

ORDINANCE NO. 045, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING CHAPTER 15 OF THE CODE OF THE CITY OF FORT
COLLINS TO ADD SHORT TERM RENTAL LICENSING REGULATIONS

WHEREAS, the renting of dwelling units for periods of less than thirty days (“Short Term Rental” or “Short Term Rentals”) is an ongoing activity in the City requiring owners of Short Term Rentals to obtain City sales and use and lodging tax licenses; and

WHEREAS, in response to community concerns regarding Short Term Rentals, Council at its June 9, 2015, work session directed City staff to investigate and conduct public outreach regarding Short Term Rentals; and

WHEREAS, City Council conducted four subsequent work session on October 27, 2015, February 23, 2016, July 26, 2016, and January 10, 2016, during which Council evaluated and provided feedback on City staff research into Short Term Rentals within the City and in other jurisdictions, proposals for Short Term Rental regulations, and the results of public outreach; and

WHEREAS, City staff has conducted extensive public outreach since 2015 regarding proposed regulation of Short Term Rentals including community open houses, online surveys, and outreach to the Visit Fort Collins Board and the Fort Collins Board of Realtors; and

WHEREAS, City staff conducted outreach with the Fort Collins Affordable Housing Board regarding Short Term Rentals in October 2015, January 2016, and November 2016; and

WHEREAS, City staff conducted outreach with the Fort Collins Human Relations Commission regarding Short Term Rentals in May 2016; and

WHEREAS, City staff conducted outreach with the Fort Collins Commission on Disability regarding Short Term Rentals in February and October 2016; and

WHEREAS, public outreach showed both support and concern for Short Term Rentals; and

WHEREAS, the City wishes to protect neighborhoods while accommodating an existing and desired activity; and

WHEREAS, by utilizing existing zoning code provisions and applying additional requirements on Short Term Rental activities, neighbors, renters, and traditional lodging establishments can all be protected from unregulated activity; and

WHEREAS, limiting Short Term Rental activity by zone, inspecting properties, requiring minimum parking, and tax remittance will address concerns and provide a framework for Short Term Rental activity without jeopardizing neighborhood quality; and

WHEREAS, in addition to input from the public presented to City Council by City staff, Council has received extensive direct public input, in the form of correspondence and public comment at Council meetings, both in opposition to, and in support of, the adoption of Short Term Rental regulations; and

WHEREAS, the changes set forth in this Ordinance to Chapter 15 of the City Code to require licensing of Short Term Rentals are the result of the extensive research, public outreach, and discussion described above, and the public hearing process associated with adoption of this Ordinance; and

WHEREAS, City Council is concurrently considering amendments to the City of Fort Collins Land Use Code regarding land use regulation of Short Term Rentals and such regulations incorporate the requirement for licensing as set forth in this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That based upon the information the City Council has received relevant to its consideration of the City Code amendments set forth herein from work sessions, discussions with City staff, written and oral comments submitted by members of the public, and information and discussion during the public hearing process associated with adoption of this Ordinance, the Council makes the following additional determinations and findings:

- A. Short Term Rentals provide financial benefits to owners of such rentals and benefits to renters in the form of amenities and location.
- B. Additional oversight of Short Term Rentals through licensing will help to ensure the health and safety of renters.
- C. Licensing promotes a fair operating environment for traditional providers of lodging and transient accommodation by providing an additional measure to ensure sales and use and lodging taxes are remitted pursuant to City Code Chapter 25.
- D. Licensing facilitates ongoing data collection to further evaluate the impacts and benefits of Short Term Rentals.
- E. Short Term Rentals could impact the neighborhoods in which they are located with respect to parking, noise, and neighborhood livability regarding persons from outside a neighborhood transiently visiting.
- F. Owners who occupy Short Term Rentals as their principal residences can provide greater oversight and accountability during periods rentals are occurring as opposed to Short Term Rentals not occupied by their owners as principal residences.

Section 3. That the City Code changes adopted herein are necessary to address the impacts of Short Term Rentals while at the same time recognizing the benefits of Short Term Rentals and reasonably allowing Short Term Rentals to continue operating with certain restrictions. The City Code changes adopted herein are in the best interests of the citizens of Fort Collins and are adopted for the purposes of promoting the health, safety, morals, and general welfare of the community.

Section 4. That Chapter 15 of the Code of the City of Fort Collins is hereby amended by the addition of a new Article XVIII which reads in its entirety as follows:

ARTICLE XVIII. SHORT TERM RENTAL LICENSING

Sec. 15-628. - Purpose.

The local licensing system implemented pursuant to this Article ensures the health and safety of renters of short term rentals, mitigates the impacts of short term rentals on the neighborhoods in which they are located, and maintains and enhances neighborhood livability. The system of licensing promotes a fair operating environment for all persons in the business of providing lodging or transient accommodation. The system of licensing also allows for ongoing data collection to further evaluate the impact of short term rentals on the neighborhoods in which they are located and on affordable housing.

Sec. 15-629. - Definitions.

The following definitions shall apply to this Article:

Director shall mean the Director of Community Development and Neighborhood Services.

Dwelling unit shall mean one (1) or more rooms and a single kitchen and at least one (1) bathroom, designed, occupied or intended for occupancy as separate quarters for the exclusive use of a single family for living, cooking and sanitary purposes, located in a single-family, two-family or multi-family dwelling or mixed-use building as such terms are defined in the Land Use Code.

Financial Officer shall mean the Financial Officer of the City of Fort Collins referenced in Article V, Part III, § 21, of the City of Fort Collins Charter.

Licensed premises shall mean a dwelling unit, or portion thereof, that has a valid license issued pursuant to this Article allowing short term primary or non-primary rental of such dwelling unit.

Party shall mean one or more persons who as a single group rent a short term primary or non-primary rental pursuant to a single reservation and payment.

Primary residence shall mean the dwelling unit in which a person resides for nine or more months of the calendar year. Under this definition, a person has only one primary residence at a time.

Short term non-primary rental shall mean a dwelling unit that is not a primary residence and that is leased in its entirety to one party at a time for periods of less than 30 consecutive days. The term short term non-primary 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.

Short term primary rental shall mean a dwelling unit that is a primary residence of which a portion is leased to one party at a time for periods of less than 30 consecutive days. A carriage house, as defined in the Land Use Code, that is not a primary residence is deemed to be a short term primary rental and may be licensed as a short term primary rental if it is located on a lot containing a primary residence. A dwelling unit of a two-family dwelling, as defined in the Land Use Code, that is not a primary residence is deemed to be a short term primary rental and may be licensed as a short term primary rental if the connected dwelling unit is a primary residence and both dwelling units are located on the same lot. The term short term primary 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.

Sec. 15-630. - License required.

No dwelling unit may be utilized as a short term primary rental or short term non-primary rental within the City unless a license to rent such dwelling unit has been first issued as provided in this Article.

Sec. 15-631. - Application for license.

(a) A license to utilize a particular dwelling unit as a short term primary rental or short term non-primary rental may be granted in the discretion of the Financial Officer if he or she determines that the applicant and the premises proposed to be licensed meet the requirements of this Article.

(b) The Financial Officer may require additional information and documentation as may be necessary to determine whether an application meets the requirements of this Article.

(c) The applicant shall self-certify that the information on the application is accurate and truthful under penalty of perjury under the laws of the State of Colorado.

(d) At the time of an initial or renewal application for a license, each applicant shall pay a fee set by the City Manager pursuant to his or her authority to establish administrative fees as set forth in Chapter 7.5 of this Code. The application fee may be refunded at the discretion of the Financial Officer if the applicant demonstrates that the dwelling unit proposed to be licensed has certain modifications that make it more accessible and accommodating to people with

disabilities. The modifications required for a refund shall be established in administrative regulations adopted pursuant to § 15-639.

Sec. 15-632. - Licensing requirements.

(a) The following are the minimum requirements that must be satisfied by the applicant for the issuance of a short term primary rental license.

(1) The applicant must provide documentation satisfactory to the Financial Officer that the applicant is the owner of the dwelling unit and that the dwelling unit is his or her primary residence.

(2) The applicant must have valid sales and use and lodging tax licenses issued pursuant to Chapter 25, Article IV, of the Code of the City of Fort Collins for the dwelling unit to be utilized as a short term primary rental.

(3) The dwelling unit must comply with all applicable federal, state, and local laws including, but not limited to, the Code of the City of Fort Collins and Land Use Code, and in particular, Land Use Code § 3.2.2(K)(1)(k) which sets forth applicable parking requirements.

(4) The applicant shall certify that the dwelling unit proposed to be licensed as a short term rental complies with specific sanitation, mechanical, electrical, structural, and fire safety requirements in Chapter 5 of the Code of the City of Fort Collins and listed in administrative regulations adopted pursuant to § 15-639. The Director may inspect the dwelling unit proposed to be licensed for purposes of verifying compliance with such requirements and refusal by the applicant to allow such inspection shall be grounds for denial of the issuance of a license.

(5) The applicant must provide proof of liability insurance sufficient to compensate renters for injuries that may be sustained in the dwelling unit proposed to be rented within the coverage limits established in administrative regulations adopted pursuant to § 15-639.

(6) No applicant shall be issued a license if marijuana is cultivated or processed, or marijuana products are processed or otherwise produced, in the dwelling unit proposed to be rented.

(7) The applicant must identify one or more persons who will be available to respond within four hours at all times during which the dwelling unit is rented to any issues raised by the renter or the City. Any such person must have access to the dwelling unit and be authorized to make decisions regarding the dwelling unit.

(8) The dwelling unit must be located in a zone district that allows short term primary rentals as specified in the Land Use Code. Alternatively, the dwelling unit must satisfy

the requirements contained in § 15-634 for short term primary rentals established in restricted zone districts prior to March 31, 2017.

(9) The applicant must specify which portions of the dwelling unit will constitute the licensed premises available for use by renters.

(b) The following are the minimum requirements that must be satisfied by the applicant for the issuance of a short term non-primary rental license.

(1) The applicant must provide documentation satisfactory to the Financial Officer that the applicant is the owner of the dwelling unit.

(2) The applicant must have valid sales and use and lodging tax licenses issued pursuant to Chapter 25, Article IV, of the Code of the City of Fort Collins for the dwelling unit to be utilized as a short term non-primary rental.

(3) The dwelling unit must comply with all applicable federal, state, and local laws including, but not limited to, the Code of the City of Fort Collins and Land Use Code, and in particular, Land Use Code § 3.2.2(K)(1)(k) which sets forth applicable parking requirements.

(4) The applicant shall certify that the dwelling unit proposed to be licensed as a short term rental complies with specific sanitation, mechanical, electrical, structural, and fire safety requirements in Chapter 5 of the Code of the City of Fort Collins and listed in administrative regulations adopted pursuant to § 15-639. The Director may inspect the dwelling unit proposed to be licensed for purposes of verifying compliance with such requirements and refusal by the applicant to allow such inspection shall be grounds for denial of the issuance of a license.

(5) The applicant must provide proof of liability insurance sufficient to compensate renters for injuries that may be sustained in the dwelling unit proposed to be rented within the liability coverage limits established in administrative regulations adopted pursuant to § 15-639.

(6) No applicant shall be issued a license if marijuana is cultivated or processed, or marijuana products are processed or otherwise produced, in the dwelling unit proposed to be rented.

(7) The applicant must identify one or more persons who will be available to respond within four hours at all times during which the dwelling unit is rented to any issues raised by the renter or the City. Any such person must have access to the dwelling unit and be authorized to make decisions regarding the dwelling unit.

(8) The dwelling unit must be located in a zone district that allows short term non-primary rentals as specified in the Land Use Code. Alternatively, the dwelling unit must

satisfy the requirements contained in § 15-634 for short term non-primary rentals established in restricted zone districts prior to March 31, 2017.

Sec. 15-633. - Issuance of licenses.

Upon compliance with the requirements of this Article, the Financial Officer shall issue a license to the applicant authorizing the short term rental of the licensed premises. The license issued shall allow only the short term primary rental or the short term non-primary rental of the licensed premises. Licenses issued for short term primary rentals shall specify the areas of the dwelling unit that may be rented. Each license shall be applicable to a single dwelling unit and no license issued shall be transferable. A license shall terminate upon transfer of ownership of the licensed premises.

Sec. 15-634. - Licensing of short term primary and non-primary rentals existing prior to Land Use Code restrictions.

(a) A dwelling unit used as a short term primary or non-primary rental that is located in a zone district in which the Land Use Code prohibits such use is eligible for a license pursuant to this Article provided that prior to March 31, 2017, such dwelling unit was actually utilized as a short term primary or non-primary rental pursuant to valid sales and use and lodging tax licenses issued for such dwelling unit in accordance with Chapter 25, Art. IV, of the Code of the City of Fort Collins.

(b) In addition to satisfying (a) above, the applicant must satisfy the requirements set forth in § 15-632 in order to be eligible for a license. License applications submitted pursuant to this Section on or before June 30, 2017, do not need to comply with the parking requirements in Land Use Code § 3.2.2(K)(1).

(c) In order to be eligible for a license pursuant to this Section, subject to (e) below, the applicant must submit an application for a license pursuant to this Article on or before June 30, 2017. No application submitted after June 30, 2017, shall be eligible for a license pursuant to this Section unless submitted pursuant to (e) below.

(d) Any license issued pursuant to this Section shall expire at such time that the ownership of the licensed premises changes. Should a license issued under this Section be revoked, not be renewed, or lapse for any period of time, the owner shall no longer be eligible for a license for such dwelling unit pursuant to this Section.

(e) Should ownership of a dwelling unit licensed pursuant to § 15-634 be transferred, and such license was continuously valid until the transfer of ownership, the new owner is eligible for a license identical in scope to the previously issued license provided: (1) the new owner applies for a license within thirty days of the transfer of ownership; (2) the dwelling unit complies with the parking requirements in Land Use Code Section 3.2.2(K)(1)(k); and (3) any license issued pursuant to § 15-634 is continuously maintained. Should a license issued to the new owner under this Section be revoked, not be renewed, or lapse for any period of time, the new owner shall no longer be eligible for a license for such dwelling unit pursuant to this Section.

Sec. 15-635. - Term of license and renewal.

- (a) Licenses issued pursuant to this Article shall be valid from the time of issuance through December 31 of the same calendar year. Licenses must be renewed annually and a renewed license shall be valid for an additional period from January 1 through December 31.
- (b) Renewal applications shall be reviewed by the Financial Officer in consultation with the Director, are subject to § 15-636, § 15-637, and must meet the standards set forth in § 15-632.
- (c) Any formally established violation of the provisions of this Article may be considered during the license renewal review and may result in non-renewal. In the Financial Officer's discretion, after consultation with the Director, the Financial Officer may impose conditions upon a license at the time of renewal to address non-compliance with the terms of the license, the provisions of this Article, or any other applicable provision of federal, state, or local law. Failure to comply with such conditions may result in suspension, revocation, or non-renewal of the license pursuant to § 15-637.

Sec. 15-636. - License regulations.

Upon issuance of a license pursuant to this Article, the following requirements must be met in order for the license to remain valid. Failure to comply with any of the following regulations may result in revocation, suspension, or non-renewal of the issued license pursuant to § 15-637:

- (1) The license number shall be prominently displayed in all listing or advertising of the licensed premises for short term rental.
- (2) A copy of the license shall be prominently displayed in the licensed premises.
- (3) The licensee shall comply with all applicable Code of the City of Fort Collins and Land Use Code provisions including, but not limited to, the Code of the City of Fort Collins Chapter 5, Buildings and Building Regulations, and the Code of the City of Fort Collins Chapter 20, Nuisances, Chapter 25, Taxation, and Land Use Code 3.2.2(K)(1)(k).
- (4) The licensee shall maintain compliance with all sanitation, mechanical, electrical, structural, and fire safety requirements described in § 15-632.
- (5) The licensee shall ensure that renters of a short term primary rental shall only be allowed access to the portions of the dwelling unit identified in the license.
- (6) The person(s) identified in § 15-632(a)(7) and § 15-632(b)(7) shall be available at all times during which the licensed premises is rented to respond within four hours, in person if necessary, to any issues raised by the renter or the City. The licensee shall provide each renter and the City with a current telephone number of the person(s) available to respond and each such person must have access to the licensed premises and be authorized to make decisions regarding the licensed premises.

(7) The licensee shall maintain insurance as specified in § 15-632 at all times during which the license is valid.

(8) The licensee shall prevent the cultivation or processing of marijuana and the processing or production of marijuana products in any dwelling unit utilized as a short term primary or non-primary rental.

Sec. 15-637. - Suspension, revocation, nonrenewal of license.

(a) The Director may suspend, revoke, or not renew any license issued pursuant to this Article if the Director determines that any of the following have occurred:

(1) Fraud, material misrepresentation or false statement in the initial application for the license or any renewal application;

(2) Failure to obtain a sales and use tax license and lodging tax license or failure to remit taxes pursuant to Chapter 25, Art. IV, of the Code of the City of Fort Collins;

(3) Failure to comply with the terms of the license, the provisions of this Article, or any other applicable provision of federal, state, or local law including, but not limited to, the Code of the City of Fort Collins and Land Use Code.

(4) Failure to comply with conditions imposed on any license pursuant to § 15-635(c) and § 15-637(b).

(b) In the Financial Officer's discretion, after consultation with the Director, the Financial Officer may impose conditions upon a suspended license to address non-compliance with the terms of the license, the provisions of this Article, or any other applicable provision of federal, state, or local law. Upon satisfaction of such conditions, the license shall be reinstated. Failure to comply with such conditions shall result in continued suspension or revocation.

(c) Upon revocation of a license, the dwelling unit described in the license is ineligible to receive another license pursuant to this Article for one year from the date of revocation.

(d) All licensed premises shall be subject to inspection by the Director for the purpose of investigating and determining compliance with the requirements for any license issued under this Article. Where any part of the licensed premises consists of a locked area, such area shall be made available for inspection as provided hereunder, without delay, upon request.

Sec. 15-638. - Violations and penalties.

In addition to the suspension, revocation or refusal to renew any license issued hereunder, any licensee who violates any provision of this Article may be punished by a fine or imprisonment or both, in accordance with the Code of the City of Fort Collins § 1-15. Additionally, the City may take any other legal action available to address violations of the provisions of this Article.

Sec. 15-639. - Administration.

The Financial Officer and Director shall administer the provisions of this Article and are authorized to jointly promulgate rules and regulations for its administration and implementation.

Sec. 15-640. - Appeal.

An applicant or licensee may appeal any decision whether to grant, renew, suspend, or revoke his or her application or license to the City Manager in accordance with Chapter 2, Article VI of the Code of the City of Fort Collins. The City Manager's decision shall be final.

Sec. 15-641. - Severability.

If any section, sentence, clause, phrase, word or other provision of this Article is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this Article or the validity of this Article as an entirety, it being the legislative intent that this Article shall stand, notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Sec. 15-643 - 15-660 - Reserved

Introduced, considered favorably on first reading, and ordered published this 7th day of March, A.D. 2017, and to be presented for final passage on the 21st day of March, A.D. 2017.



Mayor

ATTEST:





City Clerk

Passed and adopted on final reading on this 21st day of March, A.D. 2017.



Mayor

ATTEST:





City Clerk