

**Title**

Update on the short term vacation home rental program and permitting

**Presenter:**

Morgan Hester, Program Coordinator

Peter Wysocki, Director of Planning and Community Development

**Summary:**

Ordinance 18-112 established the short term rental program, specifically by adding language to sections of City Code Chapter 7, to define short term rental units as a new use and created the associated Short Term Rental Unit Permit.

This item is a mid-year update for the program regarding code enforcement issues, information on third party enforcement companies, statistics on issued permits, and suggested program changes.

**Previous Council Action:**

City Council approved the current short term rental ordinance on November 17, 2018, effective December 31, 2018.

**Background:**

Ordinance 18-112 (Figure 1) establishes the short term rental program that went into effect on January 2, 2019. Prior to the creation of the Ordinance, no regulations were in place regarding short term rentals. Many municipalities across the United States and Colorado have implemented policies to ensure the protection of the general public with use standards as the “sharing economy” of short term rentals on platforms such as Air B&B, VRBO, HomeAway, and similar companies continue to expand their services. As Colorado Springs is a major tourism destination, the trend was increasing and there was a recognized need for clear guidelines.

**Neighborhood Services (Code Enforcement)**

When the Short Term Rental program was implemented at the beginning of the year, Staff sent a letter to all residents and/or business owners with an active vacation home rental city sales tax license. The letter reminded those sales tax license holders that the new ordinance had gone into effect and included an overview of what was required to come into compliance. In order to apply for permit(s), the Short Term Rental website address was included in the letter which provides a downloadable application and checklist. Of the 340 letters that were sent -

- \* 237 now have an active Short Term Rental permit
- \* 59 still do not have a Short Term Rental permit
- \* 22 were returned – no known recipient
- \* 22 properties are no longer active Short Term Rentals, not within the City Limits, and/or changed ownership per conversations with City Staff.

Neighborhood Services has opened 142 City-initiated cases, organized by address, all of which are for properties that do not have a permit. The total includes follow-up for those 59 without a permit (as noted in the above list) and the remaining are from finding non-permitted listings on hosting platforms. Some of those licensees have communicated with Staff that they will acquire a Short Term Rental permit at a certain point during the year or have not been successfully contacted as the address on file is that of the rental property.

Neighborhood Services has received 28 resident complaints regarding Short Term Rentals since January 2, 2019. Some cases include more than one complaint or are duplicate complaints for the same property. Of the 28 cases, organized by address, five are still active. This is due to residents submitting complaints regarding the same properties. Neighborhood Services keeps these cases open in order to document the recurrence of issues as pursuant to Section 7.5.1707 'Permit Suspension or Revocation', renewal of a permit can be denied in the event multiple issues have occurred on a property. Figure 2 is a heat map showing the concentration of both City-initiated and citizen complaints.

The following details the types of resident complaints received by Neighborhood Services. Note that although Neighborhood Services has received 28 resident complaints, some of these complaints include more than one issue -

- \* Noise – 4
- \* Parking – 4
- \* Traffic – 1
- \*Trash – 0
- \* Number of people in unit – 1
- \* Zoning violation – 2 (violating limit to number of STRs on property)
- \* HOA covenant violation – 2
- \* Illegal activity – 2
- \* No permit – 24 (all have come into compliance and have active permits on file)

Noise, traffic, and parking are regulated by the Police Department, but when complaints regarding these situations come in, Neighborhood Services makes contact with the resident.

Staff has been regulating the number of people in a Short Term Rental in two ways – by enforcing the 'Family' definition and through occupancy regulations. If the individuals renting the home are unrelated, there shall be no more than five in one dwelling unit. If those renting the property are related, no more than 16 may reside in the dwelling unit. The maximum number of occupants (16) is regulated through Housing Code and can also be found in City Code, Section 6.12.303 'Space, Use, and Location' outlines the allowed square footage per person in a dwelling unit -

"A. Space Required: Every dwelling unit shall contain at least:

- 125 square feet \_ 1 person
- 200 square feet \_ 2 persons
- 275 square feet \_ 3 persons
- 350 square feet \_ 4 persons
- 425 square feet \_ 5 persons
- 500 square feet \_ 6 persons
- 560 square feet \_ 7 persons
- 620 square feet \_ 8 persons
- 680 square feet \_ 9 persons
- 740 square feet \_ 10 persons

and a minimum of forty (40) square feet for each additional person. The required floor space shall be calculated on the basis of total habitable room area. In no case shall more than eight hundred fifty (850) square feet be required for one family."

Due to the amount of confusion and calls Staff has received regarding these regulations, City Council may choose to amend the existing Short Term Rental Ordinance to clearly define

regulations as it is outside of Staff's bounds to enter a rental unit without a search warrant and difficult to regulate familial relationships.

Two complaints were received regarding too many Short Term Rentals on a property as a zoning violation. In these situations, Neighborhood Services found that the properties had active permits and were in complete compliance with all regulations.

For issues regarding HOA violations, Neighborhood Services will not administer regulations as municipalities typically are not involved in private covenant enforcement. In the event HOA regulations supersede City Ordinances, it is strictly the responsibility of the HOA to enforce their own covenants. If a violation is found, the HOA may file suit against the property owner and the matter would be handled between the two parties as a civil issue.

As a requirement per the Short Term Rental Ordinance, applicants must provide a 24-hour emergency contact number that can reach the property within an hour. This information is available online, through SpringsView, and can be searched by individual address. In the event a non-life threatening issue arises, residents are able to call the provided contact to remedy the situation.

#### Statistics

Short Term Rental statistics break down as follows as of May 28, 2019 (at the time this report was written) -

- \* Total permits issued – 679

- \* Air B&B Only permits – 331

At the end of the month, Staff creates two heat maps – one showing the total number of permits issued within the month and a second that shows the total number of permits since the program's inception. This information is provided on the Short Term Rental website for public viewing.

Zoning Breakdown of the top 3 Districts (Figure 3 shows all zoning districts) -

- \* R-2 – 235

- \* R1-6 – 163

- \* PUD – 99

Breakdown of the top 3 Zip Codes (Figure 4 shows all zip codes) -

- \* 80904 – 161

- \* 80903 – 106

- \* 80906 – 72

Characteristic of owner

- \* Primary Residence – 240

- \* Do not live at property – 413

- \* Travel part of the year – 26

Homeowner presence

- \* Present – 201

- \* Not present – 478

(Note – Many homeowners have stated that the rental is their primary residence but will not be present during the time of the rental. This can be attributed to various factors such as deployment, traveling professors/doctors, and/or homeowners that will vacate their property during the duration of a rental and will stay with a nearby friend or family member.)

## Management

\* Single owner – 471

\* Management company – 208

(Note – “Management company” not only means a company that is clearly in the business of managing Short Term Rental properties, ie – Hoste, but also includes realtors, and/or real estate companies, and/or individuals that are acting as the rental property’s local emergency contact whose primary residence is not the same address as the rental property. Due to not knowing the nature of all Short Term Rental permits and their management, this number is Staff’s best educated guess based on company names (if provided), email addresses, and conversations with applicants.)

## Rental Type

\* Whole House – 478

\* ADU (converted garage, cottage, mother-in-law suite) – 76

\* Room(s) – 125

## 3rd Party Enforcement Companies

City Staff has spoken with two of the larger third party enforcement companies – Hamari and STR Helper (formerly Host Compliance). Both companies focus on providing enforcement and monitoring services for municipalities.

STR Helper provides mobile permitting and registration, address identification, compliance and rental activity monitoring, and a 24/7 non-emergency complaint hotline. Figure 5 is STR Helper’s presentation in its entirety and provides more detail regarding fees and provided services.

Hamari largely provides the same services as STR Helper and Figure 6 provides a breakdown of those details as well as their proposed cost estimate.

## Pending permits

No applications have been denied, but many have been put on hold in anticipation of receiving missing information per the application checklist. There are currently 18 applications that are pending due to various reasons such as missing insurance, payment, or proof of rental listing. In a limited number of situation, some applications have been submitted for properties that may be legal non-conforming and the property owner must provide necessary information for an official Legal Non-Conforming Letter which will run with the property.

## Suggested Program/Ordinance Changes

For the most part, feedback has been largely positive regarding the Short Term Rental program. Applicants and residents have said that with the newly-imposed regulations, a standard has been set and those that may not have been running a safe rental are being weeded out.

Conversely, Staff has received feedback that there should be caps on the number of Short Term Rentals in the City, limits to the number of renters allowed, and that homeowners should be required to reside in the home during the duration of the rental period. Based on the number of cases Neighborhood Services has had to open based on their contact with residents, it could be argued that the low numbers do not warrant major changes to the existing Ordinance aside from potentially setting specific requirements regarding the number of occupants a rental unit is permitted.

During STR ordinance adoption hearings there was significant discussion about STRs’ impacts on property maintenance, neighborhood character and neighborhood vitality.

As to the property maintenance, City staff has not received or observed any evidence that STRs result in poor property maintenance or property disrepair.

The neighborhood character and vitality is a subjective topic. Staff continues to monitor the latest trends, research and case law surrounding STRs. As previously discussed with Council, there is not a “one size fits all” approach to STRs. Local regulations vary greatly depending on each community’s acceptance or observed problems with STRs.

**Financial Implications:**

N/A

**Board/Commission Recommendation:**

N/A

**Stakeholder Process:**

The creation of the Short Term Rental Ordinance involved multiple stakeholder meetings, including establishing a specific group of concerned citizens. Members of that group included: representative from Council of Neighbor Organizations (CONO), short term rental owners, Chamber and EDC, Patty Jewett HOA, Organization of Westside Neighbors, Pinecliff HOA, Colorado Springs Convention and Visitors Bureau, and City Council representatives.

Because no Code amendment is being proposed by Staff, stakeholder engagement comparable to when the Ordinance was created has not been necessary; however, Staff has met with various interest groups on the progress of the Short Term Rental program to provide updates as well as listen to their input on the process execution. Those groups include -

- \* Old North End
- \* Neighborhood Preservation Alliance
- \* Pikes Peak Association of Realtors
- \* CONO

**Alternatives:**

No motion is proposed with this item; however, if City Council feels the need to propose amendments to the existing ordinance that may be done at this time.

**Proposed Motion:**

N/A

**Summary of Ordinance Language**

N/A