Chapter 31 SHORT TERM RENTALS[1]

5-31-1: Definitions.

Definitions shall apply to this Chapter contained in EMC § 5-1-1 (Business License Definitions) and Title 16 of this Code, including EMC §§ 16-5-4(C)(7)(b)(ADU), 16-5-6 (Short Term Rentals), and 16-11-2 (General Definitions), except as modified below:

A. *Owner:* Every person(s) at least 18 years of age and/or entity listed on the title to the Short Term Rental (STR) property as found on the current Arapahoe County Deed of Record, including every trustee and beneficiary (for trusts), member (for limited liability companies), and/or person with any ownership interest in the entity owner (if applicable).

B. *Primary Residence:* An Owner's usual place of return for housing, actually occupied by that Owner for not less than 185 days each year and designated as that Owner's Home Address on their U.S. Individual Income Tax Return (unless the Post Office does not deliver to that address). An Owner can only have one (1) Primary Residence. If a STR property is not the Primary Residence of all Owners, the Owner(s) must declare one or more Owners as the Beneficial Owner, and the STR property must be that person's Primary Residence.

C. *STR License*: City business license required to advertise or receive payment in exchange for use or occupation of a Short Term Rental; also referred to as STR Rental Registration or Operating Permit.

(Ord. 4-20, § 1; Ord. 25-2023, § 1)

5-31-2: Business Licenses Required.

A. Prior to renting, advertising, or offering to rent a property as a Short Term Rental within the City of Englewood, the Owner shall obtain:

   1. A biennial Sales/Use Tax License under EMC § 4-4-1; and

   2. An annual STR License.

B. *Ineligibility.* Properties ineligible for a STR License are:

   1. Titled in the name of a corporation or real estate investment trust;

   2. Zoned I-1, I-2, or PUD;

   3. An apartment in a complex comprised of rental units; or

   4. A recreational vehicle, travel trailer, or temporary structure.

(Ord. 4-20, § 1; Ord. 25-2023, § 1)

[1]Editor's note(s)—Ord. 25-2023, § 1, adopted May 1, 2023, repealed the former Ch. 31, §§ 5-31-1—5-31-9, and enacted a new Ch. 31 as set out herein. The former Ch. 31 pertained to similar subject matter and derived from Ord. 4-20, § 1, adopted Feb. 3, 2020. The previous history notes have been retained.

5-31-3: Application for Short Term Rental License, Renewals.

A. Every Owner shall sign a STR License application or renewal, and submit it with the non-refundable application fee and inspection fee, with:

1. A copy of the current deed on file with Arapahoe County;

2. Unless waived under EMC § 5-31-4, for property zoned R-1-A, R-1-B, R-1-C, R-2-A, R-2-B, MU-R-3-A, MU-R-3-B, or MU-R-3-C:

   a. Proof of Residency and Ownership Affidavit identifying every Owner (if not evident from the face of the deed), establishing the Property is the Primary Residence of an individual Owner or Beneficial Owner, and attaching proof of authorization to execute the Affidavit on behalf of a trust or entity owner, if applicable;

   b. The first page of the most recent filed U.S. Individual Income Tax Return for the individual whose Primary Residence is the STR (with financials and social security number(s) redacted) showing home address as the STR; and

   c. At least two (2) of the following, indicating the STR property is the individual's Primary Residence: a valid motor vehicle registration, Colorado driver's license or Colorado identification card, or voter registration.

   d. Documents required by subsections b and c above may be waived if the Owner establishes compliance is legally impossible in an appeal to the Board of Adjustment and Appeals.

3. Acknowledgement and Agreement of:

   a. *Right to Inspect.* The City has the right to inspect the STR and all records regarding the STR at any reasonable time.

   b. *Liability.* The City is not responsible for the operation of STRs, the Owner waives and releases the City from liability, and the Owner shall indemnify, defend and hold harmless the City from any and all claims and negligent acts arising out of the STR or its operation.

   c. *Compliance.* The Owner shall comply with all applicable laws and codes, and shall maintain, during the licensed period, all requirements necessary to obtain the initial STR license.

   d. *Service.* The Owner shall accept service of any City notice personally, by posting on the STR, or via US Mail sent to the mailing address provided on the application to the Owner or designated primary contact person.

4. *Insurance.* Affidavit and a declarations page establishing notification to the property's insurer of its use as a STR and that it has STR liability coverage of at least one million dollars ($1,000,000).

5. *Homeowners Association.* If the STR is subject to a homeowners association (HOA), an Affidavit establishing the HOA has been notified of the STR license application and the proposed use complies with HOA regulations.

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

7. *Property Plan.* A scale plan for the property showing all parking areas, including a minimum of one (1) permanent parking space per bedroom for rent, no more than two (2) of which may be on-street, public parking.

8. *Contact information.* The phone number, mailing address, and email address of every Owner and a designated primary contact person available on a twenty-four (24) hour basis, seven (7) days per week to provide STR access and respond to renters or the City.

9. *Additional Documentation.* Any other documentation required by this Chapter or the City.

B. *Consideration of Application.* Within sixty (60) days, the City will either request the Owner amend the application, or notify the Owner of denial or approval.

1. The Owner shall pay the STR License fee within 30 days, and the STR License shall be issued immediately thereafter.

2. The application shall expire and terminate if the Owner, without requesting an extension in good faith, fails to: pay the STR License fee within 30 days of approval, or amend an application within 15 days of request.

C. *Renewals.* Applications for STR License renewals may attach any Affidavit previously submitted, if its content is accurate.

D. *Affidavits.* All Affidavits required by this Chapter shall be on the City form, signed under penalty of perjury, and notarized by a Colorado licensed notary.

(Ord. 4-20, § 1; Ord. 25-2023, § 1)

5-31-4: Waiver of Primary Residence Requirement.

A. The Board of Adjustment and Appeals may waive or modify the Primary Residence requirement in EMC § 5-31-3(A)(2) if the Owner establishes in a quasi-judicial hearing under EMC Title 1 Chapter 10:

1. Conditions peculiar to the property or Owner that do not apply generally to all STR, such as property located in commercial or medical/wellness districts, owned and managed by a medical facility, or adjacent to a medical facility for predominant rental in support of patient care;

2. Alternate effective means of assuring Owner oversight and regulatory compliance, and that the STR will not alter the essential character of the area, such as through implementation of a noise monitoring device or an affidavit from a medical facility establishing the STR will be predominantly rented in support of patient care or that the STR is regularly monitored by such medical facility.

B. *Procedure Following Approval.* Any order approving the requested waiver shall provide the waiver effective date and duration, and any additional conditions and documentation necessary to obtain and maintain the waiver.

C. *Post Decision Remedies.* Within thirty (30) days after issuance of the Board order, any interested party may request a rehearing based on material evidence not available at the hearing. The Board shall grant the request, and hold a second quasi-judicial hearing, if the applicant establishes the new evidence was not available at the original hearing and that the new evidence will materially affect the decision of the Board.

(Ord. 4-20, § 1; Ord. 25-2023, § 1)

5-31-5: Operational Regulations on Short Term Rentals.

A. *Accessory Dwelling Units (ADU).* An ADU may be utilized as a STR. A STR License will only issue for an ADU or the primary structure, but not both.

B. *Maximum Occupancy.* The maximum overnight occupancy of a STR shall be no more than two (2) persons per bedroom plus two (2) persons, but in no event shall an STR exceed a maximum occupancy of eight (8) persons. A studio ADU is one (1) bedroom.

C. *Limitation of Rental Contracts.* No STR shall be under more than two (2) simultaneous rental contracts.

D. *Limitation on Uses.* When occupied by a Renter, a STR shall be used only for lodging; home-based businesses, venue for parties or events, and other non-lodging purposes are prohibited.

E. *Premises Inspection.* Upon payment of the inspection fee, an STR applicant shall complete and submit an initial premises compliance and safety check on the City form. Thereafter, the City shall inspect the STR for compliance with applicable regulations, and issue a certificate of inspection for STRs that comply. No STR License will be issued without a certificate of inspection, and a reinspection with accompanying fee may be required to obtain the certificate.

F. *Tax Liability.* STRs shall be subject to sales and lodging taxes under EMC § 4-4-4-1, which shall be collected and remitted by the License Holder as required by law.

G. *Life Safety.* STRs shall contain a minimum of one (1) operable fire extinguisher per floor (or more if deemed necessary during a premises inspection), operable smoke detectors in each sleeping room, and an operable smoke detector and carbon monoxide detectors (or a combination unit) outside of each sleeping area in the immediate vicinity of the sleeping rooms. Living or sleeping areas within a basement shall have egress windows and other appropriate exits.

H. *Noise.* No Owner shall allow any Renter to violate applicable law at the STR, including EMC § 6-2-8 (maximum noise levels).

I. *Signs.* A STR may display one (1) exterior non-illuminated, non-animated sign, no more than one (1) square foot in area.

(Ord. 4-20, § 1; Ord. 25-2023, § 1)

5-31-6: Posting within Short Term Rentals.

The following shall be conspicuously displayed within every STR:

A. The provisions of EMC § 5-31-5(B-D, G-H);

B. Contact information for the designated primary contact person described in EMC § 5-31-3(A)(9);

C. Location of parking spots, described in EMC § 5-31-3(A)(8);

D. The STR's garbage and recycling storage and removal, including the day and location of pick-up, any fire and water restrictions in place, fire evacuation routes, and other information required by the City applicable to the STR and surrounding neighborhood;

E. A copy of the STR License;

F. The non-emergency telephone numbers for public safety agencies, including the police department; and

G. The location of all fire extinguishers and exits, including egress windows.

(Ord. 4-20, § 1; Ord. 25-2023, § 1)

5-31-7: Suspension, Revocation of STR License.

In addition to any basis for suspension or revocation under Chapter 1 of this Title, the following shall apply to STR Licenses:

A. *Automatic Revocation.* A STR License shall be automatically revoked for:

1. *Voluntary Surrender.* Written notice by or on behalf of the Owner indicating the property will no longer be used as a STR;

2. *Change of Ownership.* Any change of STR ownership of more than ten percent (10%), unless a STR License application submitted by the new Owner(s) is pending;

3. *Expiration.* Expiration of a STR License or Primary Residence Waiver under EMC § 5-31-4, without submitting a renewal application prior to expiration; or

4. Failure to maintain any condition required to obtain the STR License, including Primary Residence and Insurance.

B. *Suspension.* A STR License shall be suspended for failure to:

1. Notify the City within ten (10) days of a change to contact information described in EMC § 5-31-3(A)(9);

2. Allow access or timely request rescheduling after service of a Notice of Inspection;

3. Pay the reinspection fee under EMC § 5-31-9(B)(1);

4. Timely request a hearing, inspection, or comply with a written order to comply under EMC § 5-31-9(C); or

5. As ordered by the Licensing Officer or otherwise required by Municipal Code.

C. *Denial.* The Licensing Officer may deny an application for a STR License or renewal if the property is in violation of any EMC provision.

D. *Term of Revocation.* No STR or Owner is eligible for a STR License until at least eighteen (18) months have elapsed after STR License revocation for the following reasons: fraud or misrepresentation in the STR License application; willfully and knowingly creating or allowing to exist a dangerous condition at the STR; failure to maintain Primary Residence, if required; two (2) STR License suspensions in any 12-month period; issuance of three orders to comply in any 12-month period, unless dismissed after hearing or appeal.

E. *Administrative Appeal.* Any denial, suspension, revocation or other decision of the City regarding a STR License may be appealed under Chapter 1 of this Title.

F. *Notification to Hosting Platforms.* The Licensing Officer shall notify known Hosting Platforms when a STR License has been revoked or suspended, and direct removal of the STR from that platform.

(Ord. 4-20, § 1; Ord. 25-2023, § 1)

5-31-8. Hosting Platforms, Records, Advertising.

A. *Advertising Unlicensed STR.* Should any Hosting Platform list, advertise or receive payment, directly or indirectly, for an unlicensed STR in the City, in addition to any other fine or other action authorized by law, the Hosting Platform shall pay a minimum administrative penalty of one thousand dollars ($1,000.00) per violation per day.

B. *Advertising.* Every Hosting Platform and License Holder shall, on every effort to solicit a STR Renter or otherwise list or advertise a STR, clearly provide or display:

1. A valid City STR License number;

2. The number of parking spaces available for use by the Renter; and

3. Maximum occupancy of the STR.

C. *Records.*

1. For at least three (3) years, each License Holder shall maintain the total number of nights, the dates the STR was rented, and the amount of gross rental revenue paid.

2. For at least five (5) years, each Hosting Platform shall maintain the following records of STR transactions within the City:

   a. Name of the person who offered the STR;

   b. Address of the STR;

   c. Dates for which the STR was booked by a guest through the Hosting Platform;

   d. Name and contact information of each guest booking the STR;

   e. Total price paid by each guest to the Hosting Platform for each STR transaction; and

   f. Englewood STR License number.

D. The City shall make publicly available a list or map of licensed STRs, and a list of STR Licenses suspended or revoked, issued an order to comply (unless dismissed), or cited for violation of this Chapter.

(Ord. 25-2023, § 1)

5-31-9: Compliance, Enforcement.

A. Every Owner shall be strictly liable to ensure compliance with all provisions of this Chapter, including requirements to operate a STR and to obtain a STR License, and may be prosecuted or subject to other administrative and/or enforcement proceedings for any violation.

B. *Notice of Inspection.* Unless a property is inspected at the request of an Owner, at least three (3) days prior to an inspection, the City shall post on the STR or serve on any Owner or designated primary contact notice of inspection providing: date and time of the inspection, a directive that an Owner be present, and City contact to request rescheduling.

   1. *Failure to Comply with Notice, Reinspection.* Should an Owner fail to allow access to the STR at the scheduled inspection or to contact the City at least twenty-four (24) hours before the inspection to reschedule, the License Holder shall pay a reinspection fee for a second inspection.

C. *Noncompliance.* Procedures described in EMC § 5-1-9 shall apply, except as modified by this Chapter and as follows:

   1. *Service.* An order to comply, notices, and other documents may be served on any Owner or the designated primary contact, by posting on the STR, or personally serving or sending via certified mail on any one of them. The City may serve a Hosting Platform via certified mail to the registered agent, or as otherwise authorized by law.

   2. *Compliance Inspection.* In lieu of requesting a hearing under EMC § 5-1-9(A)(2), an Owner may request an inspection for violations requiring remediation by filing a request and paying the City inspection fee before the period for compliance expires. Within five (5) business days of request, the City shall inspect the STR to confirm resolution of the violations and notify the Licensing Officer of the outcome. For properties not in compliance, the Licensing Officer shall either suspend the STR License until compliance is achieved or may grant an Owner's request for a reasonable extension of time to resolve the violation(s) if the 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. The Owner must request a second compliance inspection at or before the expiration of the extension, and pay the reinspection fee.

D. *Penalty Provisions.* In addition to any other penalties or administrative or civil actions for violating this Chapter, upon a finding or admission of guilt in any criminal prosecution arising out of operation of a STR:

1. The Court shall order the Defendant to comply with applicable Englewood Municipal Code prior to allowing a Renter to occupy the STR;

2. The minimum fine imposed for a violation of this Chapter shall be: five hundred dollars ($500.00) for a first violation; one thousand dollars ($1,000.00) for a second violation; and one thousand five hundred dollars ($1,500.00) for third and subsequent violations;

3. Any fines, fees, costs, or restitution imposed may be collected by the City by any means allowed by law, including a lien against the property at issue; and

4. In addition to other fees, fines, and costs imposed, the Court shall assess against the defendant all reasonable costs and fees imposed by this Chapter and/or incurred by the City for service, investigation, enforcement, and prosecution of the violation(s).

E. Operation of a STR without a valid STR License shall constitute a use in violation of Code authorizing the City to prevent occupancy by suspending the Certificate of Occupancy (CO) of the Premises under EMC § 8-1-10(D) for the shorter of 10 days or issuance of a STR License.

1. The Owner shall pay the CO Suspension fee, and—if the property is occupied while the CO is suspended—an administrative penalty per night occupied, in the amount of: the total paid by a STR renter for that night or $100, whichever is greater.

2. A CO suspension may be appealed under EMC § 5-1-9(D). Any suspension shall be stayed until resolution of the appeal.

(Ord. 4-20, § 1; Ord. 25-2023, § 1)