

Introduction

Short Term Rental (STRs) units are a growing industry nationwide and have been allowed to operate without regulation or enforcement in Columbia for the last three yearsⁱ. The Planning and Zoning Commission (PZC) sent a draft ordinance to the City Council in 2019. City Council responded with a number of amendments which were rejected by the PZC. Rather than continuing to work from a draft that was unsatisfactory to either body, and contained numerous exceptions and exemptions, the PZC was tasked with developing a new and simpler ordinance to regulate the industry. The renewed process began in May 2021. When undertaking this task, the PZC started with attempting to quantify what the members saw as the issues with allowing an open and unlimited STR industry and what values they were trying to preserve in our community. The PZC then moved to conceptual descriptions of what would and would not be allowed before moving to the actual drafting of the ordinance.

Building upon staff research, the Commission through its own research has identified approximately 300 active STRs in Columbia at any one time.ⁱⁱ No taxes are being collected, there is no oversight of the operations, and complaints are difficult to address because of a lack of clarity on both who is responsible for issues and what is considered a violation.

In addition to outlining the contents of the ordinance, this report attempts to provide the City Council with a summary of nearly two years of discussion and research and to give an insight into the thought process of the PZC during the process. It is important to recognize that this ordinance only contains changes related to Chapter 29 and Land use. Other ordinances that deal with implementation of taxation and licensing are outside of the purview of the PZC. What is being presented is a first draft at a clear and concise ordinance. We respectfully request that Council communicate any desired changes back to the PZC so we can incorporate changes into a final draft before we begin the public hearing and official recommendation process.

Short Summary of Provisions

The regulations create three tiers of STRs. The tiers are based on the primary use of the residence and the planned frequency of its use as an STR. All residential zones are treated equally within the ordinance with the exception of R-MH (manufactured housing) which is not included in the ordinance. Commercial zones are treated in the same way as hotels and bed and breakfast operations for the purpose of STRs.

Tier 1: Dwelling units that are primarily used as a principal residence and are only used as an STR for 30 days or less throughout the year have the lowest impact on the housing market and their neighborhood and are therefore the least regulated.

Tier 2: Dwelling units that are a primary or secondary residence for their owners and are used as an STR for up to 120 days throughout the year have a minor impact on the housing market and their neighborhood and have a few more restrictions. This includes requiring a CUP for secondary residences in residential zones and not allowing tenants to exceed the 30 days allowed by Tier 1. People who want to use their principal residence as an STR for up to 120 days will have a path to do so.

Tier 3: Dwelling units that are being used as an STR for more than 120 days throughout the year or are never occupied by their owner have a major impact on both the availability and affordability of housing and the residential nature of residential zones. These types of operations will not be allowed in any residential zones. However, the level of restriction on them beyond the zoning is not substantially different from that of Tier 2.

The ordinance only allows for 1 license per entity. This achieves the goal of not losing a large amount of housing to the STR market while also not creating burdensome regulations in an attempt to disqualify a large number of properties. There is no requirement for a host to be physically present on the property, but a registered agent must be designated who will be available while the property is being used as an STR.

The occupancy of any STR is limited by the International Property Maintenance Code calculation. It is based on the square footage of the bedrooms and common spaces within the home which is the same calculation that is used for long-term rental licensure. The STR regulations propose capping dwelling unit occupancy at 8 total occupants rather than 10 as determined by the International Building Code. The cap at 8 is an attempt to prevent issues with parking and noise violations, both of which have been common complaints about STRs in the past. It also prohibits large gatherings or parties within the STR for the same reasons.

Operators will have a full year after the effective date of the ordinance to come into compliance. This should be sufficient time to get through any administrative process and also prevents cutting off reservations that may have been made prior to the ordinance's passage.

Guiding Principles During Drafting

Fulfilling our role in the City by “adopting initiatives and policies that encourage and promote diverse, affordable, and attractive housing; encourage and promote home ownership in all areas of the City; and protect renters by preserving the availability of housing in residential zoning” and not allowing fully commercial enterprises to operate in residential zones.ⁱⁱⁱ

Homeownership and neighborhood stability are key to a thriving community^{iv}. This concept is backed up by both Columbia Imagined and the mission of the Neighborhood Planning activities of the City.^v Any policy we adopt should avoid creating incentives for removing housing stock from the market and instead incentivize home ownership by giving homeowners an additional stream of income to help cover the mortgage and other costs related to home ownership. While STRs may not generate enough income to allow an individual to purchase a home that would not otherwise be able to do so, they may prevent the sale of a property due to a financial downturn on the part of the homeowner. By allowing every homeowner to use their personal residence as an occasional STR, we are protecting property rights and encouraging the original model of STRS - local residents providing a local experience to a visitor.

Columbia has a higher rental population than most other localities in Missouri.^{vi} Protecting the availability of affordable rentals is key to preventing an overall population loss. It is also the number one way to prevent acute houselessness. Columbia's acute houselessness problem is evident by looking at the spike in requests to the Columbia Housing Authority.^{vii} The attached ordinance attempts to encourage long term rental as the primary use of rental property whenever possible.

Commercial investors are a growing business model for STRs. More and more homes and apartments are being pulled from the traditional long-term rental market and being put into use as STRs. These are not properties that are used by their owners personally and may be owned by individuals who are only indirectly connected with Columbia. A year-round use as transient guest accommodations is not a residential use of a residential dwelling unit. It is much closer to a hotel. Even a Bed and Breakfast requires the owner's physical presence during operation. A year-round exclusive use of a property as an STR is commercial in nature and so is limited to commercial zones by the attached ordinance.

Modeling our ordinance to allow for broad and easy use of the original STR model – homeowners and tenants renting out space in their own home on an occasional basis.

The ordinance crafted by the PZC attempts to balance the rights of homeowners to benefit from their property and the needs of the community for housing. The ordinance does not prevent a property owner from using their property to generate profit nor does it allow for unchecked growth of short-term housing in residential areas. It creates safeguards for neighbors while allowing even commercial investors a pathway into the STR industry.

We also included long-term tenants in the lowest impact tier. This is a way to equitably craft an ordinance in a city with more than half of the housing units being rental housing. It is also a way to ensure a tenant can stay in their home and/or build a nest egg toward homeownership.

Allowing homeowners to benefit from the extra income their property may generate without adversely impacting their neighbors.

Property owners have an acknowledged right to benefit from the use of their property. The attached ordinance attempts to provide clear pathways for homeowners who want to occasionally use their own property as an STR. However, those benefits should not create harms to the surrounding area. We capped the frequency of activity in residential zones and limited the occupancy of each STR in an attempt to preserve the residential nature of residential zoning and to minimize potential traffic, noise, and other disturbances that are associated with commercial activity.

Homeownership is a key feature of reducing poverty, building generational wealth, and increasing community satisfaction.^{viii} Using your home as an STR is a benefit to both the homeowner and to individuals who are traveling to Columbia and don't want to stay in a hotel. It can also be helpful for individuals who are part-time residents of Columbia and don't want their home to sit vacant while they are away.

Equitable participation in the STR market – pushing back against regulations that concentrate STRs in areas that are primarily rental neighborhoods in order to “protect” owner-occupied neighborhoods.

Columbia's poverty is concentrated into a few specific neighborhoods even within Wards.^{ix} These areas of high poverty are also the areas of high concentrations of STRs.^x Those same census tracts are where we have seen homeownership rates dropping more quickly than in other census tracts.^{xi} The STRs in these areas appear to be investment properties operated by hosts that manage multiple listings.^{xii} Conversely, areas of high homeownership and higher household incomes have fewer STRs in operation. The STRs which do operate in those census tracts are not associated with a decrease in homeownership rates.^{xiii} Any ordinance adopted by the City needs to take into consideration where the existing STRs are operating and avoid increasing the disparity in concentrations. One way we are doing that is by treating all residential zones equally. This will also avoid creating an incentive for owners of long-term rental properties to take them out of the long-term rental market and operate them as STRs.

General public comments/reoccurring themes and concerns – Planning Commission response.

Below is a summary of several general public comments/reoccurring themes and concerns that have been received by the Planning Commission relating to the proposed regulatory standards. Following each

summarized comment is a response intended to provide insight into the Commission's thought process relating to the comment or an explanation of how the proposed ordinance would impact or address the comment. It should be noted that the responses provided below are not fully inclusive of all comments/recurring themes or concerns received. Following the public inspection period and required public hearings it is anticipated that a more inclusive response to all comments/recurring themes and concerns will be provided.

- **A person has a right to use their property to make money.**
 - While true, a person does not have a right to a property use that is not allowed in the zoning district in which their property is situated. For example, a person does not have the right to use their property in a single-family residential zone as a tattoo parlor. The City's legal department's opinion is that STRs have always been a violation of the code and an illegal use of property. The stay on the enforcement of the Code did not make the use legal. Turning over residents on a daily or weekly basis year-round is not a residential use. It is a commercial activity. Commercial activities belong in commercial zones and residential activities belong in residential zones. The draft ordinance does allow for limited commercial activity in residential zones while restricting full-time commercial activity to commercial zones.
- **Properties currently being used as STRs have a right to continue that use. To do otherwise would be a violation of their due process rights as property owners.**
 - As mentioned above, the City's legal department's opinion is that STRs have never been a legal use in Columbia. The stay of enforcement expired in January of 2022.^{xiv} Even if a property owner was relying on the official lack of enforcement, they have sufficient notice of the illegality of their operation at this point. The legal department has also advised the PZC that we cannot create a separate path to licensure and compliance for pre-existing properties. Therefore, any allowance made for STRs operating before the ordinance goes into effect also has to be available to all other future applicants. The PZC has worked diligently to create a clear set of standards that balances the property rights of landowners with the goals of Columbia Imagined and the obvious need for more affordable housing in Columbia. Many current operators will be able to bring their property into compliance.^{xv} Those that cannot have a full year to fulfill reservations and decide on the future of their property. They have multiple options available to them including requesting a zoning change to allow for the STR in their area. Recognizing that this is a difficult question for multiple reasons, the PZC has exhaustively discussed potential alternative methods of providing reasonable pathways for the owners of currently operating STRs to come into compliance.

The solution that is most in line with the values and work of the PZC is to allow for sufficient lead time for property owners to make decisions. We have provided a full year after the effective date of the ordinance, but a longer lead time may be more acceptable to the existing operators. The FIFA World Cup in Kansas City is scheduled for late 2026. Any time frame should end well before that so as to allow for reservation activity that is not likely to be canceled due to non-compliance.

Another potential solution would be to make a conditional use permit available to all property owners regardless of the frequency of the use of the property as an STR or the owner's residence in the home. The PZC repeatedly rejected this idea because of the principle of maintaining residential uses in residential zones. Allowing for full-time commercial operations in residential zoning violates one of the primary purposes of land use regulations generally and is a major cause of depletion in the housing stock. If Council is so inclined, the PZC could revisit these ideas and amend the draft ordinance prior to the opening of the public inspection period.

- **The better method of addressing problems is to allow open use of STRs in all zones but shut down operators who get too many complaints.**
 - This setup will only exacerbate the concentration of STRs in areas of high poverty and low home ownership. It encourages investors to buy up housing stock and take it out of the long-term rental market which will in turn drive up housing costs and mean Columbia's lack of available and affordable housing will get worse not better.
- **STRs are an economic driver and could bring additional revenue to both the City and to local businesses.**
 - This ordinance does not prevent STRs from operating in Columbia nor does it prevent someone from using an STR as an income stream. What it does do is encourage STRs as an option for homeowners rather than investors. STRs are not generators of full-time well-paying jobs. Any jobs they generate are likely through third party service providers unless the operator has enough properties to justify the hiring of an exclusive management staff. Those high-volume operators illustrate the very problem this ordinance seeks to prevent - multiple properties that would otherwise be suitable for long term housing being taken out of the market. The potential economic benefit provided by STRs should not outweigh concerns over the availability and affordability of housing.
- **STRs provide an inexpensive alternative to traditional hotels and are therefore an equitable way to attract visitors to Columbia.**
 - In the early days of the STR industry this was certainly true.^{xvi} It was significantly less expensive to stay in the home of a local resident being offered as an STR than to rent multiple hotel rooms. However, as the STR industry has grown, the cost difference has shrunk and is often non-existent in popular markets on popular dates.^{xvii}
- **The proposed regulations are overly burdensome and unenforceable.**
 - The goal of having multiple tiers within the STR framework is to avoid putting burdensome regulations on property uses that have little impact on the residential nature of a residential zone and do not deplete the long-term housing stock of the city. To that end, homeowners and tenants who qualify as a Tier 1 STR will have a very simple registration process and limited interactions with regulators beyond the initial inspection and required reporting. Property owners who qualify for Tier 2 or 3, and are therefore engaged in commercial activity, will have stricter requirements and may have to apply for permits in addition to registration. However, these properties are operating commercial enterprises out of residential dwelling units and should be prepared to be treated as a commercial entity rather than a homeowner using their personal residence. Enforcement can be easily done if the City is willing to invest in simple software that allows for audits of listings on STR websites and potentially a staff person to process complaints. The

quarterly reports and tax filings will also contain the necessary information to ensure compliance.

Appendixes

- Flow Chart of STR Ordinance
- List of reference STR ordinances used in drafting regulations
- Stay of Enforcement Ordinance (Ord. # 24964, Jul 19, 2021)
- Carroll/Loe Analysis of Current STR Market
- Articles:
 - Indicators of Inclusive Prosperity
 - <https://www.brookings.edu/research/reducing-poverty-without-community-displacement-indicators-of-inclusive-prosperity-in-u-s-neighborhoods/>
 - Distribution of Housing Wealth Across Income Groups from 2010-2020
 - <https://www.nar.realtor/blogs/economists-outlook/distribution-of-housing-wealth-across-income-groups-from-2010-2020#:~:text=There%20were%20979%2C143%20more%20middle,in%202020%20compared%20to%202010.>

ⁱ None of the provisions of this ordinance apply to long term rentals. Under the current ordinances, any rental contract for more than 30 days is a long-term rental and the Rental Conservation Code applies. This is true regardless of whether the advertised property was listed on an STR intermediary for a lesser time period.

ⁱⁱ Carroll/Loe Analysis

ⁱⁱⁱ Land Use and Growth Management Goals, *Columbia Imagined: The Plan for How We Live & Grow*, (Adopted 2013), at 93

<https://www.como.gov/wp-content/uploads/2021/02/Columbialimagined-FINAL.pdf>

^{iv} Rohit Acharya & Rhett Morris, *Reducing Poverty Without Community Displacement: Indicators of Inclusive Prosperity In U.S. Neighborhoods*, BROOKINGS METRO, September 2022

<https://www.brookings.edu/research/reducing-poverty-without-community-displacement-indicators-of-inclusive-prosperity-in-u-s-neighborhoods/>

^v City of Columbia Neighborhood Planning Page, <https://www.como.gov/community-development/planning-development/neighborhood-planning/>, (last visited 12/1/2022)

^{vi} State of Missouri Homeownership Percent: 68.8% City of Columbia Homeownership Percent: 49.8%, AMERICAN COMMUNITY SURVEY FROM US CENSUS BUREAU, 2021,

https://data.census.gov/table?q=homeownership&g=0100000US_0400000US29_1600000US2915670&tid=ACSDP1Y2021.DP04&moe=false&tp=false (last visited 12/1/2022)

^{vii} Columbia Housing Authority 2023 Planning Document,

<https://www.columbiaha.com/wp-content/uploads/2022/09/1-Year-Plan-2023.pdf> (last visited 12/1/2022)

^{viii} Rohit Acharya & Rhett Morris, *Reducing Poverty Without Community Displacement: Indicators of Inclusive Prosperity In U.S. Neighborhoods*, BROOKINGS METRO, September 2022

<https://www.brookings.edu/research/reducing-poverty-without-community-displacement-indicators-of-inclusive-prosperity-in-u-s-neighborhoods/>

^{ix} Loe Census Block Data

^x Carroll/Loe Analysis

^{xi} Loe Census Block Data

^{xii} Carroll/Loe Analysis

^{xiii} Carroll/Loe Analysis

^{xiv} See Attached Ord. # 24694, Jul 19, 2021

^{xv} Carroll/Loe Analysis

^{xvi} Sally French, *Are Airbnbs Really Cheaper for Large Groups?*, NERD WALLET, Jul 20, 2022

https://www.nerdwallet.com/article/travel/airbnb-for-large-groups?trk_channel=web&trk_copy=Are%20Airbnbs%20Really%20Cheaper%20for%20Large%20Groups%3F%C2%A0&trk_element=hyperlink&trk_elementPosition=0&trk_location=PostList&trk_subLocation=tiles

^{xvii} Carroll/Loe Analysis - pricing data