AN ORDINANCE AMENDING TITLE 5 OF THE ENGLEWOOD MUNICIPAL CODE 2000 BY ADDING CHAPTER 31 REGARDING BUSINESS AND LICENSE REGULATIONS FOR SHORT TERM RENTALS, ALL WITHIN THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, the City of Englewood ("Englewood" or "City") is a homerule municipality organized under Article XX of the Colorado Constitution and with the authority of the Englewood Home Rule Charter;

WHEREAS, Englewood Municipal Charter Sections 3 and 30 provide that the City Council shall have all municipal legislative powers as conferred by general law, C.R.S. 31-15-103 empower 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 properties and persons residing within the City; and

WHEREAS, the Englewood City Council finds and declares that the adoption of Title 5, Chapter 31 to the Englewood Municipal Code regarding short term rentals as set forth herein are proper for the reasonable needs and desires of the City and in the promotion of the public health, safety, and welfare of the City’s residents and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. Amendment of Title 5, by adding Chapter 31. Title 5, Chapter 31 of the Englewood Municipal Code shall be amended as follows:

Chapter 31 – SHORT TERM RENTALS

5-31-1: Definitions.

The following definitions are applicable to this section:
Applicant: The owner(s) of the real property for which a short term rental permit is sought. If a property has multiple owners, including joint ownership by spouses, all persons with an ownership interest must sign the application permit.

ADU: An Accessory Dwelling Unit.

Bed and Breakfast: Another term for a short term rental. The nightly or weekly rental of a residential dwelling unit, or portion thereof, ancillary to a primary living use, with or without the service of a morning meal and where the operator lives on the premises, excluding hotels, motels, for less than thirty (30) days, including but not limited to, a single family dwelling, duplex, townhome, condominium, or similar dwelling.

Community Development Department (CDD). The Community Development Department of the City of Englewood.

Director. Director of Community Development, or his/her designee

Enforcement Officer/Premises Inspector: The provisions of this Chapter shall be administered and enforced by the City Manager of the City of Englewood, or his designee. The enforcement officer, who may be a zoning enforcement officer, building official, fire marshal, or other designee, will have all legal powers necessary to enforce this Chapter. Any appropriate enforcement officer may serve as a Premises Inspector, as designated by the Director. Summons and complaints issued by the Enforcement Officer may be served by the Enforcement Officer, a Code Enforcement Officer, or a Law Enforcement Officer.

Hosting Platform: Any person or 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.

Long Term Lease: The lease or rental of a property for thirty (30) days or longer than thirty days. A property used as a long term lease shall not simultaneously be used as a short term rental.

Lot: A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed, or built upon as a unit. If two, or more lots designated by plat, are combined to be built upon as a unit, the combined lots shall be understood to be a single lot for purposes of this Short Term Rental Code.

Owner: The person(s) or entity listed on the title to the property as found on an Arapahoe County Deed of Record. Such persons are also the persons who sign the “Proof of Residency” affidavit. A long term renter is not a property owner.

Owner Occupied: Means the property owner’s primary residence. A person can only have one primary residence.

Permittee: The owner of the dwelling unit that has a valid STR operating permit and business license.

Primary Residence: Means a residence which is the usual place of return for housing. A person can only have one primary residence. See 5-31-3 for documentation requirements.

Renter or Lessee: The party contracting to rent the STR for a term less than thirty (30) days.
Short Term Rental (STR): The nightly or weekly rental of a residential dwelling unit, or portion thereof, with or without a morning meal, ancillary to a primary living use, excluding hotels, motels, bed and breakfasts, for 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 also includes and applies to “vacation rentals”.

5-31-2: - Business License Required.

A. It shall be unlawful for any person or entity to offer or provide lodging in the form of a short term rental, with or without a morning meal, within a residential property located within the City of Englewood, without obtaining an annual Business License from the City of Englewood, in conformance with this Title.

B. Prior to applying for a Business License in conformance with this Title, the applicant must have complied with each of the following:

1. The property must be zoned to allow for such use,

2. The property owner and primary resident must have a Short Term Rental Registration approved by the Department of Community Development, including Proof of Residency and Ownership Affidavit, if applicable.

3. The property owner must have a Short Term Rental Operating Permit obtained in conformance with this Chapter, bearing the signatures of all property owners and applicable Premises Inspectors.

C. A Business license issued for a Short Term Rental is not assignable or transferable to any other party or any other property. A property may not be under more than two rental agreements for any fixed dates and times. Upon the sale or transfer of more than ten percent (10%) of the legal interest in a property, or the long term lease for sale of a property used as a Short Term Rental all issued Business Licenses, Rental Registrations, or Operating permits become null and void.

5-31-3: - Application for Short Term Rental Registration.

A. Application Process. Each applicant for a Short Term Rental Registration shall submit an application to the City of Englewood Department of Community Development (CDD).

B. Short Term Rental Registration Requirements. The Short Term Rental Registration form shall be promulgated by the CDD, and shall include the following documentation:

1. Proof of Ownership of the Subject Property Affidavit. Proof of ownership shall require a copy of a deed on file with Arapahoe County.

2. Proof the Subject Property is the Primary Residence of the Owner in the following zoning districts: R-1-A, R-1-B, R-1-C, R-2-A, R-2-B, MU-R-3-A, MU-R-3-B, and MU-R-3C. Proof of Residency requires a signed and notarized “Proof of Residency and Ownership Affidavit” promulgated by the Englewood Department of Community Development. Any such affidavit will include an oath that all information included therein is true and correct under penalty of perjury, and shall be supported by a current
State or Federal filed income tax return cover page showing the primary residence (with sensitive information redacted) and at least two of the following documents: motor vehicle registration, Colorado driver’s license or Colorado identification card, or voter registration.

3. **Signed/Approved Operating Permit.** An approved operating permit in accordance with E.M.C. 5-31-4 and 5-31-5.

4. **Acknowledgement of Right to Inspect.** Signed acknowledgement that the City has the right of inspection of the rental premises for conformance with the City’s Life/Safety Codes at any reasonable time.

5. **Waiver of Liability.** The City of Englewood assumes no responsibility for the operation of the permitted STR property. The owner(s) shall sign a waiver and release of liability, acknowledging and agreeing to indemnify and hold harmless the City of Englewood from any and all negligent acts which may occur from the renting or operation of the STR. Such indemnification shall include defending the City from any claims arising from the use of the property as an STR. The Owner(s) shall further warrant and agree to compensate the City of Englewood for any expenses incurred in any defense of any lawsuit or other action associated with the renting or operation of the STR, and which is brought against the City.

6. **Certificate of Insurance.**
   a. A Permittee shall inform his or her Insurance Company that the property covered by the Insurance Company will be used as a Short Term Rental before any Short Term Rental Transaction is processed, regardless of whether the Permittee obtains liability insurance for the Short Term Rental through that Insurance Company. The Permittee shall verify compliance with this notification requirement by executing and submitting a Insurance form affidavit provided by the CDD during the application process.
   
   b. A Permittee shall maintain liability insurance to cover use of the Short Term Rental in an amount determined appropriate by the Insurance Company insuring such Short Term Rental, but no amount of less than one million dollars ($1,000,000) in the aggregate. Such coverage shall be maintained in full force and effect for the term of the business license. Alternatively, a Permittee may elect to conduct each Short Term Rental Transaction through a Hosting Platform that provides equal or greater insurance coverage for each Short Term Rental Use, and documented upon the Insurance form affidavit.
   
   c. If the property being used as a Short Term Rental is included in a Home Owners Association, the applicant for a Short Term Rental business license shall inform the Home Owners Association that the applicant intends to use the property as a Short Term Rental prior to obtaining a Short Term Rental business license. The Permittee shall verify compliance with this notification requirement by executing
and submitting an HOA form affidavit provided by the CDD during the operating permit application process.

7. **Floorplan.** A scale floorplan of the STR, including all levels;

8. **Property Plan.** A scale plan for the property showing all parking areas;

9. **Contact information.**
   a. **Owner.** The owner shall provide a cell and/or home telephone phone number, mailing address, email address, and property address, if different from mailing address. The owner shall agree to accept service of notice of violation at such address either personally or upon posting of notice upon the property.
   b. **Primary Contact.** Each STR owner or operator shall designate a primary contact person. If the Primary Contact is not the owner(s), the Primary Contact shall be a named individual and the following information shall be provided: cell and/or home telephone number, mailing address, email address, and business address and business phone, if applicable. Any change(s) to the Primary Contact information shall be provided, in writing, to the CDD, within ten (10) days of such change(s). Failure to notify the CDD of such change is grounds for revocation of the Short Term Rental Registration and Business License.

   The Primary Contact shall be available on a twenty-four (24) hour basis, seven days per week, and be able to respond to any concerns from renters or City enforcement personnel. The Primary Contact may be the property owner(s) or another person employed by, authorized by, or engaged by the owner(s) to manage, rent or supervised the STR. The Primary Contact shall be able to respond to any concerns that may arise during any rental period of the STR, including the ability to access the STR in a timely manner.

10. **Posting Notice.** A copy of both the Short Term Rental Operating Permit and the provisions of 5-31-5 shall be conspicuously posted within the area rented for use as an STR. The visibility of the place of posting shall be confirmed with the Premises Inspector during the inspection of each premises prior to issuance of an annual operating permit.

11. **Regulatory Compliance.** All STRs shall meet the standards of all applicable building, electrical, plumbing and fire codes adopted or amended by the City of Englewood.

12. **Additional Documentation.** All other documentation referred to within this Chapter, or as required by the CDD.

D. **Ineligible Properties.** An apartment complex comprised of rental units may not be utilized as an STR.

E. **Review of Short Term Rental Registration request.** The City Manager, or designee, shall review each submitted Short Term Rental Registration form, and associated documentation as required by this Title and Chapter, within 30 days of receipt of any such Registration Form. Following determination that the application is complete, the registration form and
associated documentation shall be referred to all applicable City departments for review regarding conformance with all applicable Codes of the City of Englewood. Within 60 days following the filing of the application the applicant will be provided with a written determination of approval/disapproval of the STR Registration request. A property operating as an STR without a STR business license, rental registration and operating permit shall not be eligible to receive any such license or permit until thirty (30) days following compliance with these regulations and all applicable zoning regulations.

F. **Non-assignable.** A Short Term Rental Registration may not be transferred or assigned to any other party or any other property.

**5-31-4: Short Term Rental Operating Permit.**

A. **STR Operating Permits Required.** All STRs must have a valid and current Operating Permit. An Operating Permit shall be effective for twelve months, and shall go into effect upon the date of issuance, unless surrendered, suspended or revoked for cause. Operating Permits shall be issued by the CDD in accordance with this Chapter.

B. **Non-Assignable.** An Operating Permit issued for a Short Term Rental may not be transferred or assigned to any other party or any other property.

C. **Posting the Operating Permit and Life/Safety Information.** The Operating Permit shall be signed by all owner(s) of the real property used as an STR and be conspicuously posted within the area rented as an STR. Additionally, the life/safety information set forth in 5-31-6 shall be conspicuously posted within the area rented as an STR.

D. **STR Operating Requirements.**

1. **Accountability.** The STR shall be the legal responsibility of the legal owner(s) as set forth on the Application and Permit, and the owner shall agree to accept notice of violation either in person or upon posting upon the property.

2. **Primary Residence.** A residence used as an STR shall be the primary residence of the legal owner(s), except when a waiver of this provision has been issued by the Board of Adjustments and Appeals.

3. **Accessory Dwelling Units.** For parcels containing ADUs the owner, if such owner is also the primary resident of the main residence, may obtain an STR permit for the main residence only. **STRs are not permitted in ADUs.**

4. **Maximum Occupancy per Bedroom.** An STR shall not exceed two (2) adults per bedroom.

5. **Maximum Occupancy of Premises.** The maximum occupancy of an STR shall be eight (8) persons.

6. **Prohibited Structures.** No STR shall be located in any recreational vehicle, travel trailer, or temporary structure.

7. **Limitation of Rental Contracts.** No STR shall be under more than two simultaneous rental contracts.
8. **Limitation on Multiple Uses.** During any rental period, the STR shall not be used for any purpose (e.g. home-based business, temporary event, etc.) by the renter or owner other than for lodging purposes.

9. **Parking.** All STRs shall provide one parking space per bedroom. STRs lacking a paved parking space in a driveway, garage, or carport shall be limited to two (2) on-street parking spaces located in front of the STR. These on-street locations shall remain public and may not be reserved by the use of any signage. Any advertisements or listing of the STR shall provide the number of parking spaces available for use by the renter, and the location of such parking spaces (on-street, off-street). The number of bedrooms for rent may not exceed the number of available parking spaces.

10. **Premises Inspection.** Each property shall complete an initial premises compliance and safety check in conformance with a checklist promulgated by the CDD. Upon determination of compliance with this Chapter by the Premises Inspector, the property shall be issued a certificate of inspection. Annual premises inspections shall be completed in accordance with 5-31-5 (J). During the inspection the Premises Inspector shall verify the posting place within the premises is conspicuous.

**5-31-5: Special Conditions and Restrictions of the Short Term Rental Business License.** Violation of any of the following provisions may result in revocation of the Business License and Short Term Rental Registration:

A. **Fees.** Fees associated with the issuance of the Operating Permit, Registration, Business License and any other requirements of this Chapter, shall be established by action of the Englewood City Council, and set forth within the City’s Fee and Rate Schedule.

B. **City Tax Certificate.** The owner of any STR issued a business license by the City of Englewood must obtain a valid City of Englewood Sales Tax Certificate within thirty (30) days from the approval of the business license application;

C. **State Tax License.** The owner of any STR issued a business license by the City of Englewood must obtain a valid State of Colorado Sales Tax License within thirty (30) days from the approval of the business license application;

D. **Tax Liability.** Owners and operators of STRs shall be subject to, and responsible for, all sales and lodging taxes as set forth under Title 4-4-4-1, Lodging Services of the Englewood Municipal Code. The requirements of EMC 4-4-4-1 are hereby deemed to incorporate and be applicable to all STRs. Failure to collect and remit all applicable sales and lodging taxes at the City, State or Federal level is grounds for revocation of the Operating Permit.

E. **Life Safety.** 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 and other exit systems.

F. **Noise.** No person shall make, cause, permit or suffer any unreasonable noise from any STR that is audible beyond the property lines of the STR or in excess of the sound pressure limits set forth in 6-2-8 of this Code.
G. **Property Maintenance.** The STR property shall be properly maintained and free of loose, uncollected trash, garbage, and litter. The owner(s) or management company shall comply with all property codes of the City of Englewood.

H. **Signs.** A permitted STR dwelling is permitted one (1) exterior sign, up to a maximum of one (1) square foot in area. The sign shall not be illuminated nor contain any animation.

I. **Owner(s) Responsibility for Compliance.** Compliance with the terms and conditions set forth in this Chapter shall be the responsibility of the legal owner(s) of the STR, as set forth on the application and Proof of Residency and Ownership Affidavit, and cannot be delegated to any other party. Any violations of any term or condition of this Chapter are strictly the responsibility of the owner(s), and any summons and complaint served for any violation shall be served upon the owner(s) of the STR.

J. **Operating Permit Renewal.** All STR permits shall be renewed through the CDD on an annual basis. All renewals shall include an updated inspection of premises, including a compliance and safety check, signed by applicable code enforcement personnel, any updates to the information required for a Short Term Rental Operating Permit, and proof of payment of all renewal and permit fees.

K. **Change of Ownership.** Any change of owner, officer, director, or holder of more than ten (10) percent of the ownership of any STR shall render such STR business license, Rental Registration, and Operating Permit null and void.

L. **Affidavits under Oath.** All affidavits required by this Chapter shall be signed under penalty of perjury.

M. **Publication of Business License Number.** Any Short Term Rental Permittee shall include their City of Englewood Business License number upon any advertisement to lease such property as a Short Term Rental, including upon any hosting platform, or in any other form of advertisement of the STR.

**5-31-6: Posting of Life/Safety Information.** The owner(s)/operator(s) shall post the following information inside the area rented as an STR in a conspicuous location for any renters/lessees:

A. A copy of the regulations and requirements regarding Short Term Rental Operating Permits;

B. The name, address, and telephone numbers of the primary contact person, management company, or owner of the STR that can be reached on a twenty-four hour basis;

C. The maximum number of persons allowed to occupy the STR;

D. The maximum number of vehicles allowed to park on, or in front of, the STR property;

E. Information regarding trash/garbage storage and removal, recycling storage and removal, including the days and location of pick-up. Clearly defined garbage and recycling areas shall be provided;

F. The property address, including house number, street name and city;

G. A list of non-emergency numbers, including the non-emergency number of the police department;
H. The location of all fire extinguishers and exits, including egress windows; and
I. During the annual premises inspection, the inspector shall verify the place of posting is conspicuous to the renter(s).

5-31-7: Revocation/Termination/Surrender of Business License and Operating Permit.

A. Surrender. Business Licenses, Rental Registrations, and Operating Permits shall be deemed surrendered upon delivery to the City of written notice by the property owner(s), or representative, that a dwelling or property will no longer be used as Short Term Rental.

B. Termination. A termination of the Business License, Rental Registration, and Operating Permit occurs when the ownership of the property has been sold, assigned, or otherwise transferred to a new owner(s), or the current STR permit holder has failed to obtain a renewal of the operating permit on or before its annual renewal date.

C. Revocation. Any STR Operating Permit may be revoked for cause or suspended by the Director, or his/her designee, after written notice to the owner(s) for the following violations:

1. Violation of any term or condition of the operating permit, or for any violation of any provision set forth in this Chapter, if such term or condition is not abated in conformance with an Administrative Notice of Violation, or is deemed egregious by the Director.

2. Violation of any provision of the Englewood Municipal Code, City Ordinance, or State law relating to the maintenance of the permitted property operating as an STR, if such term or condition is not abated in conformance with an Administrative Notice of Violation, or a failure to remain in compliance with all City or State sales tax regulations.

3. The existence of any condition, or performance of any act, which the City determines constitutes nuisance or causes a condition endangering the health, safety and welfare of any individual(s), or has caused damage to the STR dwelling unit identified by the operating permit, including damage caused by fire, flood, wind, or other natural disaster, if such condition or act is not abated in conformance with a Notice of Violation.

4. After a third violation of any provision of this Chapter, the Englewood Municipal Code, or applicable State or Federal law or regulation has been administratively verified, the Director of Community Development, or his/her designee, shall revoke the STR operating permit and rental registration. Notice of revocation shall be conveyed to the Business Licensing Officer for revocation of the Business License.

5. Upon revocation of any Short Term Rental Business License, the licensing officer shall notify hosting platforms that the Business License has been revoked, and the period of time associated with such revocation.
D. **Denial/Temporary Denial.** The Director of Community Development, or his/her designee, may deny or withhold the approval of a renewal of an annual Operating Permit if the property is in violation of any applicable title or chapter of the Englewood Municipal Code.

E. **Term of Revocation.** The owner(s) of an STR Business License, Rental Registration, and Operating Permit that has been revoked for a violation shall not apply for another STR operating permit for a period of eighteen (18) months for any property.

F. **Administrative Appeal.** Any Denial, Temporary Denial, or Revocation of an STR Business License, Rental Registration or Operating Permit may be appealed to the Board of Adjustment and Appeal in accordance with the procedures set forth in Title 1, Chapter 10 of this Municipal Code.

5-31-8: Enforcement.

A. **Allegation of Violation of this Chapter.** The Enforcement Officer shall be responsible for the enforcement of all provisions of this Chapter in association with a Short Term Rental Operating Permit and a Short Term Rental Registration, and is hereby authorized to undertake all investigations of violations of such as set forth in this Chapter, to issue notices and orders, to issue summons and complaints for prosecution in the Englewood Municipal Court, to bring any legal action in other courts of competent jurisdiction, and to take other measures as are necessary for the enforcement of the provisions of this Chapter. Violations of the Business License shall be enforced in accordance with Chapter 1 of this Title.

1. **Right of Access/Inspection.** Pursuant to the terms of the Operating Permit, the Enforcement Officer has the right of access and entry upon any property operating as an STR with a valid STR business license and operating permit, at any reasonable time, and upon reasonable suspicion, to make inquiry and inspection to determine if health or safety violations exist upon the property in violation of any Title of the Englewood Municipal Code.

2. **Notice of Inspection.** Prior to inspection the Enforcement Officer shall provide notice of the intent to inspect to the owner(s) of the STR property. Such notice may be personally served upon the owner(s), or by posting the notice on the STR property, by mailing the notice to the owner(s) at their last known address, via U.S. Mail, postage prepaid, or by publication in a newspaper of general circulation. The Notice to Inspect shall be deemed served when personally served, posted upon the property, or upon three days from the date of mailing.

3. **Contents of Notice of Inspection.** The notice of inspection shall include the date and time that the notice was served, posted, or mailed, the date and time of the proposed inspection, a request that the owner(s) be present for the inspection, the name and contact information of the Enforcement Officer, and a specific statement as to each suspected violation. The property owner may contact the Enforcement Officer to seek another time for the inspection, as long as such inspection occurs within 3 business days of having received the Notice of Inspection.

4. **Failure to Comply with Inspection Notice.** Failure to comply with Inspection Notice, or make the property available for inspection, shall be grounds for revocation of the Business License and Operating Permit in accordance with E.M.C. 5-31-7 above.
B. Administrative Compliance/Notice of Violation.

1. Notice of Violation. Following inspection, or upon other evidence of non-compliance with this Chapter, the Enforcement Officer shall provide written notice of the violation(s) of this Chapter to the owner(s) of the STR premises.

2. Receipt of Notice of Violation. The notice shall be deemed received immediately when served upon the owner(s) by posting such notice on the permitted STR property, or by personally serving the notice to the owner(s) at the address provided for such service.

3. Contents of Notice of Violation. All notices shall include the following information:
   a. The common address or legal description of the property upon which the STR is located;
   b. A specific notice that the owner(s) of the property is/are in violation of the Englewood Municipal Code, specifically listing those sections of the Code of which the property is alleged to be in violation;
   c. An administrative order directing the owner(s), or primary contact, of the property to correct the condition within five (5) days of the date of receipt of said notice, such compliance date to be clearly stated upon the face of the notice;
   d. Contact information for the enforcement officer assigned to the matter;
   e. Notice that the administrative order may be appealed to the Board of Adjustment and Appeals in compliance with the procedures in Title 1, Chapter 10 of the Englewood Municipal Code;
   f. Notice that failure to comply with the administrative order, or file an appeal of such order, within the time provided upon such Notice, or extension thereof, shall result in the immediate revocation of the STR Operating Permit and Business License; and
   g. Notice that such violations may be subject to criminal prosecution, in addition to any administrative action or order.

4. Compliance Inspection. Within five (5) business days following receipt of the administrative notice and order, the property owner or primary contact shall contact the Enforcement Officer to schedule inspection of the property. The Enforcement Officer shall provide a compliance inspection, and shall dismiss the administrative order following a determination that the property is in compliance with the provisions of this Code.

5. Extensions of Time. The Enforcement Officer is authorized to provide one (1) extension to the administrative notice of no more than five (5) days, including weekends and holidays, following a compliance inspection of the property if the Enforcement Officer believes the property owner made a good faith but unsuccessful effort to correct the violation(s), and such violation(s) may be successfully remediated within such additional time.

6. Notification to Hosting Platforms of Revocation. At the end of the compliance period, or any extension thereof, if the administrative order has not been dismissed
by the enforcement officer, the enforcement officer shall notify the business licensing division of the City of Englewood that the business license for the STR shall be revoked pending compliance with the administrative order, and hosting platforms notified of such revocation.

7. **Administrative Appeal.** An administrative order may be appealed to the Board of Adjustment and Appeals in compliance with the procedures in Title 1, Chapter 10 of the Englewood Municipal Code.

C. **Municipal Prosecution; Summons and Complaint; Notice to Appear; Right to Proceed; Fines and Costs; Appeals.**

1. **Municipal Search Warrant.** If the owner or primary contact fails to schedule a time for the compliance inspection within five (5) business days following service of the administrative notice, the Enforcement Officer may seek a search warrant for the inspection of the premises under the provisions of 1-7A-4 of the Englewood Municipal Code.

2. **Issuance of Citation.** If the Enforcement Officer has not made a determination that the property is in compliance with the Englewood Municipal Code within the time provided for compliance with the administrative notice of violation, the Enforcement Officer is authorized to issue to the owner(s) of the STR property a Summons and Complaint and notice to appear in the Englewood Municipal Court to answer to charges of a violation of this Chapter, and to take all administrative action associated with revocation of the STR Business License and Operating Permit. Summons and complaints issued by the Enforcement Officer may be served by the Enforcement Officer, a Code Enforcement Officer, or a Law Enforcement Officer.

3. **Administrative/Civil Enforcement.** During the pendency of the case in the Municipal Court, the City shall not be precluded from addressing the violations of this Chapter, or any other Title of the Englewood Municipal Code applicable to the STR, through administrative or civil action to bring the STR property into compliance with this Chapter or the Englewood Municipal Code, or any other applicable law or regulation. The Business License and Operating License may be administratively revoked in compliance with this Chapter, in addition, to criminal prosecution.

4. **Penalty Provisions.** Any person found guilty by the Municipal Court of violations of this Chapter, or who enters a plea of guilty or nolo contendere, to any violation of this Chapter, or any other violation of the Englewood Municipal Code in association with the operation of a STR, shall be subject to the provisions of the General Penalty, E.M.C. 1-4-1, and shall be ordered to bring the property and/or violation into compliance before re-letting the property to any short term renters.

5. **Costs.** Any person convicted of a violation of this Chapter, or any other violation of the Englewood Municipal Code in association with the operation of a STR, may be assessed a fine, court costs, and all costs associated with service of any and all Notices upon the property incurred by the City in association with the enforcement of this Chapter.

6. **Notification to Hosting Platforms.** All hosting platforms shall be notified by the business licensing division of the City of Englewood when a short term rental's
Business License/Operating Permit has been revoked, and such entities will be directed to remove the short term rental from any lists of properties advertised for rental.

7. **Appeal of Convictions in Municipal Court.** All appeals of convictions within the Municipal Court shall be to the District Court as provided by applicable law.

**5-31-9: Waiver from Administrative Regulation(s).**

A. *Waiver from Regulation(s).* The Board of Adjustment and Appeals may, upon application from the property owner, authorize waivers from the strict application of the following provision(s) of this Chapter:

1. Requirement that a short term rental be owner occupied. NOTE: Proof the Subject Property is the Primary Residence of the Owner is only required in the following zoning districts: R-1-A, R-1-B, R-1-C, R-2-A, R-2-B, MU-R-3-A, MU-R-3-B, and MU-R-3C.

B. *Requirement for Approved Waiver.* Unless an approved waiver from Regulations is on file with the City Clerk, short term rental businesses must be in compliance with all operating, registration and licensing regulations set forth within this Chapter. A waiver is not assignable to any other person/entity or transferable to any other property. It shall become null and void upon sale or transfer of the more than ten percent (10%) interest in the property.

C. *Form of Application.* The application for waiver from Regulation(s) shall be promulgated by the Department of Community Development. Such application shall provide for the applicant to respond to each of the following waiver standards:

1. A statement of any and all special circumstances or conditions peculiar to the particular business or property owner that do not apply generally to all short term rental businesses or enterprises; and

2. An explanation of why the requested waiver will not weaken the general purposes of this Chapter as to the subject property; and

3. An explanation of how the property owner will provide alternate effective means of assuring the goals of the regulation(s) sought to be waived will be upheld, and that neither the waiver nor the alternate means of assuring regulatory compliance will alter the essential character of the district in which the short term rental is located.

Examples of alternate effective means include, but are not limited to:

a. Affidavit from hospital/medical facility that such STR is regularly rented in support of patient care.

b. Affidavit from hospital/medical facility that such STR is monitored by such hospital/medical facility on a 24 hour basis.

D. *Filing Application; Hearing Procedure.* Upon receipt by the City Clerk or Clerk of the Board of any application for a waiver from Regulations, the same shall be referred to the Board, and a date, time and place for hearing thereon shall be set, which shall direct public
notice thereof to be given in conformance with 1-10-2-6; provided, however, that the Board may authorize its Clerk to set a date, time and place for hearing upon receipt of such application in lieu of such action by the Board itself. The Board shall hold a public hearing on the proposed waiver from Regulations in conformance with Title 1, Chapter 10.

E. **Criteria for Approval.** The Board may waive or modify any of the provisions set forth in 5-31-9(A) if it finds that applying such regulation or regulations to the short term rental is unnecessary in accordance with the criteria listed below:

1. Special circumstances or conditions peculiar to the specific STR or property owner exist that do not apply generally to all short term rental businesses or enterprises.
   
   Examples of special circumstances may include:
   
   a. property located in a district zoned for commercial or medical uses,
   b. property owned and managed by a medical facility/hospital,
   c. property owned and managed by an abutting property owner, and regularly rented in support of patient care.

2. The requested waiver from Regulation(s) will not weaken the general purposes of this Chapter.

3. The property owner will provide alternate effective means of assuring the goals of the regulation(s) sought to be waived, and such alternate means will not alter the essential character of the district in which the short term rental is located.

   Alternate effective means may include, but are not limited to:
   
   a. a twenty-four hour on-duty maintenance manager located within one mile of the property,
   b. installation of noise detection system.

F. **Findings of Fact and Conclusions of Law.** Following such hearing, the Board shall make written findings either approving, conditionally approving, or denying the waiver from Regulation. The decision on whether to approve or deny an application for a waiver from Regulation shall be in writing, based upon substantial evidence presented at the public hearing.

G. **Procedure Following Approval.** If the application is approved a form, as promulgated by the Department of Community Development, shall be completed by the Board and signed by the Chair of the Board, and filed with the City Clerk, setting forth the following information, and any other information necessary to proper documentation of any approval or denial of such request for a waiver of Regulation:

1. Date such waiver from Regulations becomes effective;
2. Duration of the waiver from Regulation(s);
3. Clear statement of that Regulation(s) for which a waiver has been approved;
4. Any documentation the property owner must submit to the enforcement official, and the regularity of such submission of documentation, proving the grounds for the waiver of Regulation continue to exist; and
5. Any additional regulations imposed upon the property owner and property to assure the waiver from Regulation(s) will not weaken the general purposes of this Chapter.

H. *Post Decision Remedies*. Initiation of the following remedies must occur within thirty (30) days of the Board decision. For the purpose of this subsection, the Board decision shall be the vote on the waiver request.

1. Rehearing. If the applicant or an interested third party finds evidence that was not available at the time of the hearing that may materially bear on the case, a request for a rehearing may be made to the Board. The request shall be in writing and contain the following:
   a. A summary of the new evidence.
   b. The reason the evidence was not available to the Board at the original hearing.
   c. A statement as to why it is believed that the evidence will materially affect the decision of the Board.

2. The Board shall hear the request for rehearing and shall vote on the issue of granting a rehearing. The chairperson shall announce the Board's decision. If a rehearing is granted, a new date will be set for a public hearing and all posting and publication requirements shall apply and shall be the responsibility of the original applicant. If a rehearing is denied, the original Board decision shall stand.

3. Reconsideration. If a Board Member believes that the Board would benefit from reviewing a Board decision, a motion for reconsideration of the decision may be made. If the motion to reconsider fails, the original decision stands. If the motion to reconsider is approved, the original waiver request shall be reheard by the Board. The Board may reconsider the waiver request immediately or may continue the reconsideration to a date certain.

4. The reconsideration shall be limited to the facts presented in the original waiver request and no new evidence shall be taken. The Board may confirm, reverse, or modify the original decision.

I. *Appeals of Board Decisions*. Appeals of final decisions of the Board may be made to the District Court pursuant to Rule 106, Colorado Rules of Civil Procedure.

**Section 2.** Notice of general provisions and findings applicable to interpretation and application of this Ordinance:

*Saving Clause.* E.M.C. Title 1, Chapter 2, "Saving Clause" shall apply to interpretation and application of this Ordinance, including, but not limited to, the provisions regarding severability, inconsistent ordinances or code provisions, effect of repeal or modification, and legislation not affected by repeal.

*Enforcement.* E.M.C. Title 1, Chapter 4, "General Penalty" provisions mandate that except as otherwise provided within specific Titles, Chapters, or Sections of the Englewood Municipal Code, the violation of any provisions of the Code, or of any secondary code adopted therein, shall be punished by a fine not exceeding two thousand six hundred and fifty dollars ($2,650.00) or imprisonment for a term not exceeding three hundred sixty (360) days or by both such fine and imprisonment.
Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Introduced, read in full, and passed on first reading on the 3rd day of February, 2020.

Published by Title as a Bill for an Ordinance in the City’s official newspaper on the 6th day of February, 2020.

Published as a Bill for an Ordinance on the City’s official website beginning on the 5th day of February, 2020 for thirty (30) days.

Read by Title and passed on final reading on the 18th day of February, 2020.

Published by Title in the City’s official newspaper as Ordinance No. 4, Series of 2020, on the 20th day of February, 2020

Published by title on the City’s official website beginning on the 19th day of February, 2020 for thirty (30) days.

This Ordinance shall take effect thirty (30) days after publication following final passage.

Linda Olson, Mayor

ATTEST:

Stephanie Carlile, City Clerk

I, Stephanie Carlile, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by Title as Ordinance No. 4, Series of 2020.

Stephanie Carlile