

# CITY COUNCIL COMMUNICATION



**MEETING DATE:** May 18, 2021

**ITEM NUMBER:** 5.B

**SECOND READING:**

{{customfields.ResoOrdNumber}}

**TYPE OF ITEM:** General Business

**PRESENTED BY:**

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**SUBJECT/AGENDA TITLE:**

Short Term Rental Regulations

**EXECUTIVE SUMMARY:**

Council has given direction on several aspects of short term rental regulations over the course of three council meetings (see attached minutes). Staff is providing additional information on the few remaining issues including verification of LLC information, accessory dwelling units as short term rentals and parking requirements, which were discussed at the January 26<sup>th</sup> Council meeting. Staff plans to bring back a revised ordinance in June for consideration.

**COUNCIL OPTIONS:**

Provide any additional policy direction for inclusion in the revised ordinance.

**RECOMMENDED OPTIONS:**

Direct staff to move forward with a revised ordinance reflective of Council direction.

**FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:**

Ongoing resources for a third party to identify short-term rentals: \$6,000 per year.

Annual cost of a STR license is \$100.

**BACKGROUND AND ISSUE ANALYSIS:**

The licensing program began in January 2019. Current program statistics:

- 112 Licenses have been issued
- Host Compliance (contract service provider) tracks and reports monthly advertising of short term rentals on over 40 web sites.
- Based on monthly information provided by Host Compliance, staff routinely sends notices to any unlicensed STR's seeking compliance through proper licensing.

Council discussed a variety of topics in three separate meetings. Staff would like to clarify council direction, answer any questions Council may have and move forward with a revised ordinance for consideration in June.

## **Restriction of STR's to "natural persons"**

Owner occupied STR's are currently allowed by code to have a license under an ownership structure of an LLC or a trust. Council requested additional direction from the City Attorney's office with regard to both trusts and natural persons. Staff will be revising the short term rental license to include an affidavit to assist in confirming ownership for short term rentals. Staff will also be verifying all information via the Secretary of State website, which provides extensive detail on any registered LLC.

## **ADU's as STR's**

At the January 26<sup>th</sup>, 2021 council meeting, council voted (4-3) to remove ADU's from the short term rental regulations. Currently, 19 licensed short term rentals are also ADU's. 15 of these are located in Prospect, where they are permitted as part of the overall PUD. Any change in the ordinance will not affect what is allowed by right in Prospect.

Elimination of ADU's from the Short Term Rental ordinance will result in four (4) short term rentals becoming non-conforming uses. Non-conforming uses are regulated in Section 15.08 of the Land Development Code. It is the City's general policy to allow non-conforming uses to continue to exist and be productive. The code does place restrictions on the expansion of non-conforming uses. This section of the code will be used to determine the disposition of the 4 ADU's currently licensed as short term rentals.

## **Parking Requirements**

The Land Development Code requires parking for residential uses as depicted in the table below. The code does not differentiate between rental and home ownership in terms of parking requirements, nor does it have separate parking requirements for short term rentals. Staff is not suggesting any changes to the code related to parking requirements as those are covered by the existing parking requirements.

Co-housing (new)	1.5 per dwelling unit
Dwelling, single-family attached	2 per dwelling unit
Dwelling, single-family detached	2 per dwelling unit
Accessory dwelling unit	Minimum 1 space; maximum 2 spaces
Dwelling, live/work	1.5 per dwelling unit plus work area calculated by applicable nonresidential use

Dwelling, multifamily (includes ¼ space per unit for visitor parking)	Efficiency or One Bedroom: 1.75 per unit Two Bedrooms: 2 per unit Three Bedrooms: 2.25 per unit Four Bedrooms and above: 3 per unit
Mobile home park or subdivision	2 per mobile home unit

## **Conditional Use Approval**

Council had questions at the January 26<sup>th</sup> meeting regarding multiple STR's on any street or block face. The code currently requires that any application made which results in more than one STR on a block face requires approval by the Planning and Zoning Commission. The intent of the regulation was to limit the number of short term rentals on any street or block. This is a fairly common code limitation in other communities. To date no conditional use approvals have been sought or granted. The general nature of suggested conditions noted below (excerpt from the CUSP criteria), does not limit the Planning Commission from imposing more stringent conditions on a STR to ensure neighborhood concerns are addressed.

*As with other types of application, the decision-making body may impose conditions on a proposed conditional use to ensure compatibility and to ensure that potential adverse impacts on surrounding uses, properties, public health or safety, the environment, or the district will be substantially mitigated. Conditions may include, but are not limited to, measures addressing the amount or location of secondary uses, outdoor activity or storage; location on a site of activities that generate noise, odor, vibration, glare, or other adverse impacts; location of buildings or structures generally; and hours of operation and deliveries.*

## **Residency requirements and address verification for applicants**

Staff reviewed several other Colorado communities to look at best practices for more stringent requirements for applicants. The following requirements were presented to Council at the January 26<sup>th</sup> meeting and Council concurred with the changes as suggested.

A valid Colorado driver's license or state ID **and** at least two of the following:

- Proof of valid motor vehicle registration
- Proof of voter registration
- Federal or state tax returns or other financial documentation
- Utility bill
- Any other legal documentation deemed sufficient by the director

Staff will be implementing an affidavit for STR's, updated and signed by the licensee annually which will require the owner/operator to attest to their compliance, ownership and residency.

## **Enforcement: Standard Operating Procedures**

Council had questions regarding enforcement of the current ordinance. Standard operating procedures are outlined below:

Code Enforcement (CE) provides a notice of violation to the property owner with the goal of achieving voluntary compliance. If a violator refuses or fails to correct a violation within a reasonable time, CE can currently issue civil penalties or municipal summons to court (criminal charges).

- First fine is \$100, second within twelve months is \$200, every subsequent fine after that is \$500
- Fines go as liens against the properties where real property is involved

Examples of violations in STRs that could result in penalties under the current Code (to date no licensed STR has received a summons or fine).

- Renting to more guests than are permitted
- Utilizing unsafe areas as sleeping space
- Not meeting residency requirements
- Violating any other specific provisions of the LMC

Noise and party houses

- The most likely violations in these cases would be for loud groups of people, amplified sound, and illegal drug and alcohol use.
- Currently, neighbors are advised to report these violations to the Police Department when they are occurring.
- Tickets would be issued to the guests committing the violation (at PD's discretion) not the STR operator.

## **Revocation**

Staff suggested the following changes at the January 26<sup>th</sup> Council meeting and Council concurred.

Potential criteria for revocation to be added to the ordinance:

1. Evidence of non-compliance with any of the permit review criteria.
2. STR has created a pattern of nuisance behavior that would negatively affect the welfare of the neighborhood.

Suggested procedural process for revocation:

Code enforcement will investigate any report of chronic problems with nuisance violations stemming from the operation of a STR. That investigation will entail:

1. A request for all calls for service and relevant reports from Police records.

2. If records show there have been three (3) sustained noise or other nuisance complaints within a three month period or seven (7) within the past year, a warning notice will be sent to the owner.
3. Warning will provide notice that one (1) additional violation would result in revocation of the STR license.
4. If an additional violation occurs, staff will then send a letter revoking the permit and requiring the operator to cease and desist within 30 days.
5. An appeal process will be required. An administrative hearing officer or the Planning and Zoning Commission will decide any appeal.
6. Once revoked, the operator will not be able to reapply for a full year.

### **Investment Properties**

Council passed a motion 5-2 on November 17<sup>th</sup> 2020 to direct staff to continue to allow investment STR's in the City. Currently there are 16 Short Term Rentals licensed that are investment properties owned by Longmont residents.

### **ATTACHMENTS:**

1. Council minutes from July 14, 2020
2. Council minutes from November 17, 2020
3. Council minutes from January 26<sup>th</sup>, 2021