

AGENDA ITEM SUMMARY

September 3, 2019

City Council

STAFF

Ginny Sawyer, Policy and Project Manager
Chris Van Hall, Legal

SUBJECT

Second Reading of Ordinance No. 108, 2019, Amending Article XVII, Section 15 of the Code of the City of Fort Collins Relating to Short Term Rentals.

EXECUTIVE SUMMARY

This Ordinance, adopted on First Reading on August 20, 2019, by a vote of 5-2 (Nays: Pignataro, Summers) codifies 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 Ordinance on Second Reading.

ATTACHMENTS

1. First Reading Agenda Item Summary, August 20, 2019 (w/o attachments) (PDF)
2. Ordinance No. 108, 2019 (PDF)

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SUBJECT

First Reading of Ordinance No. 108, 2019, Amending Article XVII, Section 15 of the Code of the City of Fort Collins Relating to Short Term Rentals.

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 Ordinance on First Reading.

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 specifically address the Building and Fire codes specific to buildings that have three or more dwelling units including typical triplexes, 4-plexes, condos, and apartments. These requirements are different then when applied to property-line townhomes or duplexes.

When considering multi-family 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 include 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, and accessibility standards.

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 they currently exist because they are 18 units.

The Ordinance provides:

- Units on first and second floors will require direct exits to the outside, adequate fire separation ratings, and adequate egress windows
- Units three 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 third 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 through the end of the current license term will not be transferrable and will not be renewable following the sale of the unit or any lapse in licensing.

Decriminalization

Upon further analysis and review of the STR enforcement process, procedure around service of criminal summons vs. civil citation has been clarified and updated. Therefore, staff is no longer recommending decriminalization of the ordinance at this time.

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 local listings:

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

ATTACHMENTS

1. Powerpoint presentation (PDF)

ORDINANCE NO. 108, 2019
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING ARTICLE XVIII, SECTION 15 OF THE CODE OF THE
CITY OF FORT COLLINS RELATING TO SHORT TERM RENTALS

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, 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, there are a number of existing Short Term Rentals operating in multi-family buildings within the City, which raises issues about what sanitation, mechanical, electrical, structural, and fire safety requirements should be used to review these particular Short Term Rentals; and

WHEREAS, City Council wishes to amend the current Short Term Rental regulations in order to specify which sanitation, mechanical, electrical, structural, and fire safety requirements apply to Short Term Rentals operating in multi-family buildings and to provide an alternative method for currently existing Short Term Rental operating in multi-family buildings to meet current fire safety requirements; and

WHEREAS, Council also wishes to make other amendments to the Short Term Rental regulations to change a violation of these regulations to a civil infraction and to make other appropriate edits; and

WHEREAS, these restrictions, requirements and regulations are in the public’s interest and protect the health, safety and welfare of City residents and of individuals staying in a Short Term Rental within the City.

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 two new definitions are hereby added to Section 15-641 of the Code of the City of Fort Collins, which new definitions shall read in their entirety as follows:

Multi-family dwelling unit shall mean a dwelling unit that is located in a structure that is zoned for multi-family use.

R-1 Occupancy Building shall have the same meaning as the most recent *International Building Code* adopted by the City of Fort Collins.

Section 3. That the definition “*Short term non-primary rental*” contained in Section 15-641 of the Code of the City of Fort Collins is hereby amended to read as follows:

Short term non-primary rental shall mean a dwelling unit that is not a primary residence and that is leased, in part or in whole, to one (1) party at a time for periods of less than thirty (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.

Section 4. That Section 15-642 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-642. License required.

No person may lease to any person, or use, any dwelling unit 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.

Section 5. That Section 15-644 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-644. 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.

...

(4) The property must conform to, and the applicant shall certify that the dwelling unit proposed to be licensed as a short term rental complies with, applicable 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 § 15-651. 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 maintain and 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 § 15-651.

...

(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.

...

(4) The property must conform to, and the applicant shall certify that the dwelling unit proposed to be licensed as a short term rental complies with, applicable 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 § 15-651. 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 maintain and 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 § 15-651.

...

Section 6. That Section 15-646 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-646. Licensing of short term primary and non-primary rentals existing prior to Land Use Code restrictions.

...

(e) Should ownership of a dwelling unit licensed pursuant to § 15-646 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 (30) calendar 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 § 15-646 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.

...

Section 7. That Section 15-647 of the Code of the City of Fort Collins hereby amended to read as follows:

Sec. 15-647. Term of license and renewal.

...

(d) A short term primary or non-primary rental shall only operate in a multi-family dwelling unit if the entire multi-family structure meets all sanitation, mechanical, electrical, structural, and fire safety requirements applicable to an R-1 Occupancy Building.

(e) A short term primary or non-primary rental licensed prior to September 13, 2019, that operates in a multi-family dwelling unit may continue to operate under and for the current terms of such license if it meets the requirements in § 15-648(4) and continues to comply with all other applicable requirements, and if the license has not lapsed for more than thirty (30) days.

If the owner of a short term primary or non-primary rental operating in a multifamily dwelling unit that is licensed prior to September 13, 2019, sells or otherwise transfers the multifamily dwelling unit, then the short term rental license shall expire at the time of sale or transfer unless the entire multi-family structure where the multifamily dwelling unit is located meets the R-1 Occupancy Building requirements in this § 15-647.

Section 8. That Section 15-648 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 15-648. 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 § 15-649:

...

(4) The licensee shall maintain compliance with all sanitation, mechanical, electrical, structural, and fire safety requirements described in § 15-644. As a condition of renewal for the year 2020 and subsequent years, a short term primary or non-primary rental licensed in a multi-family dwelling unit prior to September 13, 2019, may only continue to operate as a short term rental if the Building Official determines that the dwelling unit meets the following alternate minimum fire resistance and safety requirements applicable to an R-1 Occupancy, as those terms are defined by the *International Building Code*:

(a) The dwelling unit is sprinkled and has egress windows that are not less than the equivalent fire resistance and safety requirements prescribed by the *International Building Code*;

(b) The dwelling unit is on the first or second story of the building, has direct exits to the outside, fire separation ratings and egress windows that are not less than the equivalent fire resistance and safety requirements prescribed by the *International Building Code*; or

(c) The dwelling unit is located above the second story of a building and has fire rated corridor exiting, fire alarm systems, fire rated doors and egress windows that are not less

than the equivalent fire resistance and safety requirements prescribed by the *International Building Code*.

...

Introduced, considered favorably on first reading, and ordered published this 20th day of August, A.D. 2019, and to be presented for final passage on the 3rd day of September, A.D. 2019.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 3rd day of September, A.D. 2019.

Mayor

ATTEST:

City Clerk