

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2020

COUNCIL BILL NO. CB20-0240
COMMITTEE OF REFERENCE:
4 Business, Arts, Workforce, & Aviation Services

5 **A BILL**

6 **For an ordinance amending the short-term rentals chapter of the Denver Revised**
7 **Municipal Code to modify the definition of primary residence, add additional**
8 **causes for denial of short-term rental licenses, and modify fees related to**
9 **administering the issuance of short-term rental licenses.**
10

11 **WHEREAS**, in 2016, the City and County of Denver adopted a local licensing system for short-
12 term rentals to create a fair operating environment for those engaged in the business of lodging and
13 transient accommodation, to ensure minimum safety requirements at such short-term rentals, and to
14 protect the public welfare;

15 **WHEREAS**, the adoption of a local licensing system for short-term rentals has allowed for data
16 collection to determine the impact of short-term rental properties on neighborhoods and affordable
17 housing;

18 **WHEREAS**, such data collection has indicated that short-term rentals do not decrease the
19 housing supply in Denver at a rate significant enough to impact housing prices;

20 **WHEREAS**, the primary residence requirement and city's strong enforcement of the
21 requirement have been cited as key factors mitigating the potential for short-term rentals to increase
22 housing costs; and

23 **WHEREAS**, clear standards for determining an applicant's primary residence provide greater
24 transparency and protect the public welfare.

25 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF**
26 **DENVER:**

27 **Section 1.** Article III of Chapter 33 shall be amended by adding the language underlined
28 and deleting the language stricken to read as follows:

29 **ARTICLE III. – SHORT-TERM RENTALS**

30 **Sec. 33-46. – Definitions.**

31 (4) Primary residence means the place in which a person's habitation is fixed for the
32 term of the license and is the person's usual place of return. ~~a residence which is the usual place of~~
33 ~~return for housing as documented by at least two of the following: motor vehicle registration, driver's~~
34 ~~license, Colorado state identification card, voter registration, tax documents, or a utility bill.~~ A person

1 can ~~only~~ have only one primary residence.

2 (5) *Short-term rental* means any primary residence dwelling unit used offered,
3 provided, or operated as for lodging accommodations to transients guests in exchange for
4 remuneration for a period of less than thirty (30) consecutive days, but does not include a facility
5 licensed pursuant to article I of chapter 26 or article II of chapter 33. "Dwelling unit" has the meaning
6 set forth in the Denver Zoning Code.

7 **Sec. 33-47. – Licensing requirement.**

8 ~~After December 31, 2016, i~~ It shall be unlawful to offer, provide, or operate a short-term rental
9 in the City and County of Denver without first obtaining a license ~~duly issued therefor by the director~~
10 under as provided in this article III and in compliance with any and all applicable city laws and
11 regulations adopted pursuant thereto.

12 **Sec. 33-48. – Application.**

13 (a) Before any license under this article is issued, an application shall be submitted to the
14 director pursuant to chapter 32. All applications shall be made upon forms provided by the director.
15 The director may, at the director's discretion, require additional documentation associated with the
16 application as may be necessary to enforce the requirements of this article III or chapter 32. In
17 addition to any other requirements, applicants shall provide the following documentation showing
18 the official City and County of Denver address of the short-term rental:

19 (1) A valid Colorado driver's license or a valid Colorado state identification card; and
20 (2) At least two of the following documents indicating that the short-term rental is the
21 applicant's primary residence:

22 a. Proof of valid motor vehicle registration,
23 b. Proof of voter registration,
24 c. Federal or state tax returns or other financial documentation,
25 d. A utility bill, or
26 e. Any other legal documentation deemed sufficient by the director which is
27 pertinent to establishing primary residency; and

28 (3) Proof of possession of the short-term rental, either by valid warranty deed, valid
29 lease, or other verification of the tenant's right to possession of the premises. If the applicant does
30 not own the dwelling unit, the applicant must also provide written documentation from the property
31 owner allowing the applicant to conduct a short-term rental on the proposed licensed premises; and

32 (4) A valid city lodger's tax account number issued pursuant to chapter 53.

33 (b) The applicant shall self-certify that the information on the application is accurate and

1 truthful under penalty of perjury under the laws of the State of Colorado.

2 ~~(c) The director may, at the director's discretion, require addition documentation associated~~
3 ~~with the application as may be necessary to enforce the requirements of this article or chapter 32.~~

4 ~~(cd) The applicant must be a legal resident of the United States of America.~~

5 ~~(de) The applicant shall possess a valid city lodger's tax account number pursuant to chapter~~
6 ~~53.~~

7 ~~(f) The property where the licensed premises are located must be the applicant's primary~~
8 ~~residence.~~

9 ~~(g) The applicant must provide proof of possession of the licensed premises, either by~~
10 ~~warranty deed or valid lease. If the applicant does not own the property where the licensed premises~~
11 ~~are located, the applicant must provide written documentation from the property owner allowing~~
12 ~~short term rentals on the licensed premises.~~

13 ~~(h) Any application submitted pursuant to this article III must be completed within one (1)~~
14 ~~year of the date the application is filed and the application fee is paid. Any application that remains~~
15 ~~pending after the expiration of one-year time period, shall be administratively closed and the director~~
16 ~~shall deny the issuance of a license denied. Once an application expires, the applicant must begin~~
17 ~~the licensing process anew.~~

18 **Sec. 33-49. - Unlawful acts.**

19 ~~(a) *Safety requirements.* Each short term rental shall have a smoke detector, carbon~~
20 ~~monoxide detector, and fire extinguisher on the licensed premises during each short term rental~~
21 ~~occupancy. It shall be unlawful to operate a short-term rental without a functioning smoke detector,~~
22 ~~carbon monoxide detector, and ~~or~~ fire extinguisher on the licensed premises.~~

23 ~~(d) *Advertising.* It shall be unlawful to advertise an short-term rental without the license~~
24 ~~number clearly displayed on the face of the advertisement. For the purpose of this section, the terms~~
25 ~~"advertise," "advertising" or "advertisement" mean the act of drawing the public's attention to a short-~~
26 ~~term rental in order to promote the availability of the short-term rental.~~

27 ~~(e) [*Insurance.*] It shall be unlawful to operate a short-term rental without, fire, hazard and~~
28 ~~liability insurance within the liability coverage limits set by the director.~~

29 **Sec. 33-50. – Brochures.**

30 Each short-term rental shall provide a brochure on the licensed premises that includes the
31 licensee's ~~contract~~ contact information, a local responsible party's ~~contract~~ contact information,
32 and any necessary emergency ~~contract~~ contact information. For the purposes of this section,
33 "local responsible party" means an individual located in the City and County of Denver during the

1 entire length of the short-term rental period who has access to the licensed premises and is
2 authorized to make decisions regarding the licensed premises. The brochure shall also provide
3 information pertinent to the neighborhood where the short-term rental is located including, but not
4 limited to, parking restrictions, restrictions on noise and amplified sound, trash collection schedule,
5 relevant water restrictions, fire evacuation routes, and any other information, as required by the
6 director, applicable to the short-term rental and the surrounding neighborhood.

7 **Sec. 33-51. – Licenses non-transferable.**

8 ~~No license granted pursuant to this article shall be transferable from one (1) person to another~~
9 ~~or from one (1) location to another. This license is non-transferrable. The department shall not~~
10 ~~accept any request to transfer ownership or location of any license or license application. Any~~
11 ~~attempt to transfer location or ownership of a license shall render the license subject to suspension~~
12 ~~or revocation pursuant to chapter 32.~~

13 **Sec. 33-52. – Term license, renewal.**

14 ~~(c) Upon receipt of an application for renewal of the license, the director may set a hearing~~
15 ~~in accordance with the requirements in chapter 32 if there is reasonable cause to believe that:~~

16 ~~(1) The licensee has violated any ordinance of the city, state or federal law on the~~
17 ~~licensed premises or has permitted such a violation on the premises by any other person; or~~

18 ~~(2) There are grounds for denial, suspension, revocation, or other licensing sanctions~~
19 ~~as provided in chapter 32 or this article III.~~

20 ~~(c) In addition to the grounds set forth in Chapter 32 of this Code, a short-term rental license~~
21 ~~may not be renewed if there are causes for denial, suspension, revocation or other licensing~~
22 ~~sanctions as provided in chapter 32 or this article III, or rules and regulations promulgated thereto.~~

23 ~~(d) Except where the director has received a complete renewal application along with the~~
24 ~~requisite fees, it shall be unlawful for any person to operate a short-term rental after the expiration~~
25 ~~date recorded upon the face of the short-term rental license.~~

26 **Sec. 33-53. – Issuance or denial.**

27 ~~No license authorized under this chapter shall issue or renew unless the license is in~~
28 ~~compliance with chapter 32 of this Code. In addition to the grounds set forth in chapter 32 of this~~
29 ~~Code, a license shall be denied under this article III if:~~

30 ~~(a) The short-term rental is not the applicant's primary residence. In determining whether a~~
31 ~~location is the applicant's primary residence for short-term rental licensing purposes, the director~~
32 ~~may consider any of the following applicable factors:~~

1 (1) Whether the applicant has or claims any other location for domestic, legal, billing,
2 voting, or licensing purposes;

3 (2) Whether and how often the applicant returns to the short-term rental or resides at
4 any other location within a calendar year;

5 (3) Whether the address listed on an applicant's legal documents or tax assessment
6 records is different than the address of the short-term rental;

7 (4) Whether an applicant's business pursuits, employment, income sources,
8 residence for income or other tax purposes, leaseholds, situs of personal and real property, and
9 motor vehicle registration indicate that the short-term rental is the applicant's primary residence;

10 (5) Whether the amount of time that the short-term rental has been, or will be, rented
11 within the calendar year indicates the short-term rental is or is not the applicant's primary residence;

12 (6) Whether the applicant is actively deployed in the United States military; or

13 (7) Whether any other relevant information discovered by the director or submitted by
14 the applicant indicates that the short-term rental is or is not the applicant's primary residence.

15 (b) There is good cause to deny the application. The term "good cause" means:

16 (1) Evidence that an applicant or licensee has violated, does not meet, or has failed
17 to comply with any of the terms or conditions placed on his license, any city or state law, or any
18 rules and regulations promulgated thereunder, including but not limited to the Denver Zoning Code,
19 section 11.8.10, as amended;

20 (2) Evidence that the short-term rental has previously been, or will be, operated in a
21 manner that adversely affects the public health, safety, or welfare of the immediate neighborhood
22 in which the short-term rental is located.

23 (d) The applicant fails to provide a complete application and documentation required
24 pursuant to section 33-48.

25 (e) The applicant fails to obtain or maintain insurance in the amounts set by the director.

26 (f) The application fails to comply with any state or local laws, or any rules and regulations
27 adopted pursuant thereto.

28 **Sec. 33-54. Disciplinary actions; sanctions; penalties.**

29 (a) In addition to the grounds provided in chapter 32 of this Code, a short-term rental license
30 may be suspended or revoked for any of the grounds for denial set forth in section 33-53 of this
31 article III.

1 (b) Procedures for investigation of license violations and for suspension, revocation or other
2 licensing sanctions as a result of any such violation shall be as provided in chapter 32 of this Code
3 and any rules and regulations promulgated by the director.

4 **Section 2.** Article II of Chapter 32 shall be amended by adding the language underlined
5 and deleting the language stricken to read as follows:

6 **Sec. 32-110. – Reserved Short-term rentals.**

7 Short-term rentals are subject to the following fees:

8 (1) Application fee: \$50

9 (2) License fee, per year: \$100

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11
12 COMMITTEE APPROVAL DATE: March 11, 2020

13 MAYOR-COUNCIL DATE: March 17, 2020

14 PASSED BY THE COUNCIL: _____ March 31, 2020

15 _____ - PRESIDENT

16 APPROVED: _____ - MAYOR _____ Apr 1, 2020

17 ATTEST: _____ - CLERK AND RECORDER,

18 EX-OFFICIO CLERK OF THE
19 CITY AND COUNTY OF DENVER

20 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____;

21 PREPARED BY: Reginald Nubine, Assistant City Attorney DATE: March 17, 2020

22 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
23 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
24 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
25 3.2.6 of the Charter.

26 Kristin Bronson, Denver City Attorney

27 BY: Kristin J. Crawford, Assistant City Attorney DATE: Mar 17, 2020