



## Legislation Text

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**File #:** CPC CA 19-00137, **Version:** 6

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Ordinance No. 19-101 amending Section 201 (Definitions Enumerated) of Part 2 (Definitions) of Article 2 (Basic Provisions, Definitions and Land Use Types and Classifications) and Section 1704 (Short Term Rental Unit) of 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

**Presenter:**

Morgan Hester, Principal Planner

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 (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.

An occupancy maximum was presented on October 22, 2019 for first reading and was passed. The ordinance language reads 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 occupancy per dwelling unit shall be fifteen (15) occupants."

At the December 5, 2019 City Council meeting, Council voted 5-4 to approve the City Planning Commission's recommendation with an amendment to the number of days defining 'Owner Occupied' to 185 from 210. The motion captures the following -

- Define 'owner occupied' to mean that the owner will occupy the property 185 days
- Preclude any new STRs in R, R1-9000, and R1-6000 single-family zoning districts and single-family PUD zoning districts
- 500' buffer between new non-owner occupied STRs in all other zoning districts where permitted

### **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.

Mid-year updates, beginning in June 2019, were provided at City Council work sessions and additional information was requested of Staff to be presented in the following months. As follow-up from those work sessions, City Council directed Staff to draft potential Ordinance amendments, specifically regarding potential Code amendments addressing occupancy maximums and a non-owner occupied permit density cap.

### **Permit Statistics**

Per discussions that transpired at previous City Council meetings, Staff has been directed to draft language precluding any new non-owner occupied STRs in single-family zoning districts, specific to R, R1-9000, R1-6000, and single-family PUDs. At the time of this report, (December 5, 2019) 1,373 STR permits had been issued. Of those permits, 475 are in single-family zoning districts, specifically R, R1-9000, and R1-6000. Of those permits, additional information breaks down as follows -

#### Characteristic of Owner

- Primary residence - 267
- Do not live at property - 189
- Travel part of the year - 19

#### Homeowner Presence

- Owner present during rental - 196
- Owner NOT present during rental - 276

(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.)

Because statistics specific to PUDs intended for single-family developments were not noted through the duration of the STR Program, breaking down data specific to the category is more difficult to analyze. In the event an ordinance amendment passes precluding new non-owner occupied STRs in single-family districts, including single-family PUDs, this information will be tracked. For all PUD zoning districts, 201 permits have been issued, and additional information breaks down as follows -

#### Characteristic of Owner

- Primary residence - 116
- Do not live at property - 80
- Travel part of the year - 5

#### Homeowner Presence

- Owner present during rental - 119
- Owner NOT present during rental - 82

(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.)

In addition to precluding new non-owner occupied STRs in single-family zoning districts, Staff has been directed to draft language limiting non-owner occupied STRs in all other zoning districts with a 500' buffer separation. A definition of 'owner occupied' has been drafted to include in the definitions section of the STR ordinance.

Neighborhood Services provides the code enforcement backing for any issues that may come up regarding STRs. Since the adoption of the program, 73 calls for service have been received and 75 were confirmed violations. To break down further, of the 100 violations that were called in (some properties may have multiple complaints), those complaints include -

- No STR Permit - 56
- Vehicles/parking/traffic - 14
- Noise - 9
- Weeds or other blight - 6
- Criminal activity (ie - drugs) - 5
- HOA covenant violations - 3
- Multiple rentals on property - 3
- Too many people - 1
- Violation of STR Permit (renting RV for occupancy) - 1
- Zoning (residential not commercial) - 1
- Building permit not issued - 1

61 of those violations were closed for compliance and 14 individual violating conditions remain open.

### **Permit Density Cap**

At the November 12, 2019 City Council regular meeting, Staff was directed to draft ordinance options that clearly establish a definition of 'owner occupancy', including an active-duty military personnel exemption, and a density buffer for non-owner occupied properties. Three options were drafted and presented to the City Planning Commission at their November 21, 2019 meeting. The City Planning Commission came to a unanimous consensus to recommend a fourth option which includes a definition of 'owner occupied' to be no less than 210 days, precluding any new non-owner occupied STR in single-family zoning districts, and in all other zoning districts to limit non-owner occupied STRs to a 500' buffer separation. A military exemption has also been included in the language.

The draft definition of 'owner occupied' reads as follows -

Section 7.2.201 'Definitions Enumerated': OWNER OCCUPIED: the property is actually occupied by the owner for not less than two hundred and ten (210) days each year.

Regarding density limitations for non-owner occupied STRs in zoning districts that are not single-

family, draft language reads as follows -

Section 7.5.1704 (C) “No non-owner occupied short term rental unit shall be located within five hundred (500) feet of another non-owner occupied short term rental unit. The five hundred (500) foot separation measurement shall be made in a straight line without regard to intervening structures or objects from the nearest property line of the proposed short term rental unit to the nearest property line of another short term rental unit. Where an Owner Occupied short term rental unit is owned by an active duty military service member whose permanent duty station is within El Paso County, the Manager shall waive this requirement for the Owner for up to one (1) year if the service member receives orders to report to a temporary duty station outside of El Paso County.”

Proposed language for non-owner occupied STRs in single-family zoning districts, proposed language is as follows -

Section 7.5.1704 (D) “No non-owner occupied short term rental unit shall be located in R, R1-6000, or R1-9000 single-family zoning districts or single-family PUD zoning districts. Where an Owner Occupied short term rental unit is owned by an active duty military service member whose permanent duty station is within El Paso County, the Manager shall waive this requirement for the Owner for up to one (1) year if the service member receives orders to report to a temporary duty station outside of El Paso County.”

Upon discussion at the December 5, 2019 City Council meeting, Council upheld the City Planning Commission’s recommendation with an amendment to the ‘owner occupied’ definition to change the number of days from 210 to 185.

### **3<sup>rd</sup> Party Enforcement**

An RFQ (Request for Qualifications) was posted nationally in August with the intent of hiring a 3<sup>rd</sup> Party Enforcement Company to assist City Staff with identifying non-compliant properties. Host Compliance has been selected to provide this service and contract negotiations are currently in process.

### **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 the following -

- Old North End Neighborhood
- Neighborhood Preservation Alliance
- Colorado Springs Short Term Rental Alliance (COSSTRA)
- Pikes Peak Association of Realtors
- CONO

### Financial Implications:

N/A

### Board/Commission Recommendation:

At the November 21, 2019 City Planning Commission meeting, Staff presented the three options for their discussion and recommendation to City Council. After coming to a consensus on the three focuses, recommended changes to the draft ordinances to include (1) no more than one STR within a 500' buffer instead of the 5-lot separation between non-owner occupied STRs, (2) amend the definition of 'Owner Occupied' to occupying the property for not less than 210 days instead of 180 days and to include the military exemption, and (3) prohibit non-owner occupied STRs in single-family zoning districts without the option of a quasi-conditional use request. This has been drafted into the ordinance referenced as Option D.

The recommendation for a 500' buffer between non-owner occupied STRs rather than a 5-lot separation between non-owner occupied STRs was due to the potential for confusion specific to subjectivity and different reviewers counting lots differently. The consensus was that a 500' buffer would be more objective and more clear for applicants and Staff.

Regarding the number of days an individual must reside at a property, Commissioners were concerned about some being able to claim two properties as owner occupied, thus proposing the number of days to 210.

While prohibiting non-owner occupied STRs in single-family zoning districts was supported, requiring applicants go through the quasi-Conditional Use process and thus a public hearing was not. This was due to the concerns regarding the increase in work load for both Staff and the City Planning Commission for the number of applications that may come in.

### Alternatives:

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

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

Approve the proposed draft ordinance as presented.

### Proposed Motion:

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

**Owner Occupied Definition** = 185 days with a military exemption

**Minimum Buffer** = 500-foot buffer between non-owner occupied STR units

**Single-family Residential** = Non-owner occupied STR units prohibited

### 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 Section 1704 (Short Term Rental Unit) of 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