

SUBJECT FOR DISCUSSION

Ordinance No.

EXECUTIVE SUMMARY

The purpose of this item is to codify regulations addressing existing short-term rental (STR) licenses in multi-family buildings, to decriminalize short-term rental offenses, and to clarify that the thirty-day limit in Section 15-646 was intended to be calendar days.

These actions come after multiple work sessions and outreach.

STAFF RECOMMENDATION

Staff recommends adoption of the ordinances.

BACKGROUND/DISCUSSION

Between 2015-2017, the City, Council, and the community went through a multi-year process to develop a regulatory framework and licensing program for STRs (rentals of less than 30-days.) At the time, due to the popularity of online sites such as Airbnb and VRBO, STRs were on the rise and there was concern from residents for neighborhood quality issues and concern from the hospitality industry for an even playing field in terms of taxes paid.

Through the outreach and policy development process a customized licensing framework was created based on the community needs and desires. This framework includes:

- Delineating between Primary and Non-Primary STRs.
 - Owners must live in a home at least 9 months of the year to have a Primary STR.
 - Owners do not need to live in a Non-Primary STR.
- Limiting both STR types by zone and prohibiting the use in any low-density residential neighborhoods.
 - Primary STRs are allowed in zones that already allowed small (6-beds or less) Bed & Breakfasts.
 - Non-Primary STRs are allowed in zones that allow hotels, motels, and B & Bs of any size.
- Requiring STR, sales tax, and lodging tax licenses.
 - The STR license is \$150 with an annual \$100 renewal fee.
 - Sales and Lodging tax licenses are free.
- Restricting STR licenses to owners-only (no tenants.)
- Requiring a self-certify safety checklist.
- A grandfathering protocol was also developed to allow those properties that had been utilized prior to the adoption of regulations to be licensed.
- Staff also developed an enforcement program that includes:
 - Utilizing Host Compliance, a vendor that scrubs over 20 on-line listing sites to help identify addresses and send notifications.
 - A part-time hourly position in zoning assists with notification, research, and appeals. Existing Code Compliance staff are utilized for field investigations and serving violations. Existing sales tax staff process applications.

The STR licensing program has been in full operation since November 2017.

Licensed STR numbers in July 2019 show:

Total Licenses: 400/ 213 grandfathered

Primary STR: 239/ 99 grandfathered

Non-Primary STR: 161/ 114 grandfathered

Multifamily Concern

The STR licensing framework addresses tax collection, limitations through zoning, and basic safety assurances. However, it does not incorporate Building and Fire codes specific to buildings that have three or more dwelling units including typical triplexes, 4-plexes, condos, and apartments. These codes do NOT include property-line townhomes or duplexes.

When considering these types of buildings, the Building Department and Poudre Fire Authority utilize the International Building Code (IBC) which categorizes these buildings into two types of “occupancies”:

- R-1 Occupancy Buildings: These are hotel/motel type buildings that have transitory occupancy defined as less than 30-days.
- R-2 Occupancy Buildings: These are multifamily buildings (condos/apartments) where residents are non-transitory (more than 30-days.)

Each of these occupancies have specific code requirements with the R-1 (transient dwellings) requiring additional safety standards since transient occupants are likely to be less familiar with the building layout and emergency safety measures than permanent residents. More stringent standards include fire safety (fire sprinkler systems and alarms), egress signage and lighting, accessibility standards, etc.

Based on Council direction at work sessions, STR licenses will only be allowed in R1 multifamily buildings going forward.

The City has 60 STR licenses in multifamily buildings that are subject to an R-1 occupancy. Since the previous work session, Building and Fire Authority staff have inspected 36 of these units to better gauge building safety features and to inform the ordinance language to allow continued STR operation of these units. Sprinklered units were not inspected and may continue as is (18 units.)

The ordinance proposes:

- Units on 1st and 2nd floors will require direct exits to the outside, adequate fire separation ratings, and adequate egress windows
- Units 3 stories and above with corridor exiting will require adequate fire rated corridor exiting, fire alarm systems, fire rated doors and egress windows

Of the units inspected the majority meet the new requirements. Three units are on 3rd floors and will need to achieve either a fire alarm system (2) or a fire rated corridor (2.)

Ten units are in need of adequate egress windows. Staff has researched these buildings (1950-60 era) and cannot find documentation or reasoning as to why inadequate egress windows were allowed.

The recommended ordinance proposes those units needing additional safety modification have until the next license renewal period (June 30, 2020) to comply. Compliance will be verified by inspection. If units do not meet the requirements the license will not be renewed.

Those units that were not inspected during our outreach efforts will be required to have an inspection prior to license renewal to ensure all requirements are met.

The STR licenses that are allowed to continue will not be transferrable and will not be renewable following the sale of the unit or any lapse in licensing.

Decriminalization

Staff has requested, and the Ordinance proposes, decriminalizing STR offenses. Although there have been few violations served, having to serve in person is resource intensive. If made to be a civil offense, a non-compliant property can be issued a citation immediately (following notification and opportunity to correct.) The enforcement officer can issue a citation instantly via posting at the property and mailing a copy out same day, without the need to attempt personal service at the property (or the owner's residence, or the owners place of employment, etc.) sometimes multiple times before either A) finally making contact or B) establishing sufficient reasonable efforts to serve in person prior to issuing summons via certified mail. This process would also bypass the need to utilize Police Service's time and resources to obtain identifier info when personal service isn't possible.

Additionally, the civil fine structure allows for significant monetary penalties to be issued by the enforcement officer (in lieu of issuing a summons to court where the fine is set, if at all). Issuance of a civil citation carrying a substantial fine is generally effective at attaining cooperation/compliance.

Section 15-646 Thirty Day Limit

Section 15-646(e) allows a new property owner of a licensed STR that existed prior to the City Code STR regulations thirty days in which to apply for a license to continue STR rental activity. The change clarifies the original intent that the thirty days are calendar days, not business days.

Outreach

Staff has been in contact with STR license holders and the public through meetings, emails, and the fcgov.com website throughout this process.

In the latest contact with license holders, staff shared that there was some desire to limit the number of guests (advertised). Generally, there was support of 2 per bedroom plus an additional two as being reasonable. There was some disagreement to a number cap solving any potential or specific issues. In a review of our local licenses

In a review of listings:

- 34 listings offer room for 10 or more guests
- 18 of these advertise more than 2 per bedroom plus 2