City Council Work Session
May 28, 2019
6:00 PM

• CALL TO ORDER.

1. Short-Term Rental Regulations and Building and Fire Codes. (staff: Jeff Mihelich, Ginny Sawyer, Noah Beals, 15 minute presentation; 1 hour discussion)

   The purpose of this item is to inform and update Council of conflicting code requirements that impact short-term rentals (STRs) in multifamily buildings and to present potential options to resolve the conflicts both in the future and for existing STR licenses. This will be divided into two discussions.

• OTHER BUSINESS.

• ADJOURNMENT.
SUBJECT FOR DISCUSSION

Short-Term Rental Regulations and Building and Fire Codes.

EXECUTIVE SUMMARY

The purpose of this item is to inform and update Council of conflicting code requirements that impact short-term rentals (STRs) in multifamily buildings and to present potential options to resolve the conflicts both in the future and for existing STR licenses. This will be divided into two discussions.

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

1. How would Council like to address existing STRs in multifamily buildings?
2. How would Council like to address STRs in multifamily buildings going forward?

BACKGROUND / DISCUSSION

Between 2015 and 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 a more even playing field in terms of taxes paid.

Through the outreach and policy development process, a customized 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 (B& Bs).
  - 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 online 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 May 2019 show:

- Total Licenses: 390/215 grandfathered.
- Primary STR: 229/101 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.

<table>
<thead>
<tr>
<th>IBC Categories</th>
<th>R-1: Transitory</th>
<th>R-2: Non-Transitory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boarding Houses (transient) with more than 10 occupants.</td>
<td>Apartments Boarding Houses (non-transient).</td>
<td></td>
</tr>
<tr>
<td>Congregant living facilities (transient) with more than 10 occupants.</td>
<td>Convents &amp; Monasteries Dormitories Fraternities &amp; Sororities.</td>
<td></td>
</tr>
<tr>
<td>Hotels (transient) Motels (transient).</td>
<td>Hotels/Motels (non-transient).</td>
<td></td>
</tr>
<tr>
<td>Vacation timeshare properties.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Under the existing Building and Fire codes, it is possible that one unit in a multifamily building operating an STR triggers the entire building to change occupancy (from an R-2 to an R-1.) Changing occupancies requires the building to be modified with a building permit and to meet the new code requirements required for that occupancy. This process and the required modifications can be costly and/or unachievable for many existing buildings.

The City has 60 STR licenses in multifamily buildings that would currently be subject to an R-1 occupancy. Since this issue came to light no STR licenses have been issued in multifamily buildings.

It is possible that in the next few years the IBC will address STRs in a less restrictive manner than the current R-1 requirements. In 2018, a draft proposal was brought to the IBC. Although the proposal was not adopted, staff has based some recommendations option on that framework.
Discussion One: Options to Address Existing STR Licenses in Multifamily Building

As stated earlier, there are currently 60 STR licenses that are in multifamily buildings and impacted by any changes. Options to address include:

1. Grandfather them as is.
   - Allow them to remain as long as license stays current.
   - Once license is not current (sale or non-renewal) license is done.

2. Grandfather with conditions.
   - Non-fire sprinklered buildings would be required to meet certain conditions and could then remain until the license is not current. Example of conditions:
     ▪ Fire Alarm
     ▪ Direct exit out
     ▪ 1-hour wall/floor separations
     ▪ Bedroom egress windows
     ▪ Egress lighting
     ▪ Exit sign
     ▪ Smoke/CO alarms
   - In fire sprinklered buildings, the conditions above would be not be required and the STRs could remain until the license is no longer current.

3. Require all to meet the R-1 standards or cease operating.
   - Recommended time frame is June 30, 2020 (next renewal cycle.)

Option 2 is demonstrated below.

<table>
<thead>
<tr>
<th>Fire Sprinkler</th>
<th>No Fire Sprinkler</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allow to continue and reduce through attrition (non-renewal)</td>
<td>Must meet conditions to continue and then reduce through attrition (non-renewal)</td>
</tr>
</tbody>
</table>

Discussion Two: Options to Address all Future STRs in Multifamily Buildings

Option A: Implement IBC Codes as written

This option would prohibit STRs in any multifamily building that is not built or upgraded to full R-1 standards.

Option B: 25% Threshold in Fire Sprinklered Buildings

This option looks at multifamily buildings as a whole. If the primary use of a building is non-transitory (30 days or longer residents) the building could remain at the R-2 occupancy level. Rather than consider 49% or 50% of units (which is what the draft to the IBC proposed) a more conservative 25% of the units as STRs is being proposed to stay under the requirement for any change. Triplexes would be allowed one STR unit.

Outreach

Prior to the March 26, 2019 Council work session, staff held meetings with various stakeholders.

Staff met with some of the major apartment/condo developers in town to discuss concerns and options. There was support for a 25% STR model. This group also recommended outreach and education to local architects.

Meetings were also held for existing STR license holders. For those not impacted (not in multifamily) there were generally no strong feelings and an understanding of the rationale. For license holders and property owners that would be subject to either a reduction in number of STR licenses at a property or a change of occupancy to R1 standards there was great concern and numerous questions regarding the cost of compliance, timeframe to comply, and questions as to whether grandfathering would be an option.
There was also a general informational meeting open to the public. Participants strongly favored compliance with the existing R1 standards.

The Building Review Board discussed this on February 28, 2019 and supported the 25% option.

Next Steps

- Conduct additional outreach based on Council direction.
- Schedule item at a regular meeting.

ATTACHMENTS

1. PowerPoint Presentation  (PDF)
Direction Sought

1. How would Council like to address existing STRs in multifamily buildings?

2. How would Council like to address STRs in multifamily buildings going forward?
Background: STR 2015-2017

Primary & Non-Primary
Zoning restrictions
Sales & Lodging tax
Owners only
Parking requirements

Safety checklist
Local contact
Grandfathering mechanism
Host Compliance
Primary STR Zoning

- Urban estate (UE)
- Low Density Mixed-Use Neighborhood (LMN)
- Medium Density Mixed-Use Neighborhood (MMN)
- High Density Mixed-Use Neighborhood (HMN)
- Neighborhood Conservation, Medium Density (NCM)
- Neighborhood Conservation, Buffer (NCB)
- Downtown - Old City Center (DOC)
- Downtown - Canyon Avenue (DCA)
- Downtown - Civic Center (DCC)
- River Downtown Redevelopment (RDR)
- Community Commercial (CC)
- Community Commercial - North College (CCN)
- Community Commercial - River (CCR)
- General Commercial (CG)
- General Commercial - I-25/SH 392 Corridor Activity Center (cac CG)
- Service Commercial (CS)
- Limited Commercial (CL)
- Harmony Corridor (HC)
- Employment (E)
- Industrial (I)
Non-Primary STR

- Downtown - Old City Center (DOC)
- Downtown - Canyon Avenue (DCA)
- Downtown - Civic Center (DCC)
- River Downtown Redevelopment (RDR)
- Community Commercial (CC)
- Community Commercial - North College (CCN)
- Community Commercial - River (CCR)
- General Commercial (CG)
- General Commercial - I-25/SH 392 Corridor Activity Center (cac CG)
- Service Commercial (CS)
- Limited Commercial (CL)
- Harmony Corridor (HC)
- Employment (E)
**Current Activity**

Total Licenses: 390  
Primary: 229  
Non-Primary: 161

2018 Sales and Lodging Tax:

<table>
<thead>
<tr>
<th>Type</th>
<th>Taxes Paid</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LODGING</strong></td>
<td></td>
</tr>
<tr>
<td>Non-Short Term Rental</td>
<td>1,652,787</td>
</tr>
<tr>
<td>Short Term Rental</td>
<td>140,906</td>
</tr>
<tr>
<td><strong>SALES</strong></td>
<td></td>
</tr>
<tr>
<td>Non-Short Term Rental</td>
<td>2,543,294</td>
</tr>
<tr>
<td>Short Term Rental</td>
<td>180,504</td>
</tr>
<tr>
<td><strong>GRAND TOTAL</strong></td>
<td>4,680,365</td>
</tr>
</tbody>
</table>
1. How would Council like to address existing STRs in multifamily buildings?
International Building Code (IBC) Occupancies

Occupancy Definitions
Buildings with 3 or more dwelling units

R1: Transient dwellings
- Less than 30-day stays
- Typically hotels/motels
- Transient boarding houses with more than 10 occupants

R2: Non-transient dwellings
- 30 days or more
- Typically apartments/condos
- Fraternities/sororities/dorms
- Extended stay motels
- Vacation timeshares

Does not apply to single-family homes, duplexes, or property line townhomes
A change of occupancy is required when changing an “occupancy” such as R-2 to R-1 (Non-transient to transient dwelling).

Requirements:
• Building modified with a building permit
• Meet R-1 and all new code requirements
R1- Code Requirements Include (partial list)

- Fire sprinkler system
- Fire alarm
- Smoke and CO alarms (in units & corridors)
- Visible alarms
- Exit signage
- 1-hour occupancy separations
- 1-hour walls and floors between units
- Accessible route to the unit. For units above or below the 1st floor this usually required a ramp/lift/elevator
• Updated every 3 years
• Draft proposal addressing STRs in 2018
  • Proposed maintaining R2 (long-term) status unless 50% or more of building was transitory
• Proposal failed - Majority of committee felt 50% was too high a concentration of transient occupants
• Likely to continue to see STR proposals
Addressing Existing STRs in MF

1. Grandfather as-is
2. Grandfather with conditions*
3. Require all to meet the R-1 standards or cease operating

Conditions for non-fire sprinklered buildings could include:

- Fire Alarm
- Direct exit out
- 1-hour separations
- Bedroom egress windows
- Egress lighting
- Exit sign
- Smoke/CO alarms
### Option 2

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Direction Sought-Discussion One

How would Council like to address existing STRs in multifamily buildings?

1. Grandfather as-is
2. Grandfather with conditions
3. Require all to meet the R-1 standards or cease operating
1. How would Council like to address STRs in multifamily buildings going forward?
Option A: Implement IBC Codes as written
Prohibit STRs in any multifamily building that is not built or upgraded to full R-1 standards.

Option B: 25% Threshold in Fire Sprinklered Buildings
Looks at multifamily buildings as a whole. If the primary use of a building is non-transitory (30-days or longer residents) the building could remain at the R-2 occupancy level. No more than 25% of all units could be STRs.
<table>
<thead>
<tr>
<th>Total Building Units</th>
<th>Allowable STRs at 25%</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>6</td>
<td>2</td>
</tr>
<tr>
<td>8</td>
<td>2</td>
</tr>
<tr>
<td>10</td>
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<tr>
<td>25</td>
<td>6</td>
</tr>
<tr>
<td>100</td>
<td>25</td>
</tr>
</tbody>
</table>
How would Council like to address STRs in multifamily buildings going forward?

a. Implement codes as currently written
b. 25% threshold in fire sprinklered buildings