

ORDINANCE NO. 2078

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO, AMENDING CHAPTERS 18.04 AND 18.28 OF THE GOLDEN MUNICIPAL CODE, ENACTING CHAPTER 18.22 OF THE GOLDEN MUNICIPAL CODE REGARDING SHORT-TERM RENTAL LICENSING REGULATIONS, AND REPEALING ORDINANCE NO. 2067 REGARDING A TEMPORARY MORATORIUM UPON THE EFFECTIVE DATE OF THIS ORDINANCE

WHEREAS, the rental of residential, private dwellings, or portions thereof, for periods of less than thirty days (“Short Term Rentals”) in the City of Golden is an activity requiring owners of such residential properties to obtain a City sales and use tax license; and

WHEREAS, in response to community and staff concerns regarding increased levels of Short Term Rentals, Council at its October 2017 study session directed City staff and Planning Commission to investigate the impacts of Short Term Rentals and the potential need to regulate such activities; and

WHEREAS, City Council held two study sessions on Short Term Rentals to discuss research by City staff and Planning Commission proposals pertaining to Short Term Rentals within the City; and the public has had an opportunity to provide input and feedback through comments and a survey on www.guidinggolden.com; and

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

WHEREAS, the City’s records indicate that the properties located at 922 10th Street, 1180 9th Street and 1114 Illinois Street, which are situated within the R-3 zone districts, were issued a special use permit to operate a Tourist Home prior to March 8, 2018, and that the owners of 922 10th Street, 1180 9th Street and 1114 Illinois Street were not using such properties as their primary residences at the time of the approval of such special use permits; and

WHEREAS, the changes set forth in this Ordinance to Chapter 18 of the Golden Municipal Code to require licensing of Short Term Rentals are a result of extensive research, public outreach, and the public hearing process associated with adoption of this Ordinance; and

WHEREAS, City Council desires to repeal Ordinance No. 2067, adopted on February 8, 2018, imposing a temporary moratorium on the acceptance and processing of new applications for special use approval under Sections 18.28.085(2), 18.28.105(1) and 18.28.115(2) of the Golden Municipal Code, upon the effective date of this ordinance.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

Section 1. The definition of “Tourist Homes” contained in Section 18.04.020-Definition of terms—of the Golden Municipal Code is amended to read as follows:¹

¹ Additions to the current text of the Code are indicated by *italics*, and deletions are indicated by ~~striketrough~~.

Tourist Home. "Tourist home" means any building containing five or fewer guest rooms used, designed to be used, let or hired out primarily for occupancy by *any particular person or persons* ~~on more or less a temporary basis for periods of less than thirty days.~~

Section 2. The definition of "Hotels and motels" contained in Section 18.04.020-Definition of terms—of the Golden Municipal Code is amended to read as follows:

Hotels and motels. "Hotels and motels" means any building or portion thereof containing six or more guest rooms used, designed to be used, let or hired out primarily for occupancy by *any particular person or persons* ~~on more or less a temporary basis for periods of less than thirty days~~ except that occasional occupancy by any particular person for periods of thirty days or more shall be considered an accessory use

Section 3. The definition of "Boarding and rooming house" contained in Section 18.04.020-Definition of terms—of the Golden Municipal Code is amended to read as follows:

Boarding and rooming house. "Boarding and rooming house" means ~~a building or portion thereof which is used to accommodate, for compensation, one or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such building.~~ "Compensation" includes ~~compensation in money, services or other things of value~~ *an establishment where, for direct or indirect compensation, lodging, without kitchen facilities in individual rooms or units, is offered for one month or more for one or more boarders or roomers.*

Section 4. Section 18.28.050- Uses permitted by right in the CO zone district—of the Golden Municipal Code is amended to enact the following new sub-section (8):

(8) Short Term Rentals, as defined in 18.22.010, provided such use is in compliance with Chapter 18.22 of this Code.

Section 5. Section 18.28.080—Uses permitted by right in the RE and R1 districts—of the Golden Municipal Code, is amended to enact the following new subsection (6):

(6) Short Term Rentals, as defined in 18.22.010, provided such use is in compliance with Chapter 18.22 of this Code.

Section 6. Sub-section 18.28.085 (2)- Special uses in the RE and R1 districts, of the Golden Municipal Code is repealed and re-enacted to read following:

(2) Professional, business, medical, dental, optical offices, hair care salons, *and* art and photographic studios ~~and tourist homes~~, which are located in a structure constructed and designed as a dwelling unit, and only on those streets that are designated as arterial streets in the comprehensive plan and that conform to engineering standards for arterial streets as set forth in engineering regulations.

Section 7. Section 18.28.115 - Special uses in the R3 district, of the Golden Municipal Code is amended to repeal sub-section (2) ("Tourist Homes"), with the remaining sub-sections to be re-numbered accordingly.

Section 8. A new Chapter 18.22 - Temporary Lodging Regulations, of the Golden Municipal Code is enacted as follows:

CHAPTER 18.22 – TEMPORARY LODGING REGULATIONS

Sec. 18.22.010. Definitions.

For the purpose of this chapter, the following words shall have the following meanings:

Director. “Director” shall mean the director of the City’s Community and Economic Development Department, or such other department as is designated by the City Manager to administer Title 18 of the Golden Municipal Code.

Primary residence. “Primary residence” means a dwelling unit that is the usual place of return for housing of a person as documented by at least two of the following: motor vehicle registration, driver's license, Colorado state identification card, voter registration, tax documents, or a utility bill. A person can only have one primary residence. For purposes of this Chapter, “person or persons” shall not include any corporation, partnership, firm, association, joint venture, or other similar legal entity.

Short-term rental. “Short-term rental” means any dwelling, dwelling unit or portion of any dwelling unit rented or leased for valuable consideration to a particular person or persons for periods of time less than thirty days, but excludes commercial boarding and rooming houses, hotels, motels, or tourist homes. A short-term rental is a use that is accessory to such dwelling or dwelling unit.

Sec. 18.22.020. License required.

- (a) Short-term rentals and tourist homes are prohibited within the City unless a license has been duly issued therefore pursuant to this Chapter and in compliance with any and all applicable city laws.
- (b) It shall be unlawful to operate any short-term rental or tourist home in the City unless a license has been duly issued therefore pursuant to this Chapter and in compliance with any and all applicable city laws.
- (c) It shall be unlawful to allow, or offer to allow through advertisement or otherwise, any person to occupy any property as a tenant or lessee of a short-term rental or tourist home unless such property unit has been licensed pursuant to this Chapter.
- (d) No person shall advertise a short-term-rental or tourist home, unless the advertisement includes the license number and the maximum unrelated occupancy permitted in the unit. For the purpose of this section, the terms “advertise,” “advertising” or “advertisement” mean the act of drawing the public’s attention to a short-term rental or tourist home in order to promote the availability of the licensed premises.

Sec. 18.22.030. Application for License.

- (a) An application for a license shall be submitted to the Director and shall be signed by the fee owner of record of the property to be licensed or an individual authorized by the fee owner of record.
- (b) All license applications shall be submitted on a form supplied by the Director, which shall include such information as is reasonably necessary for the Director to act on such application.
- (c) The applicant must specify which portions of the dwelling or dwelling unit will constitute the licensed premises available for use by renters.
- (d) The Director, or his or her designee, may require additional information and documentation as may be necessary to determine whether an application meets the requirements of this Chapter.
- (e) 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.
- (f) All license applications, including applications for renewal of existing licenses, shall be accompanied by the payment in full of all fees as required by City Council by adoption of a fee resolution.
- (g) Applicants and licensees shall inform the Director in writing of any material change to the information submitted on an application for a license within 30 calendar days of a change.

Sec. 18.22.040. License not Transferable.

Licenses issued under this Chapter are not transferable.

Sec. 18.22.050. Term of License and Renewal.

- (a) Licenses issued pursuant to this Chapter shall be valid for a period of two calendar years from the date of issuance. Licenses must be renewed bi-annually.
- (b) Applications for renewals of a short-term rental or tourist home license are subject to all application and licensing and operation requirements set forth in this Chapter that apply to new licenses.
- (c) Any formally established violation of the provisions of this Chapter may be considered during the license renewal review and may result in non-renewal.

Sec. 18.22.060. Display of License.

The license number shall be prominently displayed in all listings or advertising of the licensed premises.

Sec. 18.22.070. Refusal to grant, Suspension, Revocation, Nonrenewal of License.

(a) The Director may refuse to grant an initial license, or suspend, revoke, or not renew any license requested or issued pursuant to this Chapter if the Director determines, after conducting a hearing pursuant to Chapter 2.35 of the Code, 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; or
- (2) Failure to comply with the terms or conditions of the license, the provisions of this Chapter, or any other application provision of federal, state, or local law including, but not limited to, the Golden Municipal Code.

(b) An applicant or licensee may appeal any decision of the Director under this Chapter to the Planning Commission in accordance with Section 18.12.040. Planning Commission's decision shall be final.

(c) If the Director finds that a violation of any provision of this chapter exists, the Director, after notice to the licensee, may take any one or more of the following actions to remedy the violation:

- (1) Impose a civil penalty according to the following schedule:
 - (i) For the first violation of the provision, \$150;
 - (ii) For the second violation of the same provision, \$300; and
 - (iii) For the third violation of the same provision, \$1,000.
- (2) Revoke the license;
- (3) Issue any order reasonably calculated to ensure compliance with this Chapter.

(d) The Director's authority under this section is in addition to any other authority the Director has to enforce this chapter, and election of one remedy by the Director shall not preclude resorting to any other remedy as well.

(e) The Director shall not accept a new application from the same licensee for the same dwelling, dwelling unit or units after revocation of a license:

- (1) For at least six months following the revocation; and
- (2) Unless the applicant demonstrates compliance with all licensing requirements.

Sec. 18.22.080. Short-term rentals.

Short-term rentals, as defined in Section 18.22.010 and where allowed per Chapter 18.28, shall comply with the following regulations:

(a) *Ownership.* The licensee must be the fee owner of record of the licensed property.

- (b) *Primary residence.* It shall be unlawful to operate a short-term rental in any location that is not the licensee's primary residence.
- (c) *Permitted structures.* Primary and accessory structures are allowed. All structures shall comply with the regulations for primary and accessory structures, including maximum size, height, lot coverage, and setbacks, for the property's zone district.
- (d) *Number of short-term rentals per lot.* If a lot contains more than one legal dwelling unit, including accessory dwelling units, only one dwelling unit on such lot is eligible for licensure as a short-term rental under this Chapter.
- (e) *Owner occupancy requirement.* The licensee must occupy or reside in the licensed premises, or on the lot upon which the licensed premises is located, for at least ten months in any given calendar year throughout the term of the license.
- (f) *Sales and use tax license required.* It shall be unlawful to operate a short-term rental without having first obtained a valid City of Golden sales and use tax license for the property or dwelling unit to be utilized as a short-term rental.
- (g) *Occupancy.* The occupancy of a short-term rental shall not exceed the total number of unrelated persons that are otherwise permitted to occupy property under the applicable requirements of the zone district in which the licensed premises is located.
- (h) *Parking requirements.* Parking requirements for the property shall meet the number of off-street parking spaces as would otherwise be required to serve residential uses for the specific area of the city in which the licensed premises is located, as set forth in Chapter 18.36.025 and 18.36.030. Non-conforming properties shall be required to come into compliance or obtain a variance from the parking requirements. The location of required parking shall be identified in the license application.
- (i) *Safety requirements.* Each short-term rental shall be equipped with an operational smoke detector, carbon monoxide detector, and fire extinguisher on the licensed premises during each short-term rental occupancy. It shall be unlawful to operate a short-term rental without a smoke detector, carbon monoxide detector or fire extinguisher. The Director or his /her designee may inspect the dwelling unit proposed to be licensed for the purpose of verifying compliance with such requirements. Refusal by the applicant to allow such inspection shall be grounds for denial, non-renewal or revocation of a license
- (j) *Insurance.* The licensee must provide and maintain fire, hazard and liability insurance within the liability coverage limits set by the Director.
- (k) *Compliance with other laws.* The dwelling or dwelling unit to be licensed must comply with all applicable federal, state and local laws, including but not limited to, the Golden Municipal Code.

Sec. 18.22.090. Tourist homes.

Tourist homes, as defined in Section 18.04.020 and where allowed per Chapter 18.28, shall comply with the following regulations:

- (a) *Ownership.* The licensee must be the fee owner of record of the property to be licensed.
- (b) *Nonconforming use and expiration of special use permit.* A dwelling unit permitted as a “Tourist Home” special use in any residential zone districts in accordance with Chapter 18.30 prior to March 8, 2018 shall be considered a permitted, non-conforming use for the duration of the term of the Special Use Permit, if in compliance with all other provisions of this Code pertaining to such use. Upon expiration of the existing special use permit, such dwelling unit may be used as a short-term rental where allowed per Chapter 18.28, and pursuant to the provisions of this Chapter, provided that the party and property to be licensed meet the requirements for a short-term rental, as set forth in Section 18.22.080 of this Chapter. Notwithstanding the foregoing, a party who has been granted a special use permit to use a dwelling unit as a “Tourist Home” in the R-3 zone district prior to March 8, 2018, and who, at the time of approval of the special use permit, did not occupy such unit as his or her primary residence, is exempt from the primary residence and owner occupancy requirements provided in Sections 18.22.080(b) and (e), but only if the use of the property is converted to a short-term rental within 180 days of the termination of the special use permit. Such exemption shall be available only to the individual(s) that were the fee owners of record of the property on March 8, 2018 and may not be assigned or conveyed with the property.
- (c) *Permitted structures.* If a lot contains more than one building, the Director shall issue separate licenses for individual buildings. Such license shall cover all dwelling units or guest rooms within such buildings. All structures shall comply with the regulations for the property's underlying zone district.
- (d) *Sales and use tax license required.* It shall be unlawful to operate a tourist home without having first obtained a valid City of Golden sales and use tax license for the structure or building to be utilized as a tourist home.
- (e) *Occupancy.* The occupancy of a tourist home shall not exceed the total number of unrelated persons that are otherwise permitted to occupy property under the applicable requirements of the zone district in which the licensed premises is located.
- (f) *Parking requirements.* Parking requirements for the property shall meet the number of off-street parking spaces as would otherwise be required to serve commercial uses for the specific area of the city in which the licensed premises is located, as set forth in Chapter 18.36.025 and 18.36.030. Non-conforming properties shall be required to come into compliance or obtain a variance from the parking requirements. The location of required parking shall be identified in the license application.
- (g) *Safety requirements.* Each dwelling unit or guest room within the building or structure to be licensed shall be equipped with an operational smoke detector, carbon monoxide detector, and fire extinguisher during each short-term rental occupancy. It shall be unlawful to operate a tourist home without a smoke detector, carbon monoxide detector or fire extinguisher. The Director or his /her designee may inspect the building proposed to be licensed for the purpose of verifying compliance with such requirements. Refusal by the applicant to allow such inspection shall be grounds for denial, non-renewal or revocation of a license

- (h) *Insurance.* The licensee must provide and maintain fire, hazard and liability insurance within the liability coverage limits set by the Director.
- (i) *Compliance with other laws.* The building or structure to be licensed must comply with all applicable federal, state and local laws, including but not limited to, the Golden Municipal Code.

Sec. 18.22.100. Administration

The Director, or his or her designee, shall administer the provisions of this Chapter and is authorized to promulgate rules and regulations for its administration and implementation.

Section 9. Upon the effective date of this ordinance, Ordinance No. 2067 imposing a temporary moratorium on the acceptance and processing of new applications for special use approval under Sections 18.28.085 (2), 18.28.115 (1) and 18.28.115 (2) of the Golden Municipal Code is repealed.

Section 10. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 11. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 12. The repeal or modification of any provision of the Municipal Code of the City of Golden by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 13. This ordinance is deemed necessary for the protection of health, welfare and safety of the community.

Section 14. Violations of this ordinance shall be punishable as set forth in Section 1.01.110 of the Golden Municipal Code.

Section 15. This ordinance shall become effective upon June 11, 2018.

Introduced, read, passed and ordered published the 10th day of May, 2018.

Passed and adopted upon second reading and ordered published this 24th day of May, 2018.

Marjorie N. Sloan
Mayor

ATTEST:

Andrea L. De Luca, CMC
Acting City Clerk

APPROVED AS TO FORM:

David S. Williamson
City Attorney

I, Andrea L. De Luca, Acting City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing ordinance was introduced on first reading and read at a regular business meeting of the City Council of said city, held on 10th day of May, 2018 and was published as a proposed ordinance in the Golden Transcript, legal newspaper, as the law directs seven days or more prior to its passage. A public hearing was held on the 24th day of May, 2018, and the said proposed ordinance was read on second reading and passed by the City Council and ordered published in the aforesaid newspaper, as the law directs.

Witness my hand and official seal of the City of Golden, Colorado, this 25th day of May, 2018.

(SEAL)

ATTEST: ANDREA L. DE LUCA
Andrea L. De Luca, Acting City Clerk
of the City of Golden, Colorado