



Legislation Text

File #: 19-425, **Version:** 4

Ordinance No. 19-82 amending Chapter 7 of the Code of the City of Colorado Springs pertaining to the occupancy of short term rental units

Presenter:

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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 (STR) Permit.

This item is addressing City Council requested Ordinance changes to occupancy and issued permit densities.

Previous Council Action:

City Council approved the current short term rental ordinance on November 17, 2018, effective December 31, 2018. Mid-year updates were provided at City Council work sessions and additional information was requested of Staff to be presented in the following months.

On October 22, 2019, the City Council approved the Short Term Rental Ordinance pertaining to occupancy specifying the overnight occupancy per dwelling unit be fifteen occupants. The motion passed by a vote of 8:0:1:0 with Councilor Williams absent.

Background:

Ordinance 18-112 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.

As follow-up from those work sessions, City Council has directed Staff to draft potential Ordinance amendments, specifically regarding potential Code amendments addressing occupancy and a permit density cap.

National Regulations

City Council directed Staff to research what regulations municipalities of similar size have in place specific to permit densities and occupancy. Based on research, the following information was found

for municipalities both within Colorado and across the nation -

- Manitou Springs, CO
 - Density Regulations - 500' buffer between STRs, measured from property line to property line. STR permits capped at 58 (no more than 2% of available residential structures). There has been discussion on potentially moving away for the 500' buffer as property owners in areas of higher densities feel that it impacts their properties more severely than those of lower densities.
 - Owner Occupancy Requirement? - Only if individual rooms are being rented does the owner need to reside on the property.
 - Maximum Occupancy - Mandated through the Housing Code.
- Fort Collins, CO
 - Density Regulations - No.
 - Owner Occupancy Requirement? - Delineate between a non-primary (not owner occupied) and a primary (owner occupied) rental. Each rental is allowed in certain zones. The zones where non-primary are allowed is much more restrictive than primary and is mostly confined to commercial zones.
 - Maximum Occupancy - No.
- Boulder, CO
 - Density Regulations - No.
 - Owner Occupancy Requirement? - Required to be primary residence (more than six months out of the year). Currently discussing this code for clarification regarding ownership being 50% in the property as historically we have been facing LLCs or Corporations placing 1% in an individual's name to meet ownership requirement. This was not the intent of our council to allow absentee owners to establish use as an income property in town.
 - Maximum Occupancy - Depending on the zoning district, up to three or four unrelated individuals are allowed to reside in the dwelling unit. All advertisements must contain the maximum allowed unrelated occupancy. In both zones, the occupancy could be a family + 2 unrelated individuals as a family counts as 1 person.
- Denver, CO
 - Density Regulations - No.
 - Owner Occupancy Requirement? - Required, but do not have to be present through the duration of the rental. Hosts are required to leave a brochure for guests that includes appropriate contact information and instructions on City services. A General Manager and/or Local Responsible Party must be provided as part of the license application. This person must be available to address issues with the STR when the owner is not present.
 - Maximum Occupancy - STR hosts have the ability to set their own guest maximums; however, per the Denver Zoning Code (DZC), STRs are accessory to primary residential use, meaning the overall character of the property should remain residential. The DZC also explicitly states that STRs do not include rental of a dwelling unit for commercial events, such as parties or weddings. Additionally, only one rental contract may be allowed at a time in any STR. Multiple rental contracts to separate parties in an STR are prohibited.
- Aurora, CO
 - Density Regulations - No.

- Owner Occupancy Requirement - Primary residency required, but they do not have to be on site at the time of the rental.
 - Maximum Occupancy - Refer to Building Code.
- Phoenix, AZ
 - Arizona cities/towns cannot restrict or prohibit vacation or short term rentals.
- Nashville, TN
 - Density Regulations - No.
 - Owner Occupancy Requirement - Non-owner occupied STRs are only permitted in certain non-residentially zoned areas.
 - Maximum Occupancy - Not to exceed twice the number of sleeping rooms, with a maximum of 12.
- Arlington, TX
 - Density Regulations - Must locate within the established STR Zone within the Entertainment Zoning District (encompassing amusement parks and sports stadiums).
 - Owner Occupancy Requirement - No, but need a local contact within 1-hour of property.
 - Maximum Occupancy - 2 per bedroom + 2, limited to 12. A floorplan of the dwelling unit is required to be submitted with the STR application.
- Austin, TX
 - Density Regulations - No.
 - Owner Occupancy Requirement
 - Type 1 - Owner-occupied
 - Type 2 (SF or duplex) or 3 (multi-family) - Not owner-occupied. Cap on the percentage of STRs allowed the legally operate in each Census tract of the City. Only permitted in commercial zoning districts.
 - Maximum Occupancy - Not more than 2 per bedroom + 2 additional adults may be present in an STR between 10:00pm and 7:00am, maximum of 10 adults at one time (unless a stricter limit applies) or 6 unrelated adults.
- El Paso, TX
 - No regulations in place.
- San Antonio, TX
 - Density Regulations
 - Type 1 (owner occupied) - No density regulations.
 - Type 2 (non-owner occupied) - up to 12.5% of the units on a block face, multi-family buildings with 5 to 7 units permitted to have one Type 2 STR permit, STR permits for multi-family buildings with 8+ units allowed for 12.5% of units.
 - Owner Occupancy Requirement - No.
 - Maximum Occupancy - Maximum number of persons defined by San Antonio Property Maintenance Code (references International Code Council). A floorplan of the dwelling unit is required to be submitted with the STR application.
- Sacramento, CA
 - Density Regulations - No.
 - Owner Occupancy Requirement - Two permit types - primary residence and non-primary. If a non-owner occupied property is utilized for STR, it cannot be rented for more than 90 days in a calendar year. After that time, a Conditional Use Permit is required. The non-owner occupied property must have a manager who resides within a

- 30-mile radius of the STR.
- Maximum Occupancy - 6 people, including infants and children.
- Atlanta, GA
 - No STR regulations in place.
- Miami-Dade County, FL
 - Currently in litigation between Air B&B and the City of Miami.

Occupancy

Staff has been regulating the number of people in a Short Term Rental in two ways - by enforcing the 'Family' definition per City Code Section 7.2.201 and through occupancy regulations found in the International Building and Residential Codes. If the individuals renting the home are unrelated, there shall be no more than five in one dwelling unit. The City Code Definition of family is:

FAMILY: As used in this Zoning Code, an individual, two (2) or more persons related by blood, marriage, adoption, or similar legal relationship, or a group of not more than five (5) persons who need not be so related, plus domestic staff employed for services on the premises, living together as a single housekeeping unit in one dwelling unit. The definition of "family" shall apply regardless of whether any member of such group receives outside services for mental, emotional, or physical disability.

Occupancy of a dwelling unit is regulated through Housing Code set forth in City Code Chapter 6, 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."

The Office of the Fire Marshal had determined the maximum occupancy of a dwelling unit to be 16 occupants. Fire and Building Codes evaluate and regulate how many people can be in a building, based on the type of occupancy that the building or space accommodates. A residential occupancy is further subdivided into various categories such as one- and two-family dwellings, hotels and motels, apartments, vacation timeshare properties, lodging houses, and residential board and care facilities.

While the International Residential Code (IRC) remains silent on the maximum number of occupants, there are multiple examples of how the range of sub-classifications of residential occupancies limits those numbers. This is based on a number of factors such as living space, sanitation, cooking and sleeping areas, as well as transient or permanent residency. Part of this relates to the familiarity of the building and how to get in and out, as well as privacy.

Numbers of occupants are most frequently cited as being limited to 16 or less, or more than 16, which typically drives more strenuous life-safety requirements in the latter case. While there can be extensive analysis on a case-by-case basis to evaluate square footage calculations along with total egress width capability and bathroom fixture counts, it is most practical to use a total occupancy count of 16 persons per one- and two-family dwellings. This remains consistent with the range of similar residential occupancies crossing the preponderance of their sub-classifications.

City Council directed Staff to amend the proposed maximum to 15 occupants as it was stated that 16 occupants was more in the category of a hotel, rather than a residential-type use. The draft Ordinance language for occupancy is as follows:

Section 7.5.1706(H) "Maximum overnight occupancy of a short term rental unit shall be limited to two (2) occupants per bedroom, plus an additional two (2) occupants per dwelling unit. The maximum overnight occupancy per dwelling unit shall be fifteen (15) occupants."

As an example, a permitted STR with three bedrooms could house 8 occupants through the duration of the rental period.

The proposed ordinance amendment incorporates the interpretation of the Building and Fire Codes, considers larger homes that may have bonus rooms, outside of bedrooms, that can be utilized as sleeping spaces, and helps establish "large gathering" limitations which are precluded in 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.

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
- Neighborhood Preservation Alliance
- Colorado Springs Short Term Rental Alliance
- Pikes Peak Association of Realtors

- CONO

Alternatives:

The Council may make changes to the proposed draft ordinance as deemed necessary

Refer the changes to the City Planning Commission for additional vetting and recommendation

Direct staff to schedule the proposed draft ordinance for first reading

Proposed Motion:

Adopt the Ordinance amending Chapter 7 (Planning, Development and Building) of City Code pertaining to the occupancy of short term rental units

Summary of Ordinance Language

An ordinance amending section 201 (Definitions Enumerated) of Part 2 (Definitions) of Article 2 (Basic Provisions, Definitions and Land Use Types and Classifications) and Part 17 (Short Term Rental Unit) of Article 5 (Administration and Procedures) of Chapter 7 (Planning, Development and Building) of the Code of the City of Colorado Springs 2001, as amended, pertaining to short term rental units and providing penalties for the violation thereof