



Legislation Text

File #: Ordinance 25-2021, **Version:** 2

Agenda Date: 10/12/2021

Subject:

Ordinance 25-2021: An ordinance on second reading repealing and reenacting Chapter 23, entitled Short-Term Rentals, to Title 3 Business Regulations

Prepared by: Reid Betzing, City Attorney

PURPOSE:

To repeal and reenact the city's Short-Term Rental regulations by amending some original terms such as prohibiting the operation of Short-Term Rentals when the rental is non-owner occupied.

PRESENTATIONS:

Staff Presenter(s): Reid Betzing, City Attorney and Jennifer Q. Henninger,
Community Development Director

Additional Presenter(s): N/A

SUMMARY:

In November of 2020 council adopted Ordinance 41-2020 adding Short-Term Rentals (STRs) as a business licensing requirement.

PRIOR ACTIONS OR DISCUSSIONS:

In early 2019 the city introduced a proposed STR ordinance which did not receive council approval. Subsequently an independent citizen group comprised of both those for and against STRs was formed to try to reach a consensus and provide input to the City.

In February of 2020, Littleton City Council directed staff to evaluate options to address STRs prior to the adoption of the Unified Land Use Code (ULUC). Development of business licensing for STRs was council's preferred initial action.

In November of 2020, city council adopted licensing requirements for STRs.

In August of 2021, city council reviewed the proposed ULUC regulations pertaining to STRs and provided staff direction to change the proposed land use matrix to prohibit non-primary STRs in the City of Littleton, to allow STRs in attached Accessory Dwelling Units (ADUs), and to amortize or phase out the current allowance of non-primary STRs over the course of 5 years.

This ordinance passed on first reading on September 21, 2021.

ANALYSIS:

Staff Analysis

As council is aware, the discussion and regulation of STRs in Littleton has led to a substantial amount of input on both sides of the issue. Those on the pro side of the issue have argued about the benefit of bringing individuals into the community who could have a positive impact on our businesses in the community as well as provide an additional source of income to some of our property owners with the ability to operate STRs. Some of the con side comments have largely revolved around the potential negative impacts to the City's community and character given the more transient nature of STR occupiers where new groups of people who neighbors are unfamiliar with enter and exit the area, as well as a few examples where an STR had occupants who had a deleterious effect on the neighbor's enjoyment of their own property.

At the August 24, 2021 study session Council gave direction to amend our current STR licensing requirements to prohibit the non-primary STRs with a phase out over 5 years for the handful that were currently licensed as non-primary rentals. In addition, Council agreed to permit STRs in ADUs as long as they were attached.

After Council's direction was provided, a review of currently existing state law and case law reviewed that amortizing or phasing out the allowed use of non-primary rentals could present legal challenges due to C.R.S. § 38-1-101(3)(a): "Notwithstanding any other provision of law to the contrary, a local government shall not enact or enforce an ordinance, resolution or regulation that requires a nonconforming property use that was lawful at the time of its inception to be terminated or eliminated by amortization." This statute was upheld in *JAM v. City of Longmont* 140 P.3d 192. As such, the handful of currently licensed non-primary rentals will be allowed to continue to exist until that use is discontinued.

Fiscal Impacts

Level of enforcement could have fiscal impacts related to the balance of compliance advocacy and fees.

Alternatives

Not repeal and reenact current licensing requirement allowing for status quo.

STAFF RECOMMENDATION:

Based on council's recent direction in regard to how STRs will be handled in the ULUC, staff recommends revisions to the city's STR business regulation ordinance to prohibit non-owner-occupied or non-primary owner STRs from operating in the City of Littleton.

PROPOSED MOTION:

I move to approve Ordinance 25-2021 repealing and reenacting Chapter 23, Entitled Short-Term Rentals, to Title 3 Business Regulations.