

1 **BY AUTHORITY**

2 ORDINANCE NO. _____
3 SERIES OF 2020

COUNCIL BILL NO. CB20-1229
COMMITTEE OF REFERENCE:
4 Business, Arts, Workforce & Aviation Services

5
6 **A BILL**

7 **For an ordinance amending the short-term rentals chapter of the Denver Revised**
8 **Municipal Code to provide a definition for booking service providers, clarify duties**
9 **of Excise and Licenses hearing officers, and authorize subpoena power for the**
10 **Director of Excise and Licenses.**

11 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

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

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

15 **Sec. 33-46. – Definitions.**

16 (1) *Booking service provider* means any person or entity who facilitates a transaction
17 between a prospective guest and a person or entity offering a short-term rental.

18 ~~(2)~~ *Department* means the Denver Department of Excise and Licenses.

19 ~~(23)~~ *Director* means the director of the Denver Department of Excise and Licenses.

20 ~~(34)~~ *Licensed premises* means the premises specified in an approved application for
21 a license under this chapter which are owned or in the possession of the licenses and within which
22 such licensee is permitted to provide short-term rental in accordance with the provisions of this
23 article.

24 ~~(45)~~ *Primary residence* means the place in which a person's habitation is fixed for the
25 term of the license and is the person's usual place of return. A person can only have only one
26 primary residence.

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

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

32 (f) *Unlawful transactions.* On and after February 1, 2020, it shall be unlawful for any booking
33 service provider to receive payment, directly or indirectly, for an unlicensed short-term rental located
34 in the City and County of Denver. The provisions of this subsection (f) are entirely strict liability in

1 nature.

2 (g) Records. On and after February 1, 2020, it shall be unlawful for any person or entity to
3 fail to comply with section 33-55.

4 (h) Penalty. In addition to the general penalty provided for in D.R.M.C. sec. 1-13(a), a booking
5 service provider who violates subsection (f) or (g) of this section shall be subject to a civil penalty of
6 one thousand dollars (\$1000.00) per violation per day.

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

8 In addition to the grounds set forth in chapter 32 of this Code, a license shall be denied under
9 this article III if:

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

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

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

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

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

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

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

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

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

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

32 (2) Evidence that the short-term rental has previously been, or will be, operated in a
33 manner that adversely affects the public health, safety, or welfare of the immediate neighborhood

1 in which the short-term rental is located.

2 (cd) The applicant fails to provide a complete application and documentation required
3 pursuant to section 33-48.

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

5 (ef) The application fails to comply with any state or local laws, or any rules and regulations
6 adopted pursuant thereto

7 **Sec. 33-55. – Records.**

8 (a) Each short-term rental licensee shall maintain the following records for the past year:

9 (1) Total number of nights the short-term rental was rented to a guest; and

10 (2) The dates in which the short-term rental was rented by a guest.

11 (b) Each booking service provider shall maintain the following information for short-term
12 rental transactions facilitated in the City and County of Denver within the past five years:

13 (1) The name of the person who offered the short-term rental;

14 (2) The address of the short-term rental;

15 (3) The dates for which the short-term rental was booked by a guest;

16 (4) The price paid by the guest for each short-term rental transaction; and

17 (5) The short-term rental license number.

18 (c) The Department shall maintain and make publicly available a list of all licensed short-
19 term rentals within the City.

20 **Section 2.** Article III of Chapter 32 shall be amended by adding the language underlined to
21 read as follows:

22 **Sec. 32-1. - Enforcement by director of excise and licenses to have exclusive**
23 **licensing powers; hearing officers.**

24 (a) The director of excise and licenses shall have full power to grant, renew, suspend
25 during investigation and revoke after notice and hearing thereon, all licenses issued under
26 authority of this chapter 32.

27 (b) The director may designate a hearing officer or other such person to carry out the duties
28 of this chapter. The hearing officer shall be appointed by the director and shall serve at the
29 director's pleasure. The director may delegate to the hearing officer the hearing of all matters,
30 appeals, and cases which the director may hear. The director or hearing officer shall have the
31 power to control the hearing including but not limited to: ruling upon motions and offers of proof,
32 receiving and admitting evidence, limiting the presentation of evidence and cross-examination so
33 as to prevent repetitive and cumulative evidence or examination, and ordering any person to be

1 removed from the hearing. The hearing officer shall hear all testimony and prepare a written
2 statement of findings and recommendations to the director. The director shall review all matters
3 contained in the record and considered by the hearing officer as set forth in the written findings
4 and thereupon make a final decision and determination. Unless stated otherwise, the director is
5 not bound by the written findings and recommendations of the hearing officer.

6 **Sec. 32-26. – Records and subpoenas.**

7 (a) The director of excise and licenses shall keep a record of all licenses issued, setting
8 forth: the name of every licensee; the place of business licensed, if any; the residence of the
9 licensee or of each of the individual members of the licensee firm, or of each of the directing
10 officers of the licensee corporation; the kind and grade of license issued; the date the license was
11 issued; and the date on which the license expires.

12 (b) The director shall have the authority to issue subpoenas to compel the attendance and
13 testimony of witnesses, with or without documentary evidence, and the production of books and
14 documents. The process for issuance and review of subpoenas shall be established by Department
15 rule.

16 (c) The director may serve the subpoena by personal service as provided in C.R.C.P. 4(e) or
17 by certified mail to the subpoenaed party at the last known address provided to the department.

18 (d) It shall be unlawful for any person to refuse to obey a subpoena issued by the director.

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20 [BALANCE OF PAGE INTENTIONALLY LEFT BLANK]
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1 COMMITTEE APPROVAL DATE: November 4, 2020

2 MAYOR-COUNCIL DATE: November 10, 2020

3 PASSED BY THE COUNCIL: _____

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER

9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____; _____

10 PREPARED BY: Reginald Nubine, Assistant City Attorney DATE: November 12, 2020

11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.

15 Kristin Bronson, Denver City Attorney

16 BY:  _____, Assistant City Attorney DATE: Nov 12, 2020
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