

O-2019-2

AN ORDINANCE

AMENDING TITLE 5 OF THE LAKEWOOD MUNICIPAL CODE TO ADD A NEW
CHAPTER 5.56 ESTABLISHING A LODGING FACILITY LICENSING PROGRAM

WHEREAS, the City Council of the City of Lakewood desires to address the continually increasing calls for service to the Lakewood Police Department regarding various incidents occurring at hotels and motels within the City;

WHEREAS, upon researching various approaches, the City Council has determined that establishing a lodging facility licensing program is the most practical and efficient method to address the foregoing issues;

WHEREAS, approval of this ordinance on first reading is intended only to confirm that the City Council desires to comply with the Lakewood Municipal Code by setting a public hearing to provide City staff and the public an opportunity to present evidence and testimony regarding the proposal; and

WHEREAS, approval of this ordinance on first reading does not constitute a representation that the City Council, or any member of the City Council, supports, approves, rejects or denies the proposal.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lakewood:

SECTION 1. The recitals set forth above are incorporated herein.

SECTION 2. Title 5 of the Lakewood Municipal Code is hereby amended by the addition of a new Chapter 5.56 to read in full as follows:

Chapter 5.56
Lodging Facility License

5.56.010 Definitions.

As used in this chapter, the following terms are defined as follows:

- A. "Authority" means the Lodging Facility Licensing Authority of the City.
- B. "Calls for service" (CFS) means and includes, but is not limited to, any and all calls to law enforcement that result in a representative being dispatched or directed to the lodging facility.
 1. Calls for service includes:
 - a. A call to emergency services that results in a response by a law enforcement representative to the lodging facility.

- b. Any police-initiated call for service to the lodging facility that results in a criminal report.
 - c. Any call to emergency services or police-initiated call for service within the lodging facility's surrounding neighborhood regarding activity that results in a criminal report, when such activity is associated with lodging facility staff and/or lodging facility guests and/or visitors.
2. Calls for service shall not include traffic citations in which the lodging facility property address is used as the location of violation.
- C. "Calls for service ratio" means the number of calls for service divided by the number of rooms in service at the lodging facility.
 - D. "Police Chief" shall mean the chief of police of the Lakewood Police Department.
 - E. "City Clerk" means the City Clerk or his or her designee.
 - F. "Inspector" means a member of the Lakewood Police Department.
 - G. "Investigator" means a member of the Lakewood Police Department.
 - H. "License" means the license required pursuant to this chapter.
 - I. "Licensee" means the individual or entity to which a license is granted under this chapter.
 - J. "Lodging facility" means a hotel, motel, motor hotel, inn, lodging house or other similar facility that: (i) has lodging rooms; (ii) is located within any commercial or mixed use zone district in the city; and (iii) accommodates one or more guests under any rental agreement, concession, permit, right of access, license to use or other agreement, whether written or verbal, where the rental period of any lodging room is less than thirty (30) consecutive days.
 - K. "Lodging room" means and includes any room, guestroom or sleeping accommodation that accommodates one or more guests.
 - L. "LPD" means the Lakewood Police Department.
 - M. "Manager" means the person who manages, directs, supervises, oversees and administers the acts and transactions of, and the acts of employees of, a lodging facility.
 - N. "Owner" means any person that is the record owner of real property as listed with the Jefferson County, Colorado Assessor upon which a lodging facility is located. "Owner" shall also mean any part owner, joint owner or lessor of the whole or part of the land or buildings situated on such real property.

- O. "Operator" means any person who is the proprietor of a lodging facility, whether in the capacity of owner, lessee, receiver, sublessee, franchisee, manager or mortgagee in possession thereof, or agent of any aforementioned, who offers and accepts payment for any lodging rooms, or board and lodging, and retains the right of access to, and control of, the lodging facility or lodging room.
- P. "Person" means an individual, firm, association, partnership, company, sole proprietorship, corporation or similar entity.
- Q. "Significant criminal act" means an act or acts that causes serious bodily injury or death to any person or an act or acts that requires a law enforcement specialized unit or tactical response team.

5.56.020 License required; Licensing Authority Established.

- A. It is unlawful for any person to maintain or operate a lodging facility without first obtaining a license from the City Clerk's Office.
- B. All lodging facilities existing within the City upon the effective date of this ordinance shall apply for a license within ninety (90) days of the effective date of this ordinance. All lodging facilities existing within the City upon the effective date of this ordinance that have, based on data provided by the Lakewood Police Department, 1.89 or more calls for service per room for the previous twelve (12) month period shall meet with representatives from the LPD to discuss measures to mitigate criminal activity occurring on the lodging facility's premises. Such meeting shall occur before a lodging facility license is granted.
- C. Lodging Facility Licensing Authority (hereinafter, the "Authority") shall have and is vested with the authority to grant or deny licenses; conduct investigations; and suspend or revoke licenses for cause.
- D. The Authority shall consist of a Hearing Officer chosen by the City Clerk.
- E. The Authority may adopt reasonable fines, rules and regulations, in conformity with applicable statutes, ordinances and the City's home rule charter, governing its internal operations and for carrying out the provisions of this chapter.
- F. The City Clerk shall serve as the official secretary of the Authority, may attend the meetings of the Authority and shall be responsible for posting and/or publishing all public notices.

5.56.030 Application for New License.

- A. All applicants for a license shall file an application for a license with the City Clerk on forms provided by the City Clerk.
- B. The City Clerk shall accept no application that is not complete in every detail. If any application is deposited with the City Clerk and found, upon examination, to contain any omission or error, it shall be returned to the applicant for completion.

and correction without further action by the Clerk or Authority. All licenses granted shall be valid for a period of one (1) year from the date of issuance unless revoked or suspended for cause. No application shall be deemed complete unless accompanied by the following:

1. If the applicant is:
 - a. An individual, the individual shall state his or her legal name and any aliases;
 - b. A partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and provide a copy of the partnership agreement, if any;
 - c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the statutes of the State of Colorado, or in the case of a foreign corporation, evidence that it is currently authorized to do business in the State of Colorado, the names and capacity of all officers and directors, the name of the registered corporate agent and the address of the registered office for service of process;
 - d. A limited liability company, the company shall state its complete name, the date of its formation, evidence that the company is in good standing under the statutes of the State of Colorado, or in the case of a foreign company, evidence that it is currently authorized to do business in the State of Colorado, the name of the manager, and the name of the registered agent and the address of the registered office for service of process.
2. One or more statements as to whether:
 - a. The applicant or any other individual listed pursuant to subsection B(1) of this Section has:
 - i. Previously operated, is currently operating, or has been employed at a lodging facility;
 - ii. Had a previous lodging facility license under this Chapter, or other lodging facility license ordinances, resolutions or other regulations from another city or county, denied, suspended or revoked, or declared a public nuisance, including the name and location of the business for which the license was denied, suspended, revoked, or declared a public nuisance, as well as the date of the denial, suspension, revocation or declaration as a public nuisance.
 - b. The applicant or any other individuals listed pursuant to Subsection B(1) of this Section has been a partner in a partnership or an officer or director of a corporation or manager of a limited liability company of a business whose lodging facility license has previously been denied, suspended, revoked, or

declared a public nuisance including the name and location of the business for which the license was denied, suspended, revoked, or declared a public nuisance as well as the date of the denial, suspension, revocation, or declaration as a public nuisance.

- c. The applicant or any other individual listed pursuant to Subsection B(1) of this Section holds any other licenses under this Chapter or other similar lodging facility license ordinances from another city or county and, if so, the names and locations of such other licensed businesses;
3. The location of the proposed lodging facility, including a legal description of the property, street address and telephone number;
4. Proof of the applicant's right to possession of the premises wherein the lodging facility will be;
5. The applicant's mailing address and residential address;
6. The applicant's social security number and/or federally issued tax identification number;
7. A floor plan of the lodging facility that specifies the number of rooms contained in the lodging facility. The floor plan need not be professionally prepared;
8. Evidence from the City that the proposed location complies with all requirements of the zoning ordinance;
9. Payment in full of City license and application fees.

5.56.040 Application Fee.

The City shall impose fees, adopted by City Council resolution, necessary to defray the costs of processing the documentation of the activities of lodging facilities as allowed by law including, but not limited to, fees for a new license and renewal of a license.

5.56.050 Investigation.

- A. Such individual(s) as the Police Chief may designate shall be the Inspector, who shall perform the inspection duties set forth in this Chapter and such other duties as the Police Chief may reasonably direct. Prior to any lodging license being approved, denied, suspended or renewed, the Inspector may inspect the premises for conformance with all applicable laws and all orders from the Authority.
- B. The City Clerk may cause to be conducted any other investigation deemed necessary by the City Clerk to determine the application's conformance with any requirement of this Chapter, including, but not limited to, investigation of the proposed lodging facility's conformance with the Lakewood Zoning Ordinance or other applicable laws.

- C. Any reports of the results of any investigation conducted by any City department shall be delivered by the respective departments or officials to the City Clerk. Not less than ten (10) business days prior to the date of the hearing, if any, on the application, the City Clerk shall mail the report of findings based on the investigation to the applicant and, upon request, to other interested parties.

5.56.060 Decision – New Applications; Appeal.

- A. An application with a completed investigation shall be administratively approved or denied by the City Clerk within thirty (30) days of the date of the filing of the complete application. The City Clerk shall deny a license application if:
 - 1. The application or any City investigation demonstrates or establishes that the proposed lodging facility fails to conform to any requirement of this Chapter, the Lakewood Zoning Ordinance, Lakewood Subdivision Ordinance, or other applicable law;
 - 2. The applicant knowingly made a false statement or knowingly gave false information in connection with the application;
 - 3. The individual applicant, or a director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the lodging facility, has had a lodging facility license revoked or suspended within five (5) years prior to the application;
 - 4. The individual applicant, or a director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the lodging facility, has operated a lodging facility that was determined at any time to be a public nuisance.
- B. If the application is based upon the sale of an existing lodging facility, and if the existing lodging facility's CFS ratio is at or above 1.89 calls for service per room or the lodging facility has other compliance issues, the applicant must provide, as a prerequisite to being granted a license, a remedial plan to reduce the CFS ratio or resolve the other compliance issues. The applicant must reduce the CFS ratio or resolve the issues within 180 days after license is issued or be subject to license suspension or revocation.
- C. In the event the City Clerk approves a license application, the City Clerk shall make a written finding that the application conforms to the requirements of this Chapter based on the information available and the investigation performed by the City. The City Clerk may make additional findings as deemed necessary to identify the City Clerk's basis for approval.
- D. In the event the City Clerk denies a license application, the City Clerk shall prepare written findings of fact stating the reasons or basis for the denial. The City Clerk shall, within ten (10) days after the date of the City Clerk's denial, send a copy of the City Clerk's findings by certified mail, return receipt requested, to the address of the applicant.

- E. In the event the City Clerk denies a license application, the applicant shall have the right to request a public hearing before the Authority. The applicant shall, within ten (10) days of the date of the mailing of the City Clerk's written findings and denial of the license application, make a written request to the City Clerk for a hearing. The hearing shall be conducted within thirty (30) days of the City Clerk's receipt of the written request for a hearing unless a later date is requested by the applicant in writing. If the applicant fails to request a public hearing within the allotted time, the City Clerk's decision to deny a license application shall become final.

5.56.070 Hearings.

- A. Notice. When the Authority issues an order to show cause why a license should not be suspended or revoked, the Authority shall give the licensee reasonable advance notice of the time and place of the hearing, nature thereof, the authority and jurisdiction under which it is to be held and the violation(s) alleged in the complaint. The City Clerk shall mail such notice to the licensee by first-class mail and shall cause the notice to be served personally on the licensee at its last known address. At least ten (10) days prior to the hearing, the City Clerk shall prepare and post the licensed premises with a sign that contains notice of the hearing date, time and location.
- B. Hearing Procedure. The Authority shall establish procedures for all hearings in conformity with the laws of the state and ordinances and resolutions of the City.
- C. Subpoenas.
1. The Lakewood City Attorney's Office and the applicant shall have the power to issue subpoenas to require the presence of persons and the production of papers, books and records necessary to the determination of any hearing the Authority is authorized to conduct. It is unlawful for any person to fail to comply with any such properly issued subpoena.
 2. Subpoenas shall be served in accordance with the Colorado Rules of Civil Procedure.
 3. Upon failure of any witness to comply with such subpoena, the Lakewood City Attorney's Office may petition any judge of the Lakewood Municipal Court, setting forth that due notice had been given of the time and place of attendance of the witness and that service of the subpoena was proper, and requesting the court, after hearing evidence in support of or contrary to the petition, enter its order compelling the witness to attend and testify, or to produce books, records or other evidence, under penalty of punishment for contempt in the event of willful failure to comply with such order.
- D. Oaths. The City Clerk shall have the power to administer oaths.
- E. Continuance. The Authority may continue the hearing to a date certain as may be required to gather necessary facts and evidence and to permit witnesses to testify.

F. Decision. The Authority shall render a written decision and order no later than thirty (30) days after the conclusion of the show cause hearing.

G. Appeals. The Authority's order shall be a final decision and may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure § 106(a)(4).

5.56.080 License Revocation, Suspension or Nonrenewal.

A. The Authority may suspend, revoke or not renew a license upon a finding of one or more of the following:

1. The lodging facility has outstanding official orders from the Jefferson County Department of Health;
2. The lodging facility has outstanding official orders from West Metro Fire;
3. The calls for service ratio is at or above 1.89 or more calls for service per room for the previous twelve (12) month period;
4. A significant criminal act has occurred on the lodging facility's premises;
5. The operation of the lodging facility is such that it is or has negatively impacted the health, safety and/or welfare of its guests or the residents or businesses of the neighboring community;
6. The lodging facility is delinquent to the City for any taxes imposed pursuant to Lakewood Municipal Code Chapter 3.01 or 3.03;
7. An investigation performed by the City demonstrates or establishes that the lodging facility fails to conform to any requirement of this Chapter, the Lakewood Zoning Ordinance, Lakewood Subdivision Regulations, or other applicable law;
8. The applicant knowingly made a false statement or knowingly gave false information in connection with the application;
9. The City Clerk determines that the individual applicant, or a director or officer of a corporation, partner of a partnership, manager of a limited liability company or manager of the lodging facility, has had a lodging facility license revoked or suspended within five (5) years prior to the application;
10. The City Clerk determines that the individual applicant or a director or officer of a corporation, partner of a partnership, or manager of a limited liability company or manager of the lodging facility has operated a lodging facility that was determined to be a public nuisance.

B. If the Authority finds a licensee to be in violation of 5.56.070(A)(3), and if it is the licensee's first violation, the Authority shall place the licensee on a twelve (12)

month probationary period. The Authority shall impose mandatory restrictions on the licensee to help reduce criminal activity at the lodging facility.

5.56.090 Manager; Change.

- A. A registered manager shall be on the premises of a lodging facility at all times. A lodging facility may have more than one registered manager. It is unlawful for any person to work as a manager of a lodging facility without first registering with the City Clerk.
- B. In the event a licensee changes the manager of a lodging facility, the licensee shall immediately report such change and register the new manager, on forms provided by the City Clerk, within thirty (30) days of such change.

5.56.100 Transferability; Change of ownership.

- A. No license under this Chapter shall be transferable to another person or any other group acting as a unit.
- B. No license under this Chapter shall be transferred to another hotel name or franchise, or hotel location or building.

5.56.110 License renewal.

All license renewal applications shall be submitted to the City Clerk on the prescribed forms no later than forty-five (45) days prior to the date upon which the license expires, except that the City Clerk, for good cause, may waive the time requirement set forth herein. The forms shall be accompanied by all required fees and such additional materials as the City Clerk deems necessary. The City Clerk shall accept no renewal application that is not complete in every way. The City Clerk shall not grant any renewal unless the licensee has paid all applicable fees. The City Clerk may administratively approve and issue all license renewals. In the event the City Clerk fails to approve a renewal application, it shall be set for a public hearing before the Authority.

5.56.120 Severability

Should any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or application thereof to any person or circumstance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Chapter, or its application to any other person or circumstance, and to this end, the provisions of this Chapter are declared to be severable.

SECTION 3. Effective Date. This ordinance shall take effect thirty (30) days after final publication.

SECTION 4. This ordinance shall be reviewed by the City Council beginning three (3) years after its effective date and every three (3) years thereafter.

I hereby attest and certify that the within and foregoing ordinance was introduced and read on first reading at a regular meeting of the Lakewood City Council on the 11th day of February, 2019; published by title in the Denver Post and in full on the City of Lakewood's website, www.lakewood.org, on the 14th day of February, 2019; set for public hearing to be held on the 25th day of February, 2019; read, finally passed and adopted by the City Council on the 25th day of February, 2019; and signed by the Mayor on the 26th day of February, 2019.



Adam Paul, Mayor

ATTEST:

Margy Green, City Clerk

APPROVED AS TO FORM:

Timothy P. Cox, City Attorney