



Jocelyn Mills &lt;jmills@littletongov.org&gt;

**Current Status of Vacation Rental issue.**

1 message

**Rick Acres** <rickacres@gmail.com>

Fri, Dec 14, 2018 at 12:55 PM

To: jmills@littletongov.org

Hi Jocelyn, Unfortunately I've been under the weather recently and have been out of the mainstream with regards to keeping actively involved in the vacation rental issue. I was wondering how my Vacation rental apartment on Main St., which has been operating long before it became popular to have Vacation rentals, might be impacted by the ordinances as they are currently being proposed? As you might remember the apartment is in a B2 zoning area, it is not our principal residence as this was considered the most advantageous use of the space at the time we made it a short term rental. I understand that there is wording in the ordinance that states that proof must be provided to show the property is our principal residence. This is too broad a brush stroke if that's the case. I don't see the logic in that requirement regardless, perhaps you could expand on why that's even there.

In my case, the apartment is a part of a commercial building housing two commercial tenants with plenty of onsite parking. I pay commercial property taxes which is at least double what any residence pays. The City might want to consider a way to assign a residence which is solely being used for the purpose of a commercial enterprise, a temporary zoning that would then trigger a commercial property tax on the house. This action might quickly reduce the number of properties that seek to have vacation rental businesses.

Littleton is in need of suitable accommodation for visitors, the only option I'm aware of are those hotels over by Santa Fe and C-470. We need to find a way to encourage visitors to stay in the City, so they can frequent downtown and share the word that Littleton is a great place to visit, hopefully the City won't over regulate this to the point it shuts the door on alternatives. Check out the reviews of my vacation rental, you'll see what I mean with visitors enjoying Littleton and why it's important to have options available. [www.vrbo.com/373140](http://www.vrbo.com/373140)

Thanks

Rick Acres



Jocelyn Mills &lt;jmills@littletongov.org&gt;

**Re: Please KEEP short-term rentals in Littleton!**

1 message

Elissa Burton Tiprigan &lt;elissa.tiprigan@gmail.com&gt;

Sat, Dec 22, 2018 at 8:19 PM

To: Jane Elizabeth Holman &lt;jane.holman@gmail.com&gt;

Cc: dbrinkman@littletongov.org, Peggy Cole &lt;pcole@littletongov.org&gt;, pdriscoll@littletongov.org, Karina Elrod &lt;kelrod@littletongov.org&gt;, cfey@littletongov.org, Kyle Schlachter &lt;kschlachter@littletongov.org&gt;, jvaldes@littletongov.org, jmills@littletongov.org

Thank you for doing this, Jane!

On Thu, Dec 13, 2018 at 8:56 AM Jane Elizabeth Holman &lt;jane.holman@gmail.com&gt; wrote:

Dear City Council of Littleton,

I am writing you in support of short-term rentals in the City of Littleton.

My parents, in-laws and friends have used short-term rentals in Littleton when they come to visit. My family - and many of my friends families - are large with several children and hotels often can't offer enough space for them. (Not to mention they are inconveniently located.) Because they have stayed in short-term rentals close to downtown Littleton, we have spent much time shopping & dining in downtown Littleton when they are here. They have discovered new favorite restaurants and coffee shops and look forward to coming again, patronizing old favorites & exploring new shops.

Moreover, my parents have enjoyed downtown Littleton so much over their various trips to Colorado that they decided to **buy** a small house near downtown Littleton. If they had not been able to use short-term rentals in Littleton, they would have probably purchased a house in Centennial (where I live) to be closer to family.

We have many out-of-state family and friends that visit regularly. When they do visit, they look first for short-term rentals in Littleton because they are more comfortable & convenient. If Littleton stops permitting short-term rentals, many of our friends would visit less often given the lack of good alternatives.

As a mother of five young children, I personally travel using short-term rentals. Private homes are the only way we will rent as a family. Since moving to Colorado in 2014, we have traveled around the state using short-term rentals and seen some beautiful areas we otherwise would not have been able to visit. It would be a shame for the city of Littleton to remove these kinds of options and basically remove most, if not all, lodging options for families.

Please reconsider these extreme regulations, in particular the primary-residence only regulation.

Thank you for your consideration,

Jane Holman

jane.holman@gmail.com

(703) 728-1871



Wendy Heffner <wheffner@littletongov.org>

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## Short Term Rental

1 message

Diane Steen <B\_DSteen@msn.com>

Thu, Jan 10, 2019 at 10:42 AM

To: "WHeffner@LittletonGov.org" <WHeffner@littletongov.org>

If council decides to allow short term rentals, they should only happen within a small section of old town Littleton. They certainly aren't appropriate for the rest of the Littleton area.

Diane Steen



Wendy Heffner &lt;wheffner@littletongov.org&gt;

## Short-Term Rentals

1 message

**Betsy Schwarm** <betsy.schwarm@gmail.com>  
To: cfey@littletongov.org, wheffner@littletongov.org

Thu, Jan 10, 2019 at 11:53 AM

Hello Ms. Fey!

Short-term rentals in residential family neighborhoods of homes?? Such a horrid idea! One deserves to know who's living near one's kids.

Moreover, thanks to over-full garages, there are already more cars along most residential streets than actually fit at the property where people are living. Adding a larger number of random people passing through neighborhoods for short-term stays will exacerbate the problem.

Furthermore, people staying only briefly rarely have much interest in being quiet, courteous neighbors who pick up the trash, clean-up after their dogs, and keep their yards tidy. Imagine what this might do to overall home values, and the impact it might have on persons attempting to sell their homes, perhaps to down-size or to move close to family.

Please, oh, please, prevent this obvious profit-making idea from taking root, as it would have a sorely negative impact upon Littleton's residents and citizens.

Please confirm that this message reaches you safely, and let me know if there is anything else I can do, other than just reminding neighbors to speak up on the subject.

Hopefully yours,

Betsy Schwarm  
[www.classicalmusicinsights.com](http://www.classicalmusicinsights.com)  
[www.rubyhillpublishing.com](http://www.rubyhillpublishing.com)  
<https://www.amazon.com/author/schwarm>





Jocelyn Mills &lt;jmills@littletongov.org&gt;

**STR documents**

1 message

**MICHAEL RADULOVICH** <dooly3466@comcast.net>

Fri, Jan 4, 2019 at 9:14 PM

Reply-To: MICHAEL RADULOVICH &lt;dooly3466@comcast.net&gt;

To: dbrinkman@littletongov.org, jvaldes@littletongov.org, pdriscoll@littletongov.org, pcole@littletongov.org, kelrod@littletongov.org, kschlachter@littletongov.org, cfey@littletongov.org, mrelph@littletongov.org, Steve Kemp &lt;skemp@littletongov.org&gt;, Jocelyn Mills &lt;jmills@littletongov.org&gt;

Greetings Council and City Staff,

I have attached a letter that addresses many of the claims made by owners from the letter they submitted, council comments and e-mail correspondence. Yes it is 5 pages long, but I could have had the 12 days of STR over the holidays rather than one big document but I thought you may appreciate just one big document rather than borderline harassment. I am guessing some of you won't bother to open it but it makes me feel better that I am trying to give you as much information as I can before you go into this next study session. I have also attached a document my wife sent you all back in September but I am unsure if it ever made it into a packet, some good information from direct contact with people who deal with this everyday in our region.

I have taken a look at the most recent draft and I have a couple of concerns about some of the changes. First, if you go with primary residency the proof should not include a bill of some kind. I have said this before but it is no proof of residency, in this style of rental they have to keep the lights on and plumbing working so they will clearly pay the bill and have it addressed to the rental. If you insist on leaving this in then up the number to 3 forms rather than 2 as the bill is basically a fee pass. Second, is the registered business being able to get a license. This is inviting outside investment into this arena as you can call the home you rent your business address. I would very highly recommend that only a natural person can obtain a license to keep the LLC shell game from happening.

I was a bit disappointed that only 6 mayors responded to questions about this topic. I have also sent you the table that I developed that outlines what 23 of the cities/counties around us are doing based on research or conversations with city staff.

If you have any questions about this feel free to e-mail me or call me 303-523-4212 or I will be at the study session if you wish to bring something up.

Thank you for your time,

Dan Radulovich

**3 attachments**



**Owner Claims Letter.docx**  
27K



**Short Term Rental Summary Info.docx**  
23K



**STR Chart.xlsx**  
14K

Dear Council and City Staff,

I would like to continue on the path that my wife started down during the last council meeting in addressing some of the claims that the owners have brought up either in the letter that was submitted to you or during open comment sessions. Please keep in mind that these are claims, not arguments, as very little evidence is provided to back up the claims.

#### **Claim 1- Knee-Jerk Reaction**

One of the more notable claims is that Denver's ordinance is a "knee-jerk reaction to a few bad actors". Denver spent two years crafting their ordinance which has been in place now for a little over two and a half years. They have an advisory commission that meets on a monthly basis regarding only short term rentals. These were some of the reasons that I chose to back what they do, they have done their homework and continue to meet and address issues that arise. Plus, it is not only Denver that has gone to primary residency. Aurora, Golden, and Boulder already have enacted laws like this and Lakewood as well as Englewood are considering laws like this as well.

#### **Claim 2 – Ban on Short Term Rentals**

The owners have called the current draft ordinance "an effective ban" on short term rentals. Once again this really isn't the case. Currently, on AirBnB there are 50 listings in the city. 22 of these listings (44%) are for rooms or accessory dwelling units which would be allowed at all times by this ordinance. Also, under primary residency laws there is still a period of time that you can rent out the whole house which will keep many places on the market, just limiting the amount of time they can be available.

#### **Claim 3 - Employment**

Owners claim that they employ landscapers and house cleaners, as if these businesses would not exist without them or they exist solely because the rental exists. The landscaping and house cleaning businesses existed long before short term rentals and will outlast the fad that it is. I can personally attest to this as my mother has cleaned houses for a living for more than 30 years mainly because she loved the flexibility of it and could be home when my brother and I returned from school.

Most of the owners need to have 3 to 5 cleaners on call because they do not know when the place will need to be cleaned. This is going to be a side gig at best for someone who cleans professionally or has another job or goes to school or whatever else, this will not be a consistent revenue stream. In fact, the people who clean these rentals would probably be better off cleaning "normal" homes as you can set your own schedule and tell people when you will be there, eliminating the need to be available at the drop of a hat. This situation also artificially inflates the number of e-mails or calls you have undoubtedly received about taking food off of someone's table after the owners have told their hired help to e-mail or call you, most likely providing a template for them.

Right now on indeed.com there are over 40 job postings for house cleaners and over 40 job postings for landscapers posted in the last month in the Denver area, many paying more than an entry level chemist. Thanks to a 3.0% unemployment rate in Denver (According to the Bureau of Labor and Statistics,

October 2018 report) pretty much every retailer, restaurant and service industry is looking for employees as well. In many of these instances the businesses are specifically looking for part-time employees. Additionally, we are not looking at banning the whole home rental completely, whole home rental is still going to be allowed for 1/3 of the year under your current draft ordinance and, since the owners seem to have an aversion to cleaning and landscaping the rentals themselves, there will still be a need for the service.

#### **Claim 4 – Primary Residency in Unenforceable**

Another claim is that primary residency in “unenforceable” according to VRBO. Clearly their source has a vested interest in the issue as they make literally tens of millions of dollars a year on their platform, enough to sponsor a college bowl game. This clearly biases their opinion.

My wife had spoken with Trevor Vaughn, Manager of Tax and Licensing of Aurora on Sept. 12<sup>th</sup> about a wide spectrum of issues and the topic of primary residency enforcement came up. He claimed that they used a 3<sup>rd</sup> party locator called STR helper. This service would actually locate the property and cross reference the database of licensed properties to see if the property is licensed. If the rental is not licensed the service actually sends a letter to the owner informing them of the rules. Of those contacted with a letter 50% stop listing, 40% comply with the law and 10% require further action. The city spends \$6-7K a year for this service. Effectively, 90% of many of your issues will be cleared up without city involvement. This was sent out in the initial collection of e-mails in during the collection of comments back in September, however I have attached it again for your review.

I am assuming that “enforceability” of this will come down to the question of is the person living in the home for 8 months a year or not. The easiest way to check this is to review how much sales tax is remitted when compared to the price of the listing, you can then calculate how many days the place was rented. Better yet, allow the sites to collect the tax and remit it therefore they can tell you how many days tax was collected. I would assume that services like STR helper can assist with this as well. If this is how this get enforced you will be allowing 4 months a year of “rented” time which, in all honesty, could result in a year’s worth of being “available”. From the writing of the current ordinance I would assume you want the rental to be “available” for 4 months, not 4 months rental time, this should be made clear in the ordinance or as a city staff interpretation. You could also consider assigning the number of days a rental can be rented with no owner on site to make things crystal clear, this may be a better option.

#### **Claim 5 – Neighborhood Approval**

Next is “Neighborhood Approval” as they call it. First, approval resides solely with the city not the neighborhood. Either the owners misunderstood the law when they read it or they are intentionally twisting the conversation in order to take something out they don’t want to do. They also claim this is “a property rights violation and creates a double standard”. Since they did not bother to site any sources for this claim I am left to assume the double standard is as compared to long term rental properties. The issue with this comparison is that long term rental is considered tenancy, is not licensed and taxed, and is not called a business by both the owners and the city. Short term rentals are considered lodging, are licensed, made to collect sales tax, and are called businesses by the owners and

the city. These are two very different things as one is the traditional long term leasing and the other is creating a commercial business in a residential zone.

Neighbor notification, at it's core, is a best business practice. Most sites highly recommend you notify the neighbors to avoid problems. This will also help the city determine whether or not to issue license because issues like primary residency could be addressed before a license is even issued. Giving the neighbors the emergency contact information will reduce the number of police calls the city receives and should allow owners to be more effective at responding to emergencies and problems.

#### **Claim 6 – Three Strikes and You're Out**

Another proposal was the three strikes and you're out idea. I initially pushed for something similar in the ordinance as well, a "formalized process". After listening to the City Attorney explain why the city needs flexibility in revocation, I completely agree. There are times where one violation is so egregious that a revocation is required and times where a series of minor violations could be overlooked from an otherwise responsible owner.

#### **Claim 7 – Safety**

The owners continue to claim that there are "multiple fail-safes" in the current system to weed out bad renters. Once again there has been no offering of any evidence to this claim. Upon looking into this the sites do offer a background check system IF they have correct information such as first name, last name and birth date and IF the owner only rents to verified guests. The obvious hole in this process is that they assume they are dealing with honest people who provide correct information. Basically, people who want to get around this will use a name and birth date of anyone else they know, not exactly the most foolproof system. This really should not be much of a comfort to anyone that lives close to these rentals, as there is never face to face contact to confirm identity.

One other thing I have heard owners mention as well is they do not rent to anyone with a .edu e-mail address to avoid the "party house" situation. This is illegal on the part of the owner under the Federal Fair Housing Act as discrimination on the basis of age. So, even if they are trying to do the right thing they will find themselves in serious hot water if they adopt this policy.

Another threat to safety is that anyone who lives close to one of these rentals will get used to seeing strangers in their neighborhood. In virtually every neighborhood watch guide, one of the first tenants is to know your neighbors and know who belongs in your neighborhood. If we become accustomed to seeing strange faces in our neighborhood every few days we become more susceptible to being victims in our own homes and neighborhoods.

#### **Claim 8 – Tourism and Local Economy**

There is also the claim of how much money these tourists contribute to the local economy. So here is some math to see how much the city will make. First, you only get money if it is spent here, no lodger's tax or anything special here (EVERY other municipality collects lodger's tax by the way, you may want to look into that), 3% is the city's cut on everything. From looking through the listings, \$75 per night seems

about average. According to airbnb an average stay is about 3 nights so \$225. According to budgetyourtrip.com and the Denver.org tourism facts and figures the average couple will spend \$477 during a 3 night stay in Denver. \$225 is lodging so \$252 for other expenses. The biggest expense is food at \$68 per day per couple, for 3 days = \$204, the other \$50 is factored into tips and transportation and the like, mostly not taxable. I cannot find reliable numbers for tourist spending on retail shopping so I am going to make an estimate here based on what my wife and I would spend on a trip. Let's go with \$200 on run of the mill touristy stuff. So, the total taxable money spent is \$629 for the 3 night stay. If all of this money is spent in Littleton then \$18.87 is the city's cut. For ease of calculation, we can assume \$20 per stay. This is also assuming all money is spent in Littleton which, most of the time, is not the case.

So, according to the website airdna.com I can see the peak occupancy for airbnb in Littleton is 86% in July and in November it bottoms out to 43%. Let's assume 60% occupancy for the year or 214 days. Divide the days by 3 (the average stay of a couple) this is 71 different couples staying in the one location. So  $71 \times \$20$  per visit is \$1,420 in a year. I could find about 50 listings on airbnb so  $\$1,420 \times 50 = \$71,000$  a year for the city. You will probably spend \$10K on a third party service to help with enforcement so \$61,000 in net revenue per year for the city, and once again this is the maximum assuming all the money was spent here. This is not a significant revenue generator for the city. As a frame of reference, the city gave \$80,000 to charities last year.

In case you were wondering, the estimated sales tax collection for all of 2018 is \$28,700,000 according to the 2019 City of Littleton budget. This means about \$957 million taxable dollars were spent in Littleton this year. Under the current calculation estimates I just used (\$629 per stay  $\times$  71 stays per rental  $\times$  50 rentals), about \$2.2 million was spent by people who rent short term rentals or 0.2% of the money spent here in Littleton, once again this is not a significant amount of money brought into the city. Plus, once again, this is the absolute maximum as it assumes that all of the money is spent in Littleton and it is most likely an overestimation as most of these rentals are probably not available all year. Additionally, it is not as if this is going to disappear overnight, the rentals will still be allowed but limited on how much time it can be available.

### **Other Items**

You have had one person who is not an owner come to council and say how wonderful it is to live next to a short term rental. You know this person by the way, they ran for council last time around. Just to let you know this person does not, currently at least, live next to a short term rental. The closest rental is a block and a half away. This person effectively came to council to make a political point to use for their next run for a council seat. I can tell you from knocking on 400+ doors that a block and a half might as well be in a different state. What I found was that if the rental was on one end of the block and you started at the other end the attitude about the rental was usually indifferent. As you get within 4 houses or so of the rental you get concern and wariness about not knowing who is there all time. Finally, next to the rental was either a lot of concern about who is renting or stories such as the youth hockey campers using their fence as a backstop for the entire trip, people having sex in the hot tub that is just outside their bedroom window virtually every weekend or concern the HOA/PD of the

neighborhood would not qualify for FHA loans as they are starting to creep ever closer to the 20% renter threshold.

### **Summary**

I think that when you look at the paltry revenue these rentals are raising and very small impact they have on the local economy it is obvious that they are not worth the headache they cause to not only you as a council and city but also cause to entire neighborhoods. I am not advocating for a complete ban and clearly I am not advocating for permitting these businesses in neighborhoods with no regulation. What I have advocated for this entire time is the middle ground of primary residency and owner occupancy laws. This is what this region has come to expect when municipalities take this issue on. This policy allows people to make extra money using the property they own and live in, discourages investment from outside entities, and protects the integrity of neighborhoods by not permitting a 365 day a year hotel in a residential zone.

I have heard this council on more than one occasion say they want to make decisions based on data, facts, and metrics as opposed to being forced to react to problems in a piecemeal fashion, as they come up. I believe that is a good idea as well but I wonder, why is this situation different? It seems that this council wants to make a law that favors the side they feel the most sorry for at the moment. The pendulum swings back and forth based on how many people showed up to the last council meeting or how many e-mails you got supporting one side or the other in the past few days. I am past the point of asking you to feel sorry for me and my perceived plight, I am smart enough to realize this about as "first world problem" as it gets. What I am asking you to do is put your emotions aside and make a logical ordinance that does not favor one side or the other and takes into account what is going on around us. To me, what you have already constructed accomplishes just that.

The final thing I want to say is that the only thing truly protecting us from more problems at the current time is the socio-economic class that frequents these rentals. If you stray from primary residency too far we will become a target market for this style of rental. Investors will flock here as we will be the only municipality that has taken this issue on and allowed this style of rental without primary residency or outright banning. What will happen is competition in the market will dictate price. That price will be driven down as more homes are converted to this style of rental. To make ends meet owners will have to take more chances on who they rent to. At some point it will be cheaper to rent a house than stay at the Essex House or the Lucky U motels and the only thing protecting us from problems at that point will be the ability to get a credit card.



## **Denver**

*Spoke with Brian Snow, City Attorney, 720-865-2750 on Wednesday September 12, 2018*

### *Highlights of Conversation:*

1. He noted that the only way to prevent party houses and to prevent investors from buying up multiple houses is to have the Primary Residence rule in place.
2. They just changed their rules to require a driver's license and 2 forms of proving residency.
  - a. If an individual has written their new address on the back, they check it with DMV, as 9 out of the 10 drivers licenses they get have a new address written on the back.
3. They are requiring that only a natural person be able to apply for a STR license. That way you don't issue a license to a business entity or some type of corporate or trust veil to hide the true owner.
4. The driver's license **MUST** match the name on the STR license.
5. Only one license per address
6. A person can only have one permanent address
7. They have a clause in the license that states that "the City can ask for any additional info they see fit to issue the license" – in case there are concerns
8. They have had some problems proving Permanent Resident as it is easy to change addresses, etc. They currently get 1 complaint every 1.5 days that someone doesn't live at the STR property as their primary residence.
9. Short term rentals are bringing in about \$4-5M this year.
10. They never considered 1 license per person, but always had the Primary Residence requirement.
11. **\*\***They are looking at adding language in the license (similar to their liquor license language – called "health and safety of neighborhoods clause") where the neighbors can request a renewal hearing of the license and possibly get the STR license revoked. Denver has this in their liquor code and is looking at adding it into STR, so that neighbors have help getting an ultimate fix to a neighborhood issue.
12. **\*\***They suggest having an occupancy limit based NOT on square footage (as some of the STR properties can be as big as 7500 S.F) but base it on perhaps 2 people per bedroom, plus an additional 2 people, and add a maximum occupancy number.
13. They require license # to be listed online and in any advertising.
14. They have a mix of citizen input from individuals that feel that STRs are ruining the neighborhood, all the way to people who fully embrace and support it (economic development reasons).
15. They began discussions on this process in 2014 and finalized their rules in 2016 – so it was a process. Short Term Rental Advisory Committee is in place to continue to take comments, monitor code, address and make changes.
16. September 25, 2018 is the next Short Term Rental Advisory Committee meeting, 4pm, Webb Building 4<sup>th</sup> floor.

## **AURORA**

*Spoke with Mindy Parnes, Planning Manager 303- 739-7000 on Wednesday September 12, 2018 and Trevor Vaughn, Manager of Tax and Licensing, 303.739.7171 on Wednesday September 12, 2018*



### *Highlights of Conversation:*

From Mindy Parnes

1. They treat short term rentals like a home occupation license
2. They require Permanent Residency.
3. They allow rentals of rooms but NOT whole houses

From Trevor Vaughn

1. Permanent residency has been their model, but it can be tough to enforce for individuals – they use driver's license, voter registration, or tax return – it is easy to change addresses on these documents
2. Must show ownership of the property to get the license
3. Permanent residency does screen out investors coming in and buying up multiple houses
4. They do not restrict the license to a person, but can put the license in a business vehicle (i.e. S corps or LLC, if the owner wants liability protection)
5. It has been a passionate issue on both sides in Aurora as they have been developing the rules
6. He likes their model in Aurora as it allows snowbirds, military reserve, others that are gone for periods of time to rent out their houses, while avoiding hotels in residential neighborhoods
7. He recommends being somewhere in the middle to allow for flexibility
8. They focus on "common sense enforcement with a regulatory structure that is a compromise"
9. They only allow 1 listing per property (so that you can't rent out bedrooms to different people – i.e. if you have 3 bedrooms and you have 3 different parties renting in the house)
10. They do not use Air BNB to collect sales taxes
11. \*\*Aurora uses a company called STR Helper with the following:
  - a. STR Helper goes out and scrapes the rental websites for GIS and other data on the listing and compare it to property and other public use records at Aurora
  - b. They cross check with Aurora to see if the properties are licensed
  - c. If not licensed, STR Helper sends out letters on Aurora letterhead to the properties informing them of the requirements to license, come into compliance, etc.
  - d. When letters are sent out 50% of listings come down, 40% get a license, 10% have to be contacted multiple times to shut down or become compliant
  - e. STR Helper can do the whole range of compliance and licensing from start to finish
  - f. Aurora pays about \$6-7K per year for STR helper, but they don't use the full range of services
  - g. Range of services will be on a sliding scale based on the services you use
12. Aurora collects on about 300 listings, representing \$30-40K per year in license and sales tax revenue
13. They haven't had to shut many STRs down
14. The good thing they see about STR rentals is that the owners have to keep up the inside and outside of the properties whereas long term rentals may not be kept up as well
15. The STR industry saw significant growth for a 2 year period, however they have seen the activity in Aurora plateau.
16. He has seen a lot of turnover in the properties and licenses – i.e. not seeing long term rentals of properties under the STR model
17. They don't have the same issues with # of rentals as Denver, but they do have areas of concentration in Aurora of STRs
18. He indicated that he wasn't sure if STR Helper could help with 1 license per 1 person instead of permanent residency, but you would need to reach out to STR Helper on that

19. \*\*He noted that if you have a STR advertising as a place to have events, weddings, etc – this can be covered with zoning laws – “If it doesn’t look like a residence, then it doesn’t meet home occupation rules”

## **Fort Collins**

Spoke with Ashley Fredericks, Sales Tax Technician 970-221-6780 on Wednesday September 12, 2018 and Jenny Sawyer, Project Manager 9701-420-1066 on Wednesday September 12, 2018.

From Ashley Fredericks

1. \*\*They have two licenses
  - a. Primary Residence – designed for regular neighborhoods, can only rent out a portion of the residence NOT the whole house, property owner MUST be on site
  - b. Non Primary Residence – designed for high density zoning, areas where there are existing hotels, main streets (see yellow/green map on website), can rent out WHOLE unit
2. They issue primary residence license only to neighborhoods (no non-primary residence in neighborhoods) to deal with traffic and reduce noise, avoid party houses
3. Primary residence – only owner and not a tenant can rent out
4. Require 3 licenses – ST rental, lodging license (3% tax) and sales tax license (3.85%)
5. Primary residence license requires certain amount of off street parking requirements
6. Primary residence proved with Driver’s License requirement
7. Primary residence can only rent out a portion of the residence to one party at a time – (i.e. if you have 4 bedrooms, you can’t rent them out to 3 different parties).
8. All licenses must prove liability insurance coverage
9. Air BNB collects state and county tax, however it doesn’t collect Home Rule City tax (FOCO tax of 3.85%) so city sales tax returns required to be filed
10. Licenses are submitted to Ashley, she sends them to zoning to approve based on density (primary versus non primary residence). Can request additional info from person submitting info.
11. They still get some complaints from neighbors that are handled through her department and code enforcement.
12. \*\*They use a company called Host Compliance – Host Compliance monitors all the rental websites (Air BNB, VRBO, Etc). They check with FOCO for licenses. If no license, they send out letters to owners that they are in violation and to get in touch with FOCO. This saves FOCO a lot of time monitoring the situation.
13. They require licenses to list license number, however Air BNB doesn’t have a perfect spot for this on the listing – probably in body of license.
14. They have had these rules for a couple of years
15. In 2017 when they implemented, they grandfathered people in if they applied for license and paid back taxes (non-primary resident running in a primary resident area)
16. STR brings in a decent amount of revenue – see below
17. They can revoke a license and have a hearing with license owner to get it reinstated

From Jenny Sawyer

1. She helped develop ordinances which have been in effect for about 2 years
2. Fort Collins is restrictive by zone

3. Non primary is ok in zones that currently allow larger Bed and Breakfasts and hotels – the map shows most of these are along main streets, retail/commercial areas, high density areas
4. Zones where there are smaller Bed and Breakfasts allowed, result in the primary residence rules, map shows these are your traditional residential low density areas
5. 220 properties were grandfathered in (see Ashley's comments above)
6. This January 2019 is when most of the licenses will renew, so she will have a better indication of how many renewals there are and how many STRs are in operation
7. They continue to issue new licenses – hasn't seen plateau yet
8. She indicates that the market will drive the overall number of STRs in a city (i.e. based on the overall number and price – based on your normal supply and demand rules)
9. They absolutely needed a vendor (they use Host Compliance – see info above) to manage and track compliance
10. Host Compliance scrubs the websites and cross checks with FOCO for licenses and sends letters for FOCO
11. Host Compliance works on a sliding scale of what services you want – they provide as little as you want all the way to full services
12. They did talk during implementation about 1 license per person, but they went with having two types of licenses
13. 400 STR licenses issued in FOCO
14. She believes that STRs are seen as a “fun and cool thing” for some people, however she believes that they aren't too profitable and owners don't make a lot of money off of them
15. They have off street parking requirements for STRs based on # of bedrooms in the property being rented out
16. They do not have occupancy limits
17. She estimates total license fees and sales tax revenue is about \$100K per year

City	Current Status	Specifically Address STR?	Primary Residence Allowed?	Non Primary Residence Allowed?	Source
Adams County	No official stance, allowing for now, no plan to take on	No	Yes	Yes	Spoke with Planning Staff
Arapahoe County	No official stance, allowing for now, no plan to take on	No	Yes	Yes	Per Jason Reynolds Planning Program Manager
Arvada	Currently not allowed, looking to craft ordinance, first study session was warm to allowing all kinds	No	No	No	<a href="https://www.youtube.com/watch?v=IU0jhkmO98&amp;t=2898s">https://www.youtube.com/watch?v=IU0jhkmO98&amp;t=2898s</a>
Aurora	Allows only in primary residence, 6 months owner occupancy	Yes	Yes	No	STR FAQ Memo <a href="https://www.auroragov.org/UserFiles/Servers/Server_1881137/File/Business%20Services/Tax/Lodger%20Tax/STR%20FAQ%2011-7-16%20AM.pdf">https://www.auroragov.org/UserFiles/Servers/Server_1881137/File/Business%20Services/Tax/Lodger%20Tax/STR%20FAQ%2011-7-16%20AM.pdf</a>
Boulder	Considering even tighter regulation to control party houses, primary residency and 6 months owner occupancy	Yes	Yes	No	<a href="https://boulder.colorado.gov/plan-develop/short-term-rentals">https://boulder.colorado.gov/plan-develop/short-term-rentals</a>
Broomfield	Primary residency, toughest to prove residency by paper, primary residency and 6 months owner occupancy	Yes	Yes	No	<a href="https://www.broomfield.org/DocumentCenter/View/28933/Short-Term-Rentals---2018">https://www.broomfield.org/DocumentCenter/View/28933/Short-Term-Rentals---2018</a>
Castle Rock	No current legislation allow as Littleton did	No	Yes	Yes	Per Tammy King Zoning Manager
Centennial	Do not allow renting rooms but allow whole house. Council has not taken up yet and no plans.	No	No	Yes	Spoke with Zoning Staff
Cherry Hills	Nothing under 90 day rental	Yes	No	No	<a href="https://www.cherryhillsvillage.com/406/Short-Term-Rental-Ordinance">https://www.cherryhillsvillage.com/406/Short-Term-Rental-Ordinance</a>
Commerce City	No law, not planning on taking on, no permitting process	No	Yes	Yes	Spoke with Planning Staff
Denver	Considering requiring more documentation to prove primary residency and higher insurance per most recent meeting minutes, 6 months owner occupancy	Yes	Yes	No	Denver Ordinance 262-16

City	Current Status	Specifically Address STR?	Primary Residence Allowed?	Non Primary Residence Allowed?	Source
Douglas County	Not allowed per Single Family home definition	No	No	No	Spoke with Zoning Staff
Englewood	Policy Developing, initial document required primary residency, 9 months of occupancy	No	Yes	No	Open house 9/20/18, spoke with planning manager
Golden	Primary residency, 10 months occupancy	Yes	Yes	No	Golden Ordinance 2078 and <a href="https://www.cityofgolden.net/live/residents-guide/short-term-rentals/short-term-rentals-faqs/">https://www.cityofgolden.net/live/residents-guide/short-term-rentals/short-term-rentals-faqs/</a>
Greenwood Village	Not allowed under definition of Single Family Home. Nothing proposed.	No	No	No	Spoke with Community Development Dept
Jefferson County	Allow and license, property must be 1 acre or larger and less than 5 bedrooms in home	Yes	Yes	Yes	<a href="https://www.jeffco.us/faq.aspx?TID=40">https://www.jeffco.us/faq.aspx?TID=40</a>
Lakewood	Currently not allowed, First read of ordinance in January, Primary Residency and 9 months occupancy	Yes	Yes	No	Per Michelle Millard Court Clerk Office
Lone Tree	Allow under Borading House rules, limited by parking (majority of city is PD and under HOA control)	No	Yes	Yes	Spoke with Community Development Dept
Louisville	Not allowed per zoing code (nothing less than 30 days)	No	No	No	Spoke with Planning and Zoning
Northglenn	City in infancy stages of trying to craft law, currently need license and comes with big warning that law will change in next few months	No	Yes	Yes	Spoke with Planning and Zoining
Parker	City policy is to not allow due to inability to collect lodgers tax	No	No	No	Spoke with Planning and Development Department

City	Current Status	Specifically Address STR?	Primary Residence Allowed?	Non Primary Residence Allowed?	Source
Sheridan	Allow room renting under home based business, allow whole house under rental laws. All rentals (long and short term) must get license due to high number of rental properties	No	Yes	Yes	Spoke with Community Development Dept
Superior	Town has no law or stance on short term rental, all but about 5 blocks under PD/HOA control	No	Yes	Yes	Spoke with Code Enforcement
Thornton	Not allowed as not mentioned in zoning code, investigating allowing	No	No	No	City of Thornton Study Session notes 6/12/18 <a href="https://www.cityofthornton.net/government/city-council/Documents/council-updates/061218_Council_Update_Packet.pdf">https://www.cityofthornton.net/government/city-council/Documents/council-updates/061218_Council_Update_Packet.pdf</a>
Westminster	Not allowed because it is not specifically mentioned in code, city council is looking into issue (nothing definitive)	No	No	No	Spoke with Planning and Zoning
Wheat Ridge	No official policy, enforced under room and board definition, minimum stay 7 days, looking to create ordinance, no action yet	No	No	No	Spoke with Planning and Zoning



Jocelyn Mills &lt;jmills@littletongov.org&gt;

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**Updated STR table and map**

1 message

**MICHAEL RADULOVICH** <dooly3466@comcast.net>

Sun, Dec 23, 2018 at 3:50 PM

Reply-To: MICHAEL RADULOVICH &lt;dooly3466@comcast.net&gt;

To: dbrinkman@littletongov.org, jvaldes@littletongov.org, pcole@littletongov.org, pdriscoll@littletongov.org, cfey@littletongov.org, kelrod@littletongov.org, kschlachter@littletongov.org, mrelph@littletongov.org, Jocelyn Mills &lt;jmills@littletongov.org&gt;, Steve Kemp &lt;skemp@littletongov.org&gt;

Seasons Greetings Council and City Staff,

I have attached for you an updated table of 26 metro area cities/counties and their current policies when it comes to short term rentals. I have also included a color coded map of the metro area giving a rough idea of what the STR situation looks like. (I am no graphic designer so I apologize if it is a bit clunky).

Here is a summary of how the metro area is handling this issue:

6 cities and 2 counties have adopted laws specifically concerning STR's (I am including Lakewood as their first read will be Jan 14th). Of the cities that have specific laws for STR's one, Cherry Hills Village, operates under a ban. The other 5 and Broomfield County have adopted the primary residence clause. The range of owner occupancy varies from 6 months to 10 months. The more recent laws (Lakewood and Golden) are going for more occupancy time not less. The one county, Jefferson County, that allows does not require primary residency but the property must be at least 1 acre in size and the home must have 5 or less bedrooms. This is an effective ban on anything that looks like the suburbs to the west of us.

6 cities and 2 counties allow based on their current codes. Of these, only Northglenn is looking to create a law specifically for STR's and they are very early on in the process. A few other notes here, Lone Tree and Superior are two jurisdictions allowing under their current code. Both of these cities are 90%+ Planned Development which are controlled by HOA's. I did not check but I would assume the HOA's are not keen to this kind of rental. This leaves Commerce City, Sheridan, Castle Rock as well as Arapahoe and Adams county as currently allowing in some form with no plan to take on in the immediate future.

Of the 10 remaining areas, Englewood is still developing a policy but the starting point was primary residency and 9 months occupancy. Arvada is currently not permitting but, they had a study session where all types were discussed. Centennial has the oddest interpretation as they do not allow room rental but do allow whole home rental, this issue has not come to council yet. The other 6 cities and 1 county are not allowing for now. Douglas County and Greenwood Village do not allow based on Single Family home definition. Parker does not allow as they cannot collect



Lodging Tax. Thornton and Westminster do not allow as it is not specifically mentioned in their code. Louisville does not allow any rental under 30 days per their zoning code. Wheat Ridge uses the room and board definition that requires a 7 day minimum, the city official I spoke with said the council is not in favor of allowing any kind of short term rental but that may change over time.

Thank you for your time and happy holidays!

Dan Radulovich

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**2 attachments**

**color map.pdf**  
1622K



**STR Chart.xlsx**  
14K



Boulder

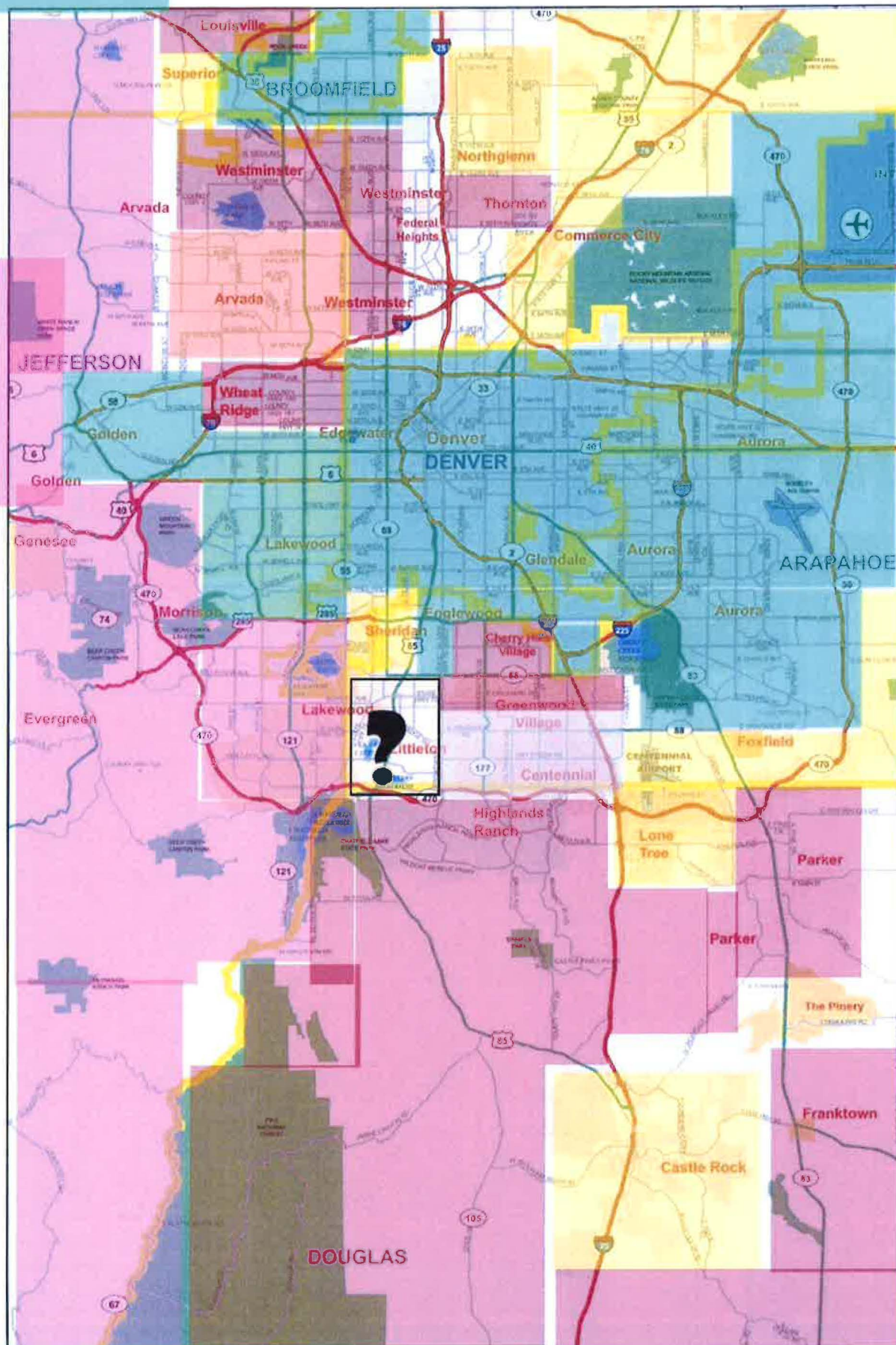
# Denver Area Map

Primary Resid.

Not Permitted

Allowed

All other shades see table



Primary Resid.

Not Permitted

Allowed

All other shades see table

City	Current Status	Specifically Address STR?	Primary Residence Allowed?
Adams County	No official stance, allowing for now, no plan to take on	No	Yes
Arapahoe County	No official stance, allowing for now, no plan to take on	No	Yes
Arvada	Currently not allowed, looking to craft ordinance, first study session was warm to allowing all kinds	No	No
Aurora	Allows only in primary residence, 6 months owner occupancy	Yes	Yes
Boulder	Considering even tighter regulation to control party houses, primary residency and 6 months owner occupancy	Yes	Yes
Broomfield	Primary residency, toughest to prove residency by paper, primary residency and 6 months owner occupancy	Yes	Yes
Castle Rock	No current legislation allow as Littleton did	No	Yes
Centennial	Do not allow renting rooms but allow whole house. Council has not taken up yet and no plans.	No	No
Cherry Hills	Nothing under 90 day rental	Yes	No
Commerce City	No law, not planning on taking on, no permitting process	No	Yes
Denver	Considering requiring more documentation to prove primary residency and higher insurance per most recent meeting minutes, 6 months owner occupancy	Yes	Yes
Douglas County	Not allowed per Single Family home definition	No	No
Englewood	Policy Developing, initial document required primary residency, 9 months of occupancy	No	Yes
Golden	Primary residency, 10 months occupancy	Yes	Yes



Greenwood Village	Not allowed under definition of Single Family Home. Nothing proposed.	No	No
Jefferson County	Allow and license, property must be 1 acre or larger and less than 5 bedrooms in home	Yes	Yes
Lakewood	Currently not allowed, First read of ordinance in January, Primary Residency and 9 months occupancy	Yes	Yes
Lone Tree	Allow under Borading House rules, limited by parking (majority of city is PD and under HOA control)	No	Yes
Louisville	Not allowed per zoning code (nothing less than 30 days)	No	No
Northglenn	City in infancy stages of trying to craft law, currently need license and comes with big warning that law will change in next few months	No	Yes
Parker	City policy is to not allow due to inability to collect lodgers tax	No	No
Sheridan	Allow room renting under home based business, allow whole house under rental laws. All rentals (long and short term) must get license due to high number of rental properties	No	Yes
Superior	Town has no law or stance on short term rental, all but about 5 blocks under PD/HOA control	No	Yes
Thornton	Not allowed as not mentioned in zoning code, investigating allowing	No	No
Westminster	Not allowed because it is not specifically mentioned in code, city council is looking into issue (nothing definitive)	No	No
Wheat Ridge	No official policy, enforced under room and board definition, minimum stay 7 days, looking to create ordinance, no action yet	No	No

Non Primary Residence Allowed?	Source
Yes	Spoke with Planning Staff
Yes	Per Jason Reynolds Planning Program Manager
No	<a href="https://www.youtube.com/watch?v=IU0jhkmO98&amp;t=2898s">https://www.youtube.com/watch?v=IU0jhkmO98&amp;t=2898s</a> .
No	STR FAQ Memo <a href="https://www.auroragov.org/UserFiles/Servers/Server_1881137/File/Business%20Services/Tax/Lodger%20Tax/STR%20FAQ%2011-7-16%20AM.pdf">https://www.auroragov.org/UserFiles/Servers/Server_1881137/File/Business%20Services/Tax/Lodger%20Tax/STR%20FAQ%2011-7-16%20AM.pdf</a>
No	<a href="https://bouldercolorado.gov/plan-develop/short-term-rentals">https://bouldercolorado.gov/plan-develop/short-term-rentals</a>
No	<a href="https://www.broomfield.org/DocumentCenter/View/28933/Short-Term-Rentals---2018">https://www.broomfield.org/DocumentCenter/View/28933/Short-Term-Rentals---2018</a>
Yes	Per Tammy King Zoning Manager
Yes	Spoke with Zoning Staff
No	<a href="https://www.cherryhillsvillage.com/406/Short-Term-Rental-Ordinance">https://www.cherryhillsvillage.com/406/Short-Term-Rental-Ordinance</a>
Yes	Spoke with Planning Staff
No	Denver Ordinance 262-16
No	Spoke with Zoning Staff
No	Open house 9/20/18, spoke with planning manager
No	Golden Ordinance 2078 and <a href="https://www.cityofgolden.net/live/residents-guide/short-term-rentals/short-term-rentals-faqs/">https://www.cityofgolden.net/live/residents-guide/short-term-rentals/short-term-rentals-faqs/</a>

No	Spoke with Community Development Dept
Yes	<a href="https://www.jeffco.us/faq.aspx?TID=40">https://www.jeffco.us/faq.aspx?TID=40</a>
No	Per Michelle Millard Court Clerk Office
Yes	Spoke with Community Development Dept
No	Spoke with Planning and Zoning
Yes	Spoke with Planning and Zoning
No	Spoke with Planning and Development Department
Yes	Spoke with Community Development Dept
Yes	Spoke with Code Enforcement
No	City of Thornton Study Session notes 6/12/18 <a href="https://www.cityofthornton.net/government/city-council/Documents/council-updates/061218_Council_Update_Packet.pdf">https://www.cityofthornton.net/government/city-council/Documents/council-updates/061218_Council_Update_Packet.pdf</a>
No	Spoke with Planning and Zoning
No	Spoke with Planning and Zoning



Wendy Heffner &lt;wheffner@littletongov.org&gt;

**Zoning Change to Short Term Rentals.**

1 message

**Rick Glesner** <rick.glesner@gmail.com>

Wed, Jan 9, 2019 at 3:05 PM

To: WHeffner@littletongov.org

I want to voice my opposition to the idea of short term rentals in my neighborhood. I and my family have lived in the South Bridge development since 1986 and I'm horrified at the idea of rotating strangers moving through our neighborhood. This is obviously a ploy for short term fiscal gain for some nonresident owners. The long term rentals are bad enough. Poorly maintained properties by renters who don't care. While owners are just waiting to turn the property for a profit. None of this add quality to our homes and neighborhoods.

No...NO...NOOOO!

Thank you for letting me have this moment of your time:  
Rick Glesner



Wendy Heffner <wheffner@littletongov.org>

## Short term rentals

1 message

Vadelius <vadelius@yahoo.com>

Wed, Jan 9, 2019 at 3:46 PM

To: Wheffner@littletongov.org

Short term rentals are a plague to the preservation of a community. It also allows for the abuse of residents by renters. I have seen the end result Do this and you will definitely have a very dedicated opponent to your further position on the council

Sent from my iPhone



Wendy Heffner &lt;wheffner@littletongov.org&gt;

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**One last attempt**

1 message

**Michael Price** <mtprice65@gmail.com>

Wed, Jan 9, 2019 at 12:14 PM

To: "Kelrod@littletongov.org" <Kelrod@littletongov.org>, Peggy Cole-Littleton <pcole@littletongov.org>, Debbie Brinkman <dbrinkman@littletongov.org>, Kyle Schlachter-Littleton <kschlachter@littletongov.org>, Carol Fey <cfey@littletongov.org>, "jvaldez@littletongov.org" <jvaldez@littletongov.org>, Patrick Driscoll-Littleton <pdriscoll@littletongov.org>, Steve Kemp <skemp@littletongov.org>

Cc: Wendy Heffner <wheffner@littletongov.org>

Good afternoon, all.

I attended the Study Session last evening. I am disappointed that our city attorney is making the claim that STRs are already allowed under our zoning code.

Per a memorandum from Clarion Associates' Don Elliott and Summer Frederick (hired by the city), dated April 21, 2016, to the City of Littleton Planning Board and Jocelyn Mills, the concept of STRs is discussed and, on page 3, paragraph 16.c., their statement is "Currently 'Rooming/Boarding' is a permitted accessory use, while 'Short term rentals' is NOT A PERMITTED USE AT ALL" (my emphasis). (You should have a copy of that memo. If not, please let me know and I'll provide it for you.) Therefore, for the city attorney and community development manager to claim that STRs are a permitted use is false. Via this memorandum, you are on notice that this use violates the zoning code, yet you have city employees trying furiously to allow such a use, and you are aiding and abetting them to license and regulate such a use.

I noted last night during the presentation that the first goal of the proposed STR ordinance is to "maintain community character". Allowing a steady stream of strangers to invade your quiet neighborhood for four months out of the year simply does not "maintain community character". It destroys it.

Please keep in mind that to allow what is, in effect, hotels in residential areas is a major zoning change, and in order for you to change zoning, you must follow your own laws to do so. You can't merely change zoning via an ordinance-you must comply with Title 10, Chapter 12 of the city's zoning code, providing notice via mailings to affected property owners in every residential zoning area where you intend to allow STRs, then conducting a public hearing on the zoning change.

Michael Price, District 3

--  
WLMD, Inc.  
Michael T. Price, President  
5682 South Spotswood St.  
Littleton, CO 80120





Wendy Heffner &lt;wheffner@littletongov.org&gt;

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**Short-Term Rental Issue**

1 message

**D J MERRION** <djmerrion1@live.com>

Wed, Jan 9, 2019 at 10:37 AM

To: "wheffner@littletongov.org" &lt;wheffner@littletongov.org&gt;

Dear Littleton City Council,

As you consider the short-term rental issue on January 15, please note that, as a resident homeowner in the City, I am **totally and vehemently opposed to changes in zoning to allow short-term rentals.**

It is my opinion that renters, especially short-term renters, do not have a vested interest in maintaining the quality of life we desire in our Littleton neighborhoods. We already have enough trouble with long-term renters who, I suspect, engage in illegal drug activity, do not maintain their properties, and drive up on our lawns because they don't care enough to make proper U-turns. **Allowing short-term rentals in our neighborhoods is a really bad idea.**

Don and Denise Merrion  
5992 South Aberdeen Street  
Littleton, CO 80120



Wendy Heffner <wheffner@littletongov.org>

## Against Zoning change to allow for Short Term Rental

1 message

**Eric Eide** <eideeric@comcast.net>

Mon, Jan 7, 2019 at 3:07 PM

To: Wheffner@littletongov.org

As residents of Littleton, we are strongly against any zoning change to allow for Short Term Rentals within our community.

Eric & Cindy Eide

6 Meadowbrook Cir.,

Littleton 80120



Wendy Heffner &lt;wheffner@littletongov.org&gt;

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**Short Term Rentals**

1 message

**Thomas Elliot** <tgelliot@msn.com>

Tue, Jan 8, 2019 at 4:22 PM

To: "WHeffner@LittletonGov.org" &lt;WHeffner@littletongov.org&gt;

Littleton City Council,

I am flabbergasted that Short Term Rental in a residential zoned neighborhood is even being considered. What are zoning regulations for? One can not even park their car on the street without moving it. How much more devastating to a residential neighborhood would people with no investment, no long term interest, and no risk be to a neighborhood than a parked car? This idea is preposterous. Please respect our city and its residents, not people who have no investment in Littleton.

Thomas G. Elliot  
[5997 South Lakeview St.](#)  
Littleton, CO

303 902-6747



Wendy Heffner <[wheffner@littletongov.org](mailto:wheffner@littletongov.org)>

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## Zoning to allow short term rentals

1 message

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**James Aurand** <[jdaurand@gmail.com](mailto:jdaurand@gmail.com)>  
To: [WHeffner@littletongov.org](mailto:WHeffner@littletongov.org)

Tue, Jan 8, 2019 at 4:19 PM

Please have two votes against the zoning change from my wife and I

James and Irmhild Aurand  
[6292 S Lakeview St](#)  
[Littleton Co 80120](#)  
303 7988855



Wendy Heffner &lt;wheffner@littletongov.org&gt;

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**Short term Rentals**

1 message

**Pam** <pamkennel@gmail.com>

Tue, Jan 8, 2019 at 4:10 PM

To: Wheffner@littletongov.org, cnorton@littletongov.org

To Whom It May Concern,

I would like to express my absolute opposition to the proposed changes to the zoning code. First, having strangers wondering in the neighborhood is dangerous. As a homeowner or long term renter I have the ability to check registers for sexual predators. If I have a problem neighbor, I can make a non-emergency call to the police, dog catcher or other enforcers of our laws. With a short term renter, problems cannot be solved in a reasonable way.

There is no provision for bad actors (the landlord of the short term renter) If ST renters are so reasonable and the owners "take extra good care" of their properties then a system of say 5 complaints should not be a problem. 5 complaints and you lose your license. The determination by the community development director if a license has been violated is too vague. Noise complaints, destruction of property complaints, harassment complaints should not be up to the political structure. If the police are called, it is a complaint!

There is a contradiction. The address of the license should be the address of the place being rent out. The issue of every family member owning a STR would not be so easily perverted. If it truly is 1 STR per property owner than using that property would be no problem. Using a business address allows for shenanigans.

4 months a year is too long. So every summer I could have a hotel next to me.

Next since the license defines what the property can be used for, it is a zoning change, not a personal license. Just as a liquor license is issued to an individual, it is still attached to the use of the property. Since you can't move the license, it is ZONING.

I believe the counsel would be well advised to do what other communities have done, greatly limit STR's and not become a magnet to investors. If we can conceive the issues now, why would you take a change? There is ample evidence and examples of this use being a detriment to all but the owners.

Please do the right thing!

Thank you, Pam Kennel



Wendy Heffner &lt;wheffner@littletongov.org&gt;

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**FW: Littleton City Council: RE Short Term Rentals and Zoning change**

1 message

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**Jim Kennel** <jimkennel@gmail.com>  
To: WHeffner@littletongov.org

Fri, Jan 4, 2019 at 11:58 AM

Dear Littleton City Council;

I am very much opposed to your proposed change to our R1 zoning to allow short term rentals. We experienced a home converted to an STR (certainly in violation of our current zoning) and the outcome was disruption for all neighbors. Multiple calls to the police for disturbances caused by short term renters who clearly did not care about disturbing our peaceful neighborhood.

Today I attended a final public appearance of Governor Hickenlooper. In his presentation he reiterated that community success and cooperation between competing positions is proportional to the trust that government earns via process and consideration of opposing views.

I feel that your process for changing our zoning undermines the trust in our governors... you. To not publically provide notice to all the citizens of Littleton that you are considering changing our zoning to allow short term rentals is wrong. And I understand you are even breaking the rules of the Littleton planned development process by not notifying everyone affected.

With all the surrounding cities strictly limiting and out-lawing STR's, Littleton will become the target for STR developers. This will reduce affordable housing and disrupt the quiet enjoyment of our homes. All at a loss to the majority of Littleton citizens. Why undermine our trust in you governance in this manner? Do you personally plan to invest in STR's? Is there a revenue windfall that will increase community services? These and the many other questions and concerns must be addressed in a very public forum; not closed door study sessions and Council meetings that few people, other than the beneficiary commercial interests, are aware.

I understand that your planning commission recommend that you not allow STR's in certain residential zones. Why are you dismissing their recommendations?

Don't change our zoning to allow short term rentals. However if you feel compelled to move forward on this issue, this is to demand that you notify all affected citizens to allow open and public discourse before such a drastic change is made to our living environment. Homeowners, like me, have made substantial investments in our homes with confidence in the existing zoning rules and regulations. You are proposing to change the deal in an non-democratic process.

If you change the existing zoning as proposed, you will lift the boat for very few people (investors and their cleaners) and sink the boat for the vast majority of Littleton residents.

Don't change our zoning to allow short term rentals.

Sincerely yours,

James Kennel

4 Meadowbrook Cir

Littleton, CO 80120

Virus-free. [www.avast.com](http://www.avast.com)





Wendy Heffner &lt;wheffner@littletongov.org&gt;

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**Short term rental zoning**

1 message

**charper10@aol.com** <charper10@aol.com>

Thu, Jan 10, 2019 at 3:09 PM

To: ccwh@littletongov.org

Cc: wheffner@littletongov.org

Ms Heffner,

We are not in favor of allowing short term rentals in Littleton.

We have some experience with the subject from both sides. We have been single family landlords for 14 years. Homes in Texas and Virginia were rented with no trouble.

We had a house on the Outer Banks of North Carolina for 25 years. Being a major resort area, our neighborhood was composed of approximately one third short term rentals (from 3 days to 2 weeks average), one third permanent residents, and one third homes (like ours) that were not rented but used by the owners and their guests.

The short term Outer Bank rentals caused numerous problems over the years. We experienced verbal harassment from people and at times physical harassment. In one instance, we arrived late one afternoon to find the short term renters across the street had been sitting on the third floor balcony and throwing empty beer bottles across the street onto our driveway. At least a case of broken glass for us to clean up.

Short term renters will not have a stake in our neighborhoods and some percentage will create problems for permanent residents. Littleton does not appear to be a destination city and is not likely to develop into one. It appears to us, that leaving the short term rental market to hotels/motels in commercial areas is the best course for the city.

Thank you,

Jan & Chuck Harper  
5672 S Spotswood St  
Littleton, CO 80120-1215  
703-943-0435

P.S. In Tuesday night's Council meeting we would like to hear what "interests" are requesting the zoning change.



Denise Ciernia &lt;dciernia@littletongov.org&gt;

**Fwd: Short term rental**

Denise Ciernia <dciernia@littletongov.org>  
Draft To: Jocelyn Mills <jmills@littletongov.org>

Mon, Jan 7, 2019 at 11:01 AM

----- Forwarded message -----

From: **Michael Orf** <michaelorf@gmail.com>

Date: Mon, Jan 7, 2019 at 10:17 AM

Subject: Short term rental

To: &lt;dbrinkman@littletongov.org&gt;, &lt;pcole@littletongov.org&gt;, &lt;pdriscoll@littletongov.org&gt;, &lt;kelrod@littletongov.org&gt;, &lt;cfey@littletongov.org&gt;, &lt;kschlachter@littletongov.org&gt;, &lt;jvaldes@littletongov.org&gt;, &lt;jmills@littletongov.org&gt;

Dear Littleton City Council,

My name is Michael Orf and I have been a Littleton resident for the past 16 years living in the Southbridge neighborhood. A few years ago I decided to invest in a short term rental home near downtown Littleton. I did my research and was pleased to discover that Littleton was very friendly to small businesses. I decided to move forward and purchased the home, furnished it, obtained my business license from the city and have been paying taxes ever since.

I spoke at the November council meeting. I attended the December meeting, but did not speak since the vote was deferred. I was however, a bit surprised that most of the citizens that spoke against short term rentals seemed to think that they were banned now and the council was advancing this ordinance to allow them. As you know, it is basically the opposite. I believe that they are under the impression that short term rentals are considered commercial uses and are therefore not allowing in residential zoning. However, as you are likely aware, the Colorado legislature has ruled on a number of occasions that this is not the case (most recently via the Colorado Court of Appeals decision Houston vs Mesa Ranch - attached here for your reference).

The ordinance as it is written now would force me to shut down my vacation rental, sell my home and sell all of the furnishings (for pennies on the dollar). This is due to the owner occupied requirement in the ordinance. I know there are a lot of strong opinions by Littleton residents on both sides of this issue, but I believe that I have a suggestion that may satisfy both sides. The suggestion would be to pull the license of those owners that see a pattern of violations. The specifics of this could be whatever the council sees fit, but something along the lines of 3 violations in a 12 month period.

Note that I market my rental to families and have folks coming in for weddings, graduations or family events that appreciate a housing option that allows them to have their family together and cook meals, etc. My last 3 guests have been: A family in town to celebrate Christmas with their adult children and the birth of their first grandchild, a family in town over New Years to celebrate a late Christmas with extended family, and currently a businessman staying for 2 months while in the process of relocating to Littleton from out of town (he appreciates being able to leave his belongings in the house when traveling home to visit family and cooking the occasional meal that would not be possible in a hotel). I have never had a complaint or police activity at my rental. In fact, the only complaint was from a guest staying at my rental that called me late one night to complain about a loud party next door that the owner was having. I offered to call the police, but my guests did not want to cause any trouble for the neighborhood.

It is too bad that this issue was brought to light by one or two bad owners that have marketed their rentals as party houses. We should be acting to punish these owners and not instituting an ordinance that would also punish the good owners that market their rentals to families and are a positive influence to the community.

Thank you for considering this proposal that should satisfy both sides of this issue.

-Michael Orf

Sender and receiver should be mindful that all my incoming and outgoing emails may be subject to the Colorado Open Records Act, S 24-72-100.1, et seq.



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Court of Appeals No. 14CA1086  
San Miguel County District Court No. 13CV30034  
Honorable Mary E. Deganhart, Judge

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David Houston, Trustee of the David Houston 1997 Trust dated October 6, 1997,

Plaintiff-Appellee,

v.

Wilson Mesa Ranch Homeowners Association, Inc., a Colorado nonprofit corporation,

Defendant-Appellant.

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JUDGMENT AFFIRMED

Division III  
Opinion by JUDGE VOGT\*  
Lichtenstein and Fox, JJ., concur

Announced August 13, 2015

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Solomon Law Firm, P.C., Joseph A. Solomon, Telluride, Colorado, for Plaintiff-Appellee

Dewhirst & Dolven, LLC, Miles M. Dewhirst, Jeffery D. Bursell, Denver, Colorado; Garfield & Hecht, PC, Mary Elizabeth Geiger, Glenwood Springs, Colorado, for Defendant-Appellant

\*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5(3), and § 24-51-1105, C.R.S. 2014.

¶ 1 In this dispute regarding the scope of restrictive covenants, defendant, Wilson Mesa Ranch Homeowners Association, Inc., appeals the district court's judgment on the pleadings in favor of plaintiff, David Houston, Trustee of the David Houston 1997 Trust dated October 6, 1997. We affirm.

### I. Background

¶ 2 Wilson Mesa Ranch is a subdivision in San Miguel County. The subdivision is subject to protective covenants that are enforced by the Association's board of trustees. The covenants provide, as relevant here, that "the lands within Wilson Mesa Ranch [are intended to] be developed and maintained as a highly desirable scenic and secluded residential area;" that all tracts designated on the recorded plats by number "shall be residential tracts;" and that "[n]o lands within Wilson Mesa Ranch shall ever be occupied or used for any commercial or business purpose nor for any noxious activity and nothing shall be done . . . on any of said lands which is a nuisance or might become a nuisance to the . . . owners of any of said lands."

¶ 3 Houston owns a single-family residence in the subdivision. Beginning in December 2012, Houston began renting out the

property for short-term vacation rentals. He advertised the residence on the website of VRBO, a company that facilitates the booking of such rentals. When the board learned that Houston had been renting out the residence, it adopted an amendment ("Section 11") to its administrative procedures that prohibited Association members from renting out their properties for periods of less than thirty days without prior board approval. Section 11 also provided for a \$500 fine for each violation of this prohibition.

4 The board notified Houston of its adoption of Section 11 and ordered him to comply with it. Houston objected to Section 11 as an unlawful attempt to amend the covenants. The board responded that short-term rentals were a commercial use that was already prohibited under the covenants, and that Section 11 was simply adopted to clarify the board's position and set forth procedures for seeking an exception to the prohibition.

5 After the board denied Houston's request to continue leasing the property on a short-term basis, he took two additional rental reservations through VRBO. The board treated these reservations as anticipatory breaches of the covenants and Section 11 and fined Houston \$500 for each reservation.

6 Houston then filed this action, seeking a declaration that the Association could not bar the short-term rental of his property based on the commercial use prohibition in the covenants. The Association counterclaimed for a declaration that the covenants barred rentals of less than thirty days; that Section 11 was enforceable against Houston; and that Houston was in violation of the covenants and Section 11 by advertising, and taking reservations for, short-term rentals of his property. The Association also sought a permanent injunction requiring Houston to comply with the covenants and Section 11.

7 Both parties moved for judgment on the pleadings pursuant to C.R.C.P. 12(c). In a detailed written order, the district court entered judgment in favor of Houston and dismissed the Association's counterclaims. It reviewed the covenant language, found no Colorado case law that was "dispositive on the issue of whether a prohibition on commercial use bars short term rentals or conversely whether the requirement of residential use is somehow inconsistent with short term rentals," and reviewed cases from other jurisdictions that the parties had cited. The court concluded that nothing in the covenants prohibited short-term rentals, either

expressly or by implication; that the covenant language was ambiguous regarding the permissibility of short-term rentals; and that, because such ambiguity required that all doubts be resolved in favor of the free and unrestricted use of property, the covenants did not prohibit or limit Houston's short-term vacation rentals. It also found that Section 11's "differentiation between forbidden 'short term' rentals and permitted 'long term' rentals [was] arbitrary and . . . not plainly within the confines of the [c]ovenants;" thus, the fines imposed against Houston were not enforceable.

## II. Discussion

### A. Standards of Review and Applicable Law

Our review is de novo, both because the district court's judgment was a judgment on the pleadings, *see Melat, Pressman & Higbie, L.L.P. v. Hannon Law Firm, L.L.C.*, 2012 CO 61, ¶ 17, and because the court construed a written instrument. *See In re Estate of Foiles*, 2014 COA 104, ¶ 20.

We construe restrictive covenants according to their plain language, interpreting them as a whole and keeping in mind their underlying purpose. *See Evergreen Highlands Ass'n v. West*, 73 P.3d 1, 3 (Colo. 2003); *Good v. Bear Canyon Ranch Ass'n*, 160 P.3d

251, 253 (Colo. App. 2007). A covenant will be enforced as written if it is clear on its face. *Good*, 160 P.3d at 253. However, if there is any ambiguity or doubt as to the meaning of a covenant, we must adopt the construction that favors the unrestricted use of property. *Id.* at 253-54; *see also Double D Manor, Inc. v. Evergreen Meadows Homeowners' Ass'n*, 773 P.2d 1046, 1048 (Colo. 1989).

#### B. Scope of the Covenants

10 It is undisputed that the covenants do not expressly prohibit short-term rentals of residences within Wilson Mesa Ranch. The issue is whether such rentals are prohibited by necessary implication based on covenant language that (1) Wilson Mesa Ranch is to “be developed and maintained as a . . . residential area,” with all subdivision tracts to be “residential tracts,” and that (2) “[n]o lands within Wilson Mesa Ranch shall ever be occupied or used for any commercial or business purpose.” The Association contends that the district court erred in failing to construe the “commercial use” prohibition as precluding unapproved rentals of less than thirty days, and in failing to recognize that such short-term rentals are inconsistent with the covenants’ “residential use” requirement. We disagree.

¶ 11 We are aware of no Colorado case that has addressed the meaning of prohibitions against “commercial use” or requirements of “residential use” in the context of short-term rentals of residences. With the exception of *Double D Manor*, discussed below, Colorado case law discussing these terms in other contexts affords little guidance in resolving the issue before us.

¶ 12 Like the district court, we find the two Colorado cases on which the Association relies — *Jackson & Co. (USA), Inc. v. Town of Avon*, 166 P.3d 297, 298-300 (Colo. App. 2007), and *E.R. Southtech, Ltd. v. Arapahoe County Board of Equalization*, 972 P.2d 1057, 1059-60 (Colo. App. 1998) — to be distinguishable. The *Jackson* division concluded that a duplex with six individual bedroom-bathroom suites, used for short-term vacation rentals, qualified as a “lodge” under the definition of that term in a municipal ordinance; thus, such short-term rentals were impermissible under the ordinance and a subdivision plat that explicitly prohibited the use of property within the residential subdivision as a lodge. There is no such explicit prohibition in the covenants here.

¶ 13 In *Southtech*, the division held that, for property tax purposes, rentals of space in a large housing complex for less than thirty days

should be taxed as a “hotel-type commercial use,” while longer rentals should be taxed as “apartment-type residential” use. The division relied on constitutional and statutory provisions that excluded “hotels and motels” from the definition of “residential real property” for property tax purposes but included “apartments” in that definition. Again, the covenants at issue here do not contain similar definitional language.

¶ 14 We therefore look to the plain meaning of the covenant language, and we find guidance in cases from other jurisdictions that have applied this language in situations involving short-term rentals of residential property.

#### 1. Requirement That Subdivision Tracts Be “Residential”

¶ 15 “Residential” is defined as “used, serving, or designed as a residence or for occupation by residents.” *Webster’s Third New International Dictionary* 1931 (2002). “Residence” means “the act or fact of abiding or dwelling in a place for some time; an act of making one’s home in a place.” *Id.*; see also *The American Heritage Dictionary of the English Language* 1483 (4th ed. 2000) (defining “residential” as “[o]f, relating to, or having residence,” or “[o]f, suitable for, or limited to residences,” and defining “residence” as



“[t]he place in which one lives; a dwelling,” or “[t]he act or a period of residing in a place”).

¶ 16 “‘Residential use,’ without more, has been consistently interpreted as meaning that the use of the property is for living purposes, or a dwelling, or a place of abode.” *Lowden v. Bosley*, 909 A.2d 261, 267 (Md. 2006); see also *Mullin v. Silvercreek Condo. Owner’s Ass’n*, 195 S.W.3d 484, 490 (Mo. Ct. App. 2006) (A place used for “residential purposes” is, according to its plain and ordinary meaning, “one in which people reside or dwell, or which they make their homes, as distinguished from one which is used for commercial or business purposes.” (quoting *Blevins v. Barry-Lawrence Cnty. Ass’n for Retarded Citizens*, 707 S.W.2d 407, 408 (Mo. 1986))).

¶ 17 Although “residential” unambiguously refers to use for living purposes, courts have recognized ambiguity in the term in cases involving short-term rentals or other situations where those residing in the property are living there only temporarily, not permanently. See *Yogman v. Parrott*, 937 P.2d 1019, 1021 (Or. 1997) (“The ordinary meaning of ‘residential’ does not resolve the issue between the parties. That is so because a ‘residence’ can refer

simply to a building used as a dwelling place, or it can refer to a place where one intends to live for a long time.”); *Scott v. Walker*, 645 S.E.2d 278, 283 (Va. 2007) (Restrictive covenant’s requirement that lots be used for “residential purposes” was “ambiguous both as to whether a residential purpose requires an intention to be physically present in a home for more than a transient stay and as to whether the focus of the inquiry is on the owner’s use of the property or the renter’s use. . . . Moreover, if the phrase ‘residential purposes’ carries with it a ‘duration of use’ component, it is ambiguous as to when a rental of the property moves from short-term to long-term.”); *see also Dunn v. Aamodt*, 695 F.3d 797, 800 (8th Cir. 2012) (phrase “residential purposes” in restrictive covenant was ambiguous as to short-term rental of property). These courts concluded that, because ambiguities in restrictive covenants were to be construed in favor of the free use of property, short-term rentals were not precluded as inconsistent with residential use.

¶ 18 Other courts have found no ambiguity, reasoning that, as long as the property is used for living purposes, it does not cease being “residential” simply because such use is transitory rather than permanent. In *Lowden*, 909 A.2d at 267, the court summarized

cases applying the term “residential” to a variety of structures used for habitation purposes and recognizing that the transitory or temporary nature of such use did not defeat the residential status. It concluded that “[w]hen the owner of a permanent home rents the home to a family, and that family, as tenant, resides in the home, there obviously is no violation of the [d]eclaration. While the owner may be receiving rental income, the use of the property is unquestionably ‘residential’.” *Id.* In *Pinehaven Planning Board v. Brooks*, 70 P.3d 664, 667-68 (Idaho 2003), the covenants at issue restricted the use of residential property to the construction of a single-family residence, which could not be used for commercial, industrial, or business purposes. The Idaho Supreme Court held that renting a property to people who used it for residential purposes, whether short or long term, did not violate the covenants. *Id.* at 668-69; *see also Slaby v. Mountain River Estates Residential Ass’n*, 100 So. 3d 569, 579 (Ala. Civ. App. 2012) (“[P]roperty is used for ‘residential purposes’ when those occupying it do so for ordinary living purposes. Thus, so long as the renters continue to relax, eat, sleep, bathe, and engage in other incidental activities . . . they are using the [property] for residential purposes.”); *Ross v. Bennett*, 203

P.3d 383, 388 (Wash. Ct. App. 2008) (rejecting argument that short-term vacation rentals were distinguishable from permitted long-term rentals and concluding that: “Renting the . . . home to people who use it for the purposes of eating, sleeping, and other residential purposes is consistent with the plain language of the . . . [c]ovenant. The transitory or temporary nature of such use by vacation renters does not defeat the residential status.”).

¶ 19 In this case, the pleadings and attached documents do not suggest that renters used Houston’s residence for anything other than ordinary living purposes, and the Association does not so argue.<sup>1</sup> In these circumstances, we agree with the courts that have

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<sup>1</sup> In a letter to the Association (which, because it was attached to Houston’s verified complaint, could be considered by the district court in ruling on cross-motions under C.R.C.P. 12(c), *see Van Schaak v. Phipps*, 38 Colo. App. 140, 143, 558 P.2d 581, 584 (1976); *see also* C.R.C.P. 10(c)), Houston’s counsel explained the use of the property as follows:

The HOA also argues that the current use is a commercial use. It is not. Mr. Houston has owned his Wilson Mesa home for over twenty years. At one point, he used the home for long-term rental. After that time, he made the decision he did not want the wear and tear on the house that permanent tenants bring. As a consequence he stopped renting it and hoped to use it more.

held that mere temporary or short-term use of a residence does not preclude that use from being “residential.” Moreover, even if we were to find the covenants ambiguous in this regard, we would be required to adopt the construction of “residential” that favors the free and unrestricted use of Houston’s property. *See Good*, 160 P.3d at 253-54.

## 2. Prohibition Against Commercial Use

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However, it became apparent without people in the house and the accompanying maintenance, the house actually suffered. Mr. Houston decided the best solution for the property was to have it used to some extent, and thus he has been leasing it out for some vacation rental use.

The home is very small. Occupancy is limited to a maximum of four guests. It is typically used by a couple, or a single adult. Mr. Houston also has a local caretaker handling maintenance and other related home needs.

The amount of people staying in the residence with one vehicle certainly presents less road traffic than if Mr. Houston had a permanent tenant with two vehicles. Also, Wilson Mesa is usually quite vacant. Most properties are rarely occupied second homes. Very few homes are occupied on a full time basis. Also, these are seven acre parcels and do not have neighbors wall to wall.

¶ 20 “Commercial” means “occupied with or engaged in commerce . . . related to or dealing with commerce . . . [or] having profit as the primary aim.” *Webster’s Third New International Dictionary* 456 (2002). “Commerce,” in turn, means “the exchange or buying and selling of commodities esp. on a large scale,” but it can also mean “dealings of any kind.” *Id.* A “commercial use” is one “that is connected with or furthers an ongoing profit-making activity.” *Black’s Law Dictionary* 1775 (10th ed. 2014).

¶ 21 As with the requirement of “residential use,” the dictionary definitions of “commercial” and “commercial use” do not by themselves resolve the question of whether short-term vacation rentals are prohibited under the covenants at issue here; and the covenants do not further define those terms.

¶ 22 As in cases construing “residential use,” some courts have recognized an ambiguity in the term “commercial use” when deciding whether prohibitions against commercial use apply to short-term rentals of residential property. *See Yogman*, 937 P.2d at 1021 (“commercial” use encompasses a broad range of meanings, from merely using the property in a way that generates revenue up to operating a business, such as a bed and breakfast, with profit as

its primary aim); *see also Russell v. Donaldson*, 731 S.E.2d 535, 538-39 (N.C. Ct. App. 2012) (where covenants did not define “business or commercial purpose,” they were ambiguous as to whether short-term residential vacation rentals came within the prohibition against use of lots for such purpose; however, upon review of cases from other states, and given requirement that ambiguities be construed in favor of unrestricted use of property, court held that prohibition did not bar short-term residential vacation rentals).

23 Other courts have held that prohibitions against commercial or business uses unambiguously do not bar short-term vacation rentals of residences where a renter uses the premises for residential activities such as eating and sleeping and not for commercial activities such as running a business. In *Slaby*, a residential association claimed that property owners’ short-term rentals of their cabin violated restrictive covenants prohibiting commercial use. 100 So. 3d at 571. However, the court reviewed case law from other states and agreed with “the majority of other jurisdictions” that rental of the cabin for eating, sleeping, and other residential purposes did not amount to commercial use. *Id.* at 580-

82; see also *Pinehaven Planning Bd.*, 70 P.3d at 668 (“[R]enting [defendants’] dwelling to people who use it for the purposes of eating, sleeping, and other residential purposes does not violate the prohibition on commercial and business activity as such terms are commonly understood.”); *Lowden*, 909 A.2d at 267 (“The owners’ receipt of rental income in no way detracts from the use of the properties as residences by the tenants.”); *Mason Family Trust v. DeVaney*, 207 P.3d 1176, 1178 (N.M. Ct. App. 2009) (“While [the owner’s] renting of the property as a dwelling on a short-term basis may have constituted an economic endeavor on [his] part, to construe that activity as one forbidden by the language of the deed restrictions [prohibiting use for business or commercial purposes] is unreasonable and strained. Strictly and reasonably construed, the deed restrictions do not forbid short-term rental for dwelling purposes.”).

¶ 24 We agree with the cases discussed above and conclude that short-term vacation rentals such as Houston’s are not barred by the commercial use prohibition in the covenants. Our conclusion is consistent with the Colorado Supreme Court’s holding, in a different context, that receipt of income does not transform



residential use of property into commercial use. In *Double D Manor*, the court addressed a homeowners association's challenge to use of property in the subdivision as a home for developmentally disabled children. 773 P.2d at 1046. In rejecting the association's argument that such use was not a permissible "residential use" because Double D used the property to earn money to pay wages and cover costs, the court stated: "Double D's receipt of funding and payment to its staff to supervise and care for the children do not transform the use of the facilities from residential to commercial." *Id.* at 1051.

25 Finally, we are not persuaded to reach a contrary conclusion based on the cases on which the Association relies.

26 *Ewing v. City of Carmel-By-The-Sea*, 286 Cal. Rptr. 382, 388 (Cal. Ct. App. 1991), cited by the Association for the proposition that short-term vacation rentals are inconsistent with the residential character of a neighborhood, was addressing the validity of a municipal ordinance explicitly prohibiting rentals under thirty days in an area zoned for single-family residential use; it was not interpreting a covenant lacking any such explicit prohibition. In *Mission Shores Ass'n v. Pheil*, 83 Cal. Rptr. 3d 108, 110-13 (Cal. Ct. App. 2008), the amended covenants — unlike the covenants here —

expressly prohibited rentals of under thirty days. Similarly, in *Munson v. Milton*, 948 S.W.2d 813, 817 (Tex. App. 1997), the court relied on specific language in the covenants that defined “business use” to include “transient-type housing” as supporting a conclusion that short-term rentals were prohibited.

¶ 27 Finally, in concluding that short-term rentals were prohibited under the covenants at issue in *Benard v. Humble*, 990 S.W.2d 929, 930 (Tex. App. 1999), the court applied a Texas statute requiring that covenant language be “liberally construe[d].” Noting the tension between the statutory requirement and the common law, the court observed:

The present case is a prime example of the dilemma: The deed restrictions in question do not explicitly contain language covering temporary renting of property. Were we to give construction against the drafter of the covenant [instead of liberally construing it], we would be required to reverse the trial court’s judgment [finding that short-term rentals are prohibited].

*Id.* at 931.

¶ 28 Unlike Texas, Colorado adheres to the common law principle that ambiguities in covenants are construed in favor of the unrestricted use of property.<sup>2</sup>

¶ 29 In sum, we conclude that Houston's short-term vacation rentals are not barred under the covenants.

### C. Validity of Section 11

¶ 30 The Association further contends that the district court erred in concluding that Section 11, the amendment to the board's administrative procedures that precludes unapproved short-term rentals and imposes fines for violations of that prohibition, was arbitrary and thus unenforceable. We agree with the district court that Section 11 is unenforceable, although we reach that conclusion for reasons other than those stated by the district court. *See Meister v. Stout*, 2015 COA 60, ¶ 8 (where district court reaches correct result, its judgment may be affirmed on different grounds that are supported by the record).

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<sup>2</sup> In its reply brief, the Association also cites unpublished cases from three other jurisdictions. Because these unpublished opinions are not to be used as precedent under the rules of those jurisdictions, we do not consider them.

¶ 31 The Association argues that Section 11 was adopted at a “duly called and duly conducted board meeting” to “clarif[y] that the [covenants’] prohibition on commercial and business uses of property . . . prohibits the unapproved short-term rental” of lots within the subdivision. However, as set forth above, the covenants do not prohibit such rentals.

¶ 32 Thus, while the Association has the authority to enforce the covenants, it cannot rely on that authority to enforce a nonexistent covenant provision. For short-term vacation rentals to be prohibited, the covenants themselves must be amended. It is undisputed that the amendment procedure set forth in the covenants — which, among other things, requires a vote of three-fourths of the Association members and permits such vote only at ten-year intervals — was not followed here. The board’s attempt to accomplish such amendment through its administrative procedures was unenforceable. *See Mauldin v. Panella*, 17 P.3d 837, 838-39 (Colo. App. 2000) (purported amendments to restrictive covenants that would have precluded the plaintiff’s proposed use of his property were invalid because they were not promulgated in compliance with covenant provisions regarding amendment

procedures); *Johnson v. Howells*, 682 P.2d 504, 505 (Colo. App. 1984) (same); *cf. Good*, 160 P.3d at 253-55 (where covenants allowed amendment and amendment procedures were followed, amendment prohibiting construction of guest houses and caretaker residences was valid).

#### D. Attorney Fees

¶ 33 Given our resolution of the issues raised in this appeal, we deny the Association's request for attorney fees under section 38-33.3-123(1)(c), C.R.S. 2014.

#### III. Conclusion

¶ 34 The judgment is affirmed.

JUDGE LICHTENSTEIN and JUDGE FOX concur.



Jocelyn Mills &lt;jmills@littletongov.org&gt;

## Thoughts on STRs from an Owner

1 message

David Tiprigan <david.tiprigan@gmail.com>  
Bcc: jmills@littletongov.org

Tue, Jan 8, 2019 at 12:26 AM

Dear city council members,

I thank you for the extra study session and all the time continue to put into these zoning changes. I fully understand the time commitment involved and hope that the end result is regulation that works efficiently with all residents.

I ask that you reconsider the primary resident requirement for short term rentals (STR). My family and I have been using our home as a short term rental for the past three years. We called the city to ensure we were legally allowed to operate as a STR in Littleton. We actively engage with our neighbors and seek their feedback on guests. They have our contact information and can reach us 24/7. We even get their help when we are out of town. The primary resident requirement would force us to stop using our house as a STR.

We believe that using our home as an STR is similar to using it as a long term rental (LTR). However there are several advantages, mostly in the type of tenant, that makes STRs more desirable. I can tell you from owning both types of rentals that STRs are a larger time and financial investment than LTRs. This translates directly into better home upkeep, better curb appeal and cleaner neighborhoods. These standalone STRs add more to a neighborhood than detract from it.

There seems to be an idea that STRs bring commercial use in our neighborhoods. I argue that they are similar to month to month LTRs commonly used as corporate housing. These can be owned outright by businesses but are not seen as a commercial use of the property. In our experience, a guest staying for longer than 30 days acts the same as short term tenant. Considering one stay as commercial and the other as residential (and regulating based on this idea) is inconsistent.

These new regulations would actively close all use of our property as a STR. We would have to change our property to a LTR. We would lose the considerable investment we made to furnish and upgrade our home. We would not move back into it and we would not sell it. I hope that the city council has heard the stories and experiences from the Short Term Rental Alliance members. We have countless examples of caring for our neighbors and communities. Why punish all the owners who care with heavy regulation from the start? The single year is not enough to recoup the initial investment.

We agree with the city's steps to bring in a formal licensing/citation process. This process will remove the bad owners/homes while allowing others who care to continue to operate. City council members have already acknowledged that these regulations aren't going to be perfect and will need to be updated in the future. I ask the city council to refrain from punishing owners who care and seek to do the right thing with our neighbors.

Kind Regards,  
David Tiprigan





Wendy Heffner &lt;wheffner@littletongov.org&gt;

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**Short term rentals**

1 message

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**H Joan Chiang** <chianghj@icloud.com>

Thu, Jan 10, 2019 at 2:55 PM

To: Wheffner@littletongov.org

My family and I have lived in Littleton for 38 years

We're against short term rentals It would destroy our neighborhood We've enjoyed our cul de sac watching all the children grow up kind of uncommon in today's world

Please put our name on a "say no to this crazy idea" list

We're unable to attend the meeting tonight

Thank you the Chiang family

chianghj@icloud.com

Sent from my iPhone



Jocelyn Mills &lt;jmills@littletongov.org&gt;

## Short-Term Rentals: Please remove the owner-occupied clause

1 message

Elissa Burton Tiprigan &lt;elissa.tiprigan@gmail.com&gt;

Mon, Jan 7, 2019 at 8:23 PM

Bcc: jmills@littletongov.org

Dear City Council,

My name is Elissa Tiprigan. I have been a Littleton resident for 5 years since my husband's job moved us to the area.

My husband and I have a full home that is rented as a short-term rental and has been for the last 3 years. We are registered, license holders with the city of Littleton and pay quarterly taxes to the city. We live directly across the street. **We have never had a single issue. Our neighbors are all aware, have our phone numbers and permission to contact us 24/7 if an issue ever arises. Please show me long-term rental owners who operates like this. Through this process, I have come to meet and know many other short-term rental owners and they are all like we are. We are a group of people who LOVE Littleton, we all live in Littleton and we know our neighbors and have had NO issues!**

Like most other short-term rental owners, we came into this rental situation unintentionally. We are not a big corporation, just a young family with young children who use short-term rentals ourselves. Our current situation is that the home we purchased when we moved here 5 years ago no longer works for our family set up. So we moved across the street into a rental to save money and look for a different home for our family (in Littleton). We do not want to sell our home as we are not sure we will find what we are looking for and we also do not want long term renters as we have dealt with that before and it can be a really bad situation. This is a \$500,000 home that's been fully updated and we do not want it destroyed by a bad renter. So we have chosen to have the entire home as a short-term rental.

The owner-occupied clause that is currently in the proposal would shut down our short-term rental. This would cause us extreme hardship as we have poured a substantial amount of money and time into this property as a short-term rental. As I mentioned above, when we made this decision, short-term rentals were legal and welcome in the city of Littleton. We even have a business license and records of quarterly taxes to go along with that.

**I really feel for the neighbors of this one home that was an issue in Littleton and no neighbor should have to deal with that kind of thing (from a short term renter, a long term renter or a fellow homeowner). There should definitely be some way to ensure that these types of rentals/owners should be stopped. I would like to see a permitting process put in place that would encourage all short-term rentals to register with the city by making it simple to get the permit. Then I would like to see a way put in place for a permit to be put under review, and potentially be able to be pulled, due to repeat offenses.**

There are many other non-owner occupied short-term rentals in Littleton that have been operating for a very long time with no issues.

I could go on and on about the benefits of a short term rental in our community. From the jobs we provide to citizens, to the pristine condition we keep our property in, to the tax dollars we bring to the city and the business our guests bring to local businesses, to the benefit it is for citizens to have a nearby place for their family and friends to stay when they visit them (99% of our visitors are here to visit friends and family who live in Littleton, people who are coming to party in Denver are NOT staying in Littleton)...I know you have heard all of this so I'd like to focus on one issue that I've heard brought up from the other side....

Having listened to the other side, I keep hearing "This is not what the citizens of Littleton want and is not in the interest of the citizens of Littleton which are who City Council should be representing". This is a very interesting point as I have seen two posts related to this topic on Facebook and Nextdoor. Both were started by angry citizens who were against short-term rentals and trying to raise awareness for their cause and get the community behind them. After a few hours, both posts had many, many, many comments in SUPPORT of short-term rentals. The one I saw on Nextdoor had 2-3 people who agreed with the poster and the remaining commenters were all in support (many many more than 2-3). The one I saw on the Facebook group had over 60 comments and only ONE person agreed with the anti-short-term renter!!! Everyone else loves short-term rentals and is happy to have them in their neighborhood. I tried to screenshot all these comments so you could see but BOTH posts were removed by the original poster (I assume because the results did not go their way).

1/8/2019

City of Littleton Mail - Short-Term Rentals: Please remove the owner-occupied clause

The issue is that the people you are hearing from are invested in making their voices heard because they are MAD! As I am sure you are well aware, the people who are in support but don't have skin in the game don't have enough motivation to show up to meetings, email, call, etc so you just don't really get to hear from them. In addition, many of the citizens of Littleton are young families and they are busy and just can't practically fit in something else on their plate. I just want to assure you that the citizens of Littleton like short-term rentals and you should not consider a few angry neighbors who repeatedly show up at every meeting to be a full picture of how the citizen of Littleton feel. As I mentioned before, almost all of our guests are the family and friends of citizens of Littleton and we repeatedly hear how thankful they were to have a place so close to their family and friends for the \_\_\_\_\_ (funeral/wedding/baby shower/graduation/etc) they are here for.

I appreciate your consideration and the time you have all put into trying to deal with this issue.

Warmly,  
Elissa Tiprigan  
Short-Term Rental Owner and License-holder

Wendy Heffner <[wheffner@littletongov.org](mailto:wheffner@littletongov.org)>

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**Fwd: Leisa Knotts letter in support of Littleton Short term rentals**

1 message

**Peggy Cole** <[pcole@littletongov.org](mailto:pcole@littletongov.org)>

Tue, Jan 8, 2019 at 12:37 PM

To: Wendy Heffner <[wheffner@littletongov.org](mailto:wheffner@littletongov.org)>

Hi Wendy,

I'm forwarding this for inclusion in the Public Record.

Peggy

----- Forwarded message -----

From: **Knotts, Leisa** <[LeisaKnotts@centura.org](mailto:LeisaKnotts@centura.org)>

Date: Tue, Jan 8, 2019 at 11:59 AM

Subject: Leisa Knotts letter in support of Littleton Short term rentals

To: [dbrinkman@littletongov.org](mailto:dbrinkman@littletongov.org) <[dbrinkman@littletongov.org](mailto:dbrinkman@littletongov.org)>January 8<sup>th</sup>, 2019

Dear Littleton City Council,

I am writing on behalf of myself and the Short-Term Rental Alliance. I agree and support the letter and purposed recommendations from 12.18.2018. Please see attachment.

My name is Leisa Knotts, and I am the Manager for Rehabilitation at Littleton Adventist Hospital Centura Health where I have worked for over 30 years. I am also a long-time resident of Littleton. I recognize and am grateful for the respect and the partnership between Littleton Adventist Hospital and the City of Littleton. Thank you to the council for being open minded, fair, and collaborative.

I own my property and have lived there for 32 years and I have been a short-term rental host for over 2 years. During this time there has never been a neighbor complaint regarding my short-term rental. We offer off street parking and a quite entrance. My experience with my guests has always been positive and I am proud that I and other short-term rental hosts are ambassadors offering visitors a true taste of our wonderful town. Along with these visitors come their commerce dollars to spend on shopping, art, and restaurants/ bars.

My guests include visitors coming to see their Littleton family, traveling hospital workers, people looking to re-locate to Littleton, wedding attendees, medical students looking to secure an internship, educators attending workshops, and patients seeking treatment from destination physicians. Short term renting offers these visitors a more inviting and comfortable stay.

I do understand city council's concerns regarding a few neighbor complaints with a couple of short term rentals. I am in support of necessary licensing and regulation implementing only what is needed without creating further complications. It is vital to hold those accountable that break the rules by pulling permits and not punishing those that are providing a needed service without complaints.

I appreciate your time and hope that you will consider our concerns and recommendations as I would like to continue to be a travel ambassador of Littleton.

Thank you and best regards,

*Leisa Knotts*

Leisa Knotts

1845 West Lilley Avenue

Littleton CO 80120

303-885-5412

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\*\*\*\*\*

**Peggy Cole, PhD**  
City Council Member at Large  
2255 W.Berry Ave  
Littleton, Colorado 80120  
[littletongov.org](http://littletongov.org)  
[Twitter](#) | [Facebook](#) | [YouTube](#)



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**2 attachments**



**Littleton Short Term Rental Alliance Letter 12.18.2018.pdf**  
342K



**Littleton City Council 1-8-2019\_LEISA KNOTTS LETTER.docx**  
15K





Jocelyn Mills &lt;jmills@littletongov.org&gt;

## Short Term Rentals

1 message

Elizabeth Oliver &lt;libbyliver@gmail.com&gt;

Sun, Jan 6, 2019 at 11:43 AM

To: dbrinkman@littletongov.org, jvaldes@littletongov.org, pcole@littletongov.org, pdriscoll@littletongov.org, cfey@littletongov.org, kelrod@littletongov.org, kschlachter@littletongov.org, mrelph@littletongov.org, skemp@littletongov.org, jmills@littletongov.org

To the entire Littleton City Council:

I believe it is not in the best interests of the city of Littleton for Short Term Rentals to be allowed in every neighborhood. It will drive down property values and make it harder to sell our in our well established, family oriented neighborhoods. It is also against our current zoning (I live in the Southbridge neighborhood).

If you take the time to look at other cities in the Denver area most have either completely banned short term rentals or put far more restrictions on it than what is currently proposed by the Littleton City Council. Many cities that have allowed it have stopped allowing it after all the problems they have encountered. I just heard on the news that Breckenridge has so many complaints about STRs due to noise and too many cars that they have put a new law on the books that the short term renters will only have 1 hour to cleanup the conditions that caused the complaints. And this from a city that thrives on short term rentals!

Here are important considerations for the City council to consider:

1. Is Littleton really set up for and prepared to control Short Term Rentals the way they need to be?
2. What does Littleton really get out of this - the city, not individuals who want to change the character of our suburban neighborhoods?
3. Have you considered polling all city residents as to what they want with regard to Short term rentals as opposed to just listening to those interested in turning our neighborhoods into their personal financial gain BEFORE moving forward with the currently proposed approach instead of having to deal with push back after?
4. And perhaps most important - is Littleton's City Council willing to study and learn from other cities experiences with Short Term Rentals BEFORE making changes?

Please consider this input before you move forward allowing Short Term Rentals across ALL Littleton neighborhoods.

Sincerely,  
Elizabeth Oliver  
7621 S. Bemis St.  
303-730-0717

----- Forwarded message -----

From: **Carolyn and Ray Cannon** <[carolyn.ray3036@gmail.com](mailto:carolyn.ray3036@gmail.com)>

Date: Thu, Jan 10, 2019 at 10:59 PM

Subject: short term trntal

To: <[wheffner@littletongov.org](mailto:wheffner@littletongov.org)>

TO ALL CITY COUNCIL MEMBERS;

I cannot believe you are considering a zone change in our neighborhood. This is a quiet neighborhood, not a place that wants or needs Short Term Rentals.

Do not change the zoning just to please whoever wants it. We and everyone else do not want this.

I shall look forward to hearing your reasons on January 15.

Sincerely,  
Carolyn Cannon  
Southbridge 1 Resident

Sender and receiver should be mindful that all my incoming and outgoing emails may be subject to the Colorado Open Records Act, S 24-72-100.1, et seq.

----- Forwarded message -----

From: **Carolyn and Ray Cannon** <[carolyn.ray3036@gmail.com](mailto:carolyn.ray3036@gmail.com)>

Date: Thu, Jan 10, 2019 at 10:34 PM

Subject: Short Term Leasing

To: <[wheffner@littletongov.org](mailto:wheffner@littletongov.org)>

The Littleton City Council should not approve zoning changes to allow Short Term Rentals.

There is no place in Littleton neighborhoods for Short Term Rentals.

I look forward to the Council meeting on January 15, 2019.

Howard Cannon  
7666 S Prescott Ct.

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