as a Short-Term Rental.

(D) All Licenses shall be valid for a period of two (2) years from the date of issuance or renewal.

(E) A License shall terminate upon transfer of ownership of the Licensed Premises.

5-24-4 – Application; Eligibility and Fee

(A) Applicants must be the fee owner of the property sought to be licensed. If a property has multiple owners, including joint ownership by spouses, all Persons with an ownership interest must sign the Application.

(B) No Applicant may operate more than one Licensed Premises as a Short-Term Rental within the City at any one time. The Applicant shall certify compliance with this requirement on each Application submitted to the City.

(C) The Application must be signed by the fee owner(s) of record of the property to be licensed or by an agent thereof duly authorized in writing by the fee owner of record.

(D) The Application shall include the following information:

- (1) The name of the Applicant.
- (2) The mailing address, phone number and email of the Applicant.
- (3) The mailing address, phone number and email of the Responsible Agent (which may be the Applicant), which shall be available to respond to the Licensed Premises within one hour of being notified by the City of a complaint regarding the condition of the Licensed Premises or the conduct of a party or guest thereof at a Short-Term Rental. The Responsible Agent must be available to respond as set forth herein 24 hours per day, seven days per week at any time the Licensed Premises is occupied by a Party. The Responsible Agent must be able to provide access to the Licensed Premises and must be authorized to make decisions regarding the Licensed Premises.
- (4) The address of the Short-Term Rental.
- (5) A narrative or visuals that specify which portions of the Dwelling Unit will constitute the Licensed Premises to be used as the Short-Term Rental.
- (6) A copy of the recorded deed of trust for the subject property.
- (7) A signed affidavit by the Applicant certifying life safety compliance with operational smoke detectors, carbon monoxide detectors, fire extinguishers and other life safety equipment that may be required by the City per Building, Fire or Rental Property Maintenance Code, as outlined in Title IX, W.M.C.
- (8) A signed acknowledgement by the Applicant that the City has the right of inspection of the rental premises for conformance with the City's Building, Fire and Rental Property Maintenance Codes at any reasonable time in accordance with Title XI.
- (9) A certification of compliance signed by the Applicant with all Short-Term Rental regulations and limitations as established by this STR Code.
- (10) Proof of weekly residential trash service.
- (11) Certification that the information on the application is accurate and truthful under penalty of perjury under the laws of the State of Colorado.

5-24-5 – License Renewal

- (A) Following the initial Application and before the expiration of the 2-year License period, a Licensee may apply for a License renewal by submitting an Application and payment of a \$200 Application fee.
- (B) Unless and until the Director has received a complete renewal Application along with the requisite fees, it shall be unlawful for any Person to operate a Short-Term Rental after the expiration date recorded upon the face of the License.
- (C) Applicants shall inform the Director in writing of any material change to the information submitted on an Application within 30 calendar days of such change.

5-24-6 – License Denial

A License may be denied when there is good cause to deny the application. For purposes of this Section, "good cause" means:

- (A) The Applicant or Licensee has violated, does not meet or has failed to comply with any of the terms or conditions placed on the License, any City, state or federal law, rule or regulation;

(B) The Short-Term Rental has previously been, or evidence shows that the Short-Term Rental will be, operated in a manner that adversely affects the public health, safety or welfare of the immediate neighborhood in which the Short-Term Rental is located;

(C) The address of the proposed Short-Term Rental as shown in the Application does not have located thereon a legal Dwelling Unit and/or the Application requests a License for a recreational vehicle, travel trailer, temporary structure, or any other accommodation other than a permanent Dwelling Unit at the address; or

(D) The Application is incomplete or lacking documentation required by this STR Code.

5-24-7 – Taxes

Each Licensee shall collect and remit accommodations tax on all Short-Term Rentals in accordance with the provisions of W.M.C. Title IV, Chapter 4, and any regulations issued pursuant thereto.

5-24-8 – Limitations; Prohibited Uses

(A) The Licensee is responsible for notifying all Renters of applicable restrictions and requirements.

(B) The Licensee is responsible for any violation of any of the following requirements:

(1) Each member of a Party renting a Short-Term Rental shall comply with all applicable provisions of the W.M.C., including Title VIII, Chapter 4 (Nuisance Abatement). A Short-Term Rental shall not create any public nuisance as defined by W.M.C. 8-4-2.

(2) The Licensed Premises shall be occupied by only one (1) Party at a time. Renting to multiple Parties at the same time is prohibited.

(3) Use of a Short-Term Rental for any commercial activity not compatible with residential uses is prohibited as described in the zoning tables in W.M.C. 11-4-4 to include assembly halls, event centers, churches and private functions including weddings, receptions, conferences or meetings.

(4) No Short-Term Rental shall exceed occupancy per the limitations outlined in W.M.C. 11-12-4.

(5) No Short-Term Rental shall be located in any recreational vehicle, travel trailer, temporary structure.

(6) Every Advertisement for a Short-Term Rental in the City, on any Hosting Platform, must display a current and active License.

(C) Failure to comply with these requirements may result in revocation of the License.

5-24-9 – Enforcement and Penalties

In accordance with W.M.C. Title XI, per Title I, Chapter 23, W.M.C., each Licensee is subject to administrative penalties for violations of this STR Code and any other violations of.

5-24-10 – License Revocation and Suspension

(A) The City may revoke, suspend or deny renewal of a License for any one or more of the following reasons:

(1) When it appears that the License was obtained by fraud, misrepresentation or false statements within the Application;

(2) When it appears that the use of the Licensed Premises as a Short-Term Rental is a public nuisance as defined by Code, including W.M.C. Section 8-4-2;

(3) When the Licensed Premises fails to comply with any of the requirements of the License.

(B) In the event of the City's suspension or revocation of a License, the Director shall serve a notice of revocation or suspension by first class and certified mail to the address of the Licensee. The Director may also send a courtesy notice to the licensee through electronic mail to any address of the Licensee provided to the City. The notice shall identify:

(1) The name of the Licensee and the License number;

(2) The applicable Code section(s) alleged to have been violated together with a description of the violation;

(3) The effective date of the revocation or suspension, which shall commence no earlier than twenty (20) days after the date of the notice; and

(4) Information on the right to appeal the decision as set forth in W.M.C. 5-24-9.

(C) Provided that the mailed notice is properly addressed to the Licensee's last known registered address with the City, failure of the Licensee to receive such mailing or to accept a certified mailing shall not preclude or prevent the imposition of revocation or suspension.

(D) In addition to the revocation, suspension or refusal to renew any License as set forth herein, the City may take any other legal action available to address violations of the provisions of this STR Code.

5-24-11 – Appeal of Director Decision

(A) A Licensee may appeal a Director's decision to revoke, suspend or deny renewal of a License to the City's Special Permit and License Board (SPLB) as follows:

(1) The Licensee shall submit a written appeal to the Director within twenty (20) calendar days after the date of the notice of the Director's action.

(2) The written appeal shall state in writing specific grounds for overturning the Director's decision.

(3) An appeal shall stay (hold in abeyance) the decision being appealed until a final written decision is issued.

(B) Upon receipt of the appeal, the matter shall be set for a quasi-judicial hearing before the SPLB to be held within 30 days of receipt of the appeal.

(1) Notice of the hearing shall be provided to the Licensee by first class mail addressed to the Licensee's mailing address provided to the City.

(2) Notice shall also be provided by first class mail to owners of record of any property with an adjoining property line or directly across a street or alley from the property on which the licensed premises is located ("Adjoining Property Owners").

(C) At the hearing, the Licensee, the City, and any Adjoining Property Owners may present evidence and testimony concerning the renewal or violation(s). In determining whether to uphold the revocation, suspension, or denial of License renewal, or to modify the terms of any such action, the SPLB shall determine whether the Director's decision was unreasonable, arbitrary or capricious, or not based on sufficient evidence. The SPLB may consider the severity of the violation(s), the culpability of the Licensee, and any measures taken to remedy the violation to ensure it will not reoccur.

(D) The SPLB will issue a decision at the conclusion of the hearing. Such decision shall constitute a final agency action for the purposes of Rule 106(a)(4) of the Colorado Rules of Civil Procedure. No stay shall be afforded to a Licensee during any appeal of the SPLB decision.

(1) For appeals of non-renewals, the SPLB may instruct the renewal to be issued subject to reasonable conditions that will ensure ongoing conformance of the Short-Term Rental with the requirements of this STR Code and other provisions of the W.M.C.

(2) For appeals resulting in License suspension, the SPLB shall determine the length of the suspension and may impose any conditions the SPLB deems reasonably necessary to ensure future violations do not occur.

5-24-12 – License Reinstatement

(A) Any Person whose License is suspended may request reinstatement in the same manner as provided for in Section 5-24-11 above for appeals.

(B) The SPLB shall hold a quasi-judicial hearing within 30 days of receipt of the request for reinstatement unless the Licensee's period of suspension has not been completed, in which case, the City shall summarily deny the request for reinstatement without a hearing.

(C) At the hearing, the Licensee, the City, and any Adjoining Property Owners may present evidence and testimony concerning the request for reinstatement.

(D) The SPLB will issue a decision at the conclusion of the hearing. Reinstatement may be granted if the Person served a suspension period and can establish compliance with the conditions, if any, imposed by the SPLB related to the License suspension.

Section 2. Title XI, Chapter 4 is AMENDED to add the following Section 18 as set forth below:

11-4-18. – Short Term Rentals.

(A) *Statement of Intent:* The intent of this section is to establish land use regulations to allow short-term rental dwelling units within city limits and provide minimum standards for short-term rental use while minimizing incompatibility with surrounding residential areas. These standards provide additional protection for substantial private and public investments while upholding the health, safety, and welfare of the public.

(B) *Applicability:* This section applies to all residential zoning districts or planned unit developments permitting residential land uses.

(C) *Permitted Use: Short Term Rental* as defined in Section 5-24-2 may be allowed in any type of Dwelling Unit as defined in Section 11-2-1, provided the following conditions have been met:

1. Receive and maintain a City license as required in Section 5-24-3.
2. Maintain compliance with all provisions of Title XI applicable to the location's zoning district, Preliminary Development Plan, and Official Development Plan.
3. Building Code compliance as outlined in Title XI.
4. Fire Code compliance as outlined in Title XI.
5. Property Standards compliance as outlined in Title VIII.

Section 3. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 8th day of May, 2023.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 22nd day of May, 2023.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office