

## SHORT-TERM RENTAL REGULATION SUMMARY & STAFF OBSERVATIONS

### **EXECUTIVE SUMMARY**

The following report provides an overview of proposed regulations pertaining to short-term rentals (STRs) and represents approximately 2 years of activity that the Planning and Zoning Commission has engaged in. The attached regulations were refined following the July 24, 2023 Joint Council-Planning Commission work session at which additional guidance on its contents were obtained. Additionally, this report offers observations from staff intended to identify certain regulatory provisions that may result in unnecessary impacts in obtaining broad community support as well as in the regulations' future administration.

The attached regulations were reviewed during the Commission's August 24, 2023 work session and recommended unanimously (6-0) to be presented as the "final draft" regulations at a future public hearing. As directed at the July 24, 2023 joint work session, this report is being presented to Council for direction to either proceed to a public hearing or to seek further revision. If directed to proceed with a public hearing, the hearing date would be delayed 30-45 days to permit time for formal public review and submission of written comments. Submitted comments would be presented at the Commission's and Council's public hearings.

### **DISCUSSION**

#### **BACKGROUND -**

The attached "final draft" regulations represent 2+ years of work performed by the Planning and Zoning Commission with respect to the topic of short-term rentals and are a second attempt at defining zoning standards relating to this topic. In preparing the regulations the Planning and Zoning Commission adopted the following "guiding principles":

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

- **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.**

Using these principles supplemented by independent Commissioner research on market conditions, literature and ordinance review, and discussion in more than 25 work sessions with staff the “final draft” regulations were developed. Throughout the process limited public comment was sought with the understanding that such comments would be obtained as part of future public hearings.

The following activities have occurred with respect to the preparation of the attached “final draft” regulations.

**December 19, 2022** – Council and Commission met to discuss **first** draft of proposed regulations. Meeting presented research findings relating to market conditions, the “guiding principles”, and additional background documents. At that meeting the Council requested public comments be solicited prior to proceeding to required public hearings.

**Mid-February 2023 – March 24, 2023** - Public engagement/outreach performed via City’s BeHeard engagement platform. Engagement contained 7 non-statistical “yes” or “no” questions and offered option to submit written comments. The engagement resulted in 434 participants answering the questions with a total of 54 written responses being received.

**May 4, 2023** - Engagement results presented to Commission. Commission frustration expressed with the format citing questions were too narrow and did not provide opportunity for “granular” responses. Frustration also expressed with ChatGPT (AI software) summaries of the 54 public comments, but found the “raw” comments helpful.

**June 5, 2023** - Council provided report on engagement results and Commission concerns.

**July 20, 2023** – Commission prepares for July 24, 2023 Joint Council-Commission work session. Action taken to address several topics believed to be the source of confusion with clarifying language. Direction given to revise **first** draft to permit an owner of a non-primary residence (i.e. secondary or investment properties) the opportunity to seek STR licensure via conditional use permit (CUP). After thoroughly discussing each proposed regulatory provision, the Commission unanimously moves to adopt revised regulations.

**July 24, 2023** – Joint Council-Commission work session. Discussed regulation changes and intended regulation outcomes. Council outcomes were to have regulations that would provide for business licensing, inspections, and imposition of lodging taxes, neighborhood protections, respect property owner rights, have realistic enforcement, and would legalize non-conformities. Additional topics discussed included enforcement on weekends, the complaint process, and designation of agents in the absence of a property owner. It was understood that

a final version of the fully amended regulations would be presented to the Council in October following adoption of the FY 2024 Budget.

#### **“Final Draft” Ordinance –**

The following discussion focuses on the significant elements of the proposed regulations and explains how the element fits into the overall strategy of regulating the operation of short-term rentals within the City. Within each element discussion, staff has attempted to express the Commission’s purpose for why the element has been prepared as proposed and also offers staff’s observations on the element.

#### **Significant Element # 1 – Regulations are based on a 3-Tier Structure**

The proposed regulations are based on a three (3) Tier structure. The tiers are differentiated based on the number of the days a residence is used as a STR and whether the residence is the registrant’s primary residence, with Tier 1 being the least intense STR use. All tier levels would require registration, inspection, business licensure, and would be subject to payment of lodging taxes. The Tiers are described as follows:

##### **Tier 1 -**

A Tier 1 STR allows a **long-term resident** (i.e. owner or authorized tenant) to use their principal residence as an STR for up to 30 calendar days. In establishing this Tier, the Commission desired to allow STR usage with the least number of requirements. The tier would be applicable to all principal residences within the A, R-1, R-2, R-MF, M-OF, M-N, M-C, and M-DT zoning districts.

##### **Tier 2 –**

A Tier 2 STR allows a long-term resident (i.e. owner or authorized tenant) to use their principal residence as an STR for up to 120 calendar days in any of the of following zoning districts: A, R-1, R-2, R-MF, M-OF, M-N, M-C, and M-DT. A Tier 2 STR also allows an owner of a residence that is not a principal residence (i.e., a secondary residence or investment property)the ability to use that residence as an STR for up to 120 days as a matter of right in the M-OF, M-N, M-C, and M-DT zoning districts and subject to the issuance of a conditional use permit (CUP) in the A, R-1, R-2, and R-MF zoning districts.

In establishing these provisions, the Commission considered the imposition of additional regulatory standards necessary to minimize the impacts that would be created when a residence is used for longer periods of time as an STR. The Commission also considered the use of a non-principal residence as an STR to require more oversight and consideration than the use of a principal residence as an STR and therefore require a CUP when a non-principal residence STR is located in the A, R-1, R-2, and R-MF zoning districts. The Issuance of a CUP

would be subject to supplemental CUP criteria, review/recommendation by the Planning Commission, and final approval by the City Council.

### **Tier 3 –**

A Tier 3 STR would allow an owner the ability to use a residence (regardless of whether it is a principal residence) as an STR for greater than 120 days within a calendar year. In establishing the provisions for this Tier, the Commission acknowledged some operators may desire greater than 120 days of rental income annually, but felt such usage was too intense for a residential district. As such, a Tier 3 STR is proposed to be permitted only in the M-N, M-C, and M-DT districts with the ability, subject to issuance of a CUP, in the M-OF district.

It should be further noted that within Tiers 2 and 3 the regulations propose 1 additional off-street parking space for each two (2) transient guest within the principal residence. The purpose for this provision was to off-set the potential impacts increased transient usage of the residence may create. It was further acknowledged that this parking standard may conflict with existing zoning overlay or M-DT district provisions. As such, the regulations contain an “exception” provision to avoid this conflict.

### ***Significant Element # 1 – Staff Observations***

#### **Tier Structure -**

While the 3-tier structure supports the Commission’s guiding principles and is also congruent with several of the Council desired outcomes (i.e neighborhood protections and permitted/not permitted locations), staff believes there are possible opportunities to reduce the number of tiers from three to just two given the minor differences between Tier 1 and Tier 2.

The Commission’s stated reason for creating Tier 1 was to allow any owner or authorized tenant the ability to use their principle residence as an STR for a limited number of days with the least amount of regulations. While staff does not disagree with this premise, it would seem given the licensure limitation proposed and the almost identical registration requirements between Tier 1 and 2, that the differences could be addressed through an administrative process. Additionally, staff has concern that Tier 1 will be rarely used given a long-term resident can chose between 30 or 120 days of rental opportunity for a minimal difference in regulatory compliance.

Given staff will have to review every application according to the same licensure and registration requirements there appears to be limited value in a three (3) tier structure when two (2) tiers may be sufficient. Staff acknowledges that the current structure has been presented as part the Commission’s work since December 2022 and that a change in the tier structure at this point may create initial confusion.

### **Rental Day Limitations -**

The number of rental days per calendar year has been a topic of significant discussion. The basis for the proposed 30, 120, and greater than 120 days was arrived at following consideration of the events conducted within the City of Columbia, the range of dates found within researched ordinances and those offered by STR platform representatives, and on the Commission's guiding principles. The discussion began with the belief that 30 days captured the majority of MU events, followed by ordinance research as well as discussion with STR hosting platform representatives indicating that 95 days was generally sufficient to cover operator needs, and concluded with 120 days as being a maximum limit a residence should be used without being considered a full commercial use. Staff supports the choice of 120 days as the maximum in a residential zoning district.

It is worth noting that the remaining 245 days of the calendar year could be utilized for long-term purposes (i.e. any rental greater than 30 days) subject to licensure as a compliant long-term rental. The proposed regulations do not prohibit "dual" registration of a residence for this purpose. Monitoring of the number of days a residence is used for STR purposes to ensure compliance with the adopted limitation will require additional consultant or software services.

### **Conditional Use Permit (CUP) Threshold -**

Allowing an owner of a residence that is not a principal residence (i.e., a secondary residence or investment property the opportunity to obtain STR licensure in the residential districts (A, R-1, R-2, and R-MF) is a significant departure from the December 2022 version of these regulations which excluded all "investor" properties from being permitted in the residential districts. Staff supports the inclusion of this provision; however, believes it will result in significant administrative burdens upon the staff, Commission, and Council following the adoption of the regulations given the need for multiple public hearings.

While this burden will become less as time moves on, staff questions if the added approval procedure and its burden out-weighs its value initially as well as into the future. The use of a residence as a short-term rental, whether it is someone's principal residence or not, will be subject to the same licensure and rental day limitations as well as registration requirements. Given this finding, staff believes the imposition of a CUP process would appear to be unnecessary.

### **Significant Element # 2 – STR Licensure Limitation**

The "final draft" regulations propose that only one STR certificate of compliance be issued per owner or authorized tenant. This provision has been discussed at great length and was arrived at based on the Commission's "guiding principles" and the belief that starting at the most restricted level affords the greatest opportunity to expand gradually, if needed, instead of being overly permissive initially.

### ***Significant Element # 2 – Staff Observations***

Licensure limits vary greater from jurisdiction to jurisdiction. The choice of one licensure does reduce the potential that the City is being too permissive initially; however, it may not address issues of concentration within specific neighborhoods especially those with vulnerable housing stock. The STR market is fluid. As such, homes used today for STR may not be used tomorrow and per the proposed regulations any licensure issued would not be transferrable to a new owner.

While the proposed CUP standards authorize an “investor” the opportunity to seek licensure of one of their STRs in a residential district, the draft regulations do not authorize the situation where the same investor has multiple properties that are desired to be allowed to continue as STRs.

It is Staff’s opinion that managing the expansion of STRs within the community beyond their current impact (approximately 400 or less than 1% of the total housing stock) may be a more appropriate allocation of City resources than attempting to retroactively remove the use from environments where they have operated without incident. Implementation of the registration process proposed within the regulations will permit the City to collect data on the existing uses and establish a compliance record that could then be used in the future for enforcement purposes and potential licensure revocation.

Options identified within peer city regulations that may afford an opportunity to be more permissive in initial licensure include placing a city-wide limit on the total number of STR licenses issued relative to the city-wide housing stock or implementing spacing standards along block faces. These options have been discussed with the Commission and acknowledged as possible solutions; however, are seen as possible future amendments to the “final draft” regulations that are proposed.

### **Significant Element # 3 – Supplemental Parking Standards**

In efforts to address parking impacts created by greater commercial use of a residence, the proposed regulations recommend that one (1) parking space be provided for every two (2) transient guests for any Tier 2 or 3 STR. An exception to this provision was created to avoid conflicts with an overlay district’s provisions (i.e. the Benton-Stephens UC Overlay) or the M-DT district. The proposed provision supports the Commission’s “guiding principles” and further Council’s objectives of protecting neighborhoods from the impacts of increased parking demands.

### ***Significant Element # 3 – Staff Observations***

Implementation of this standard may result in unintended consequences within the existing built environment by which there would be a requirement to potentially add impervious

surfaces to residential lots that may or may not be used long-term. The UDC presently requires that parking be provided on-site, off-street at a rate of 2 spaces per single or two-family dwelling unit. Required parking is not based on a dwelling unit's maximum occupancy; therefore, if a household has more vehicles than available garage or driveway parking the excess vehicles will be parked/stored on the public street adjacent to the home.

Given the proposed regulations establish a maximum occupancy of 8 transient guests per residence, the requirement to add additional parking, assuming the residence was already UDC parking compliant, would be triggered for any STR licensed to host between 5 to 8 guests. In such instance, the first 4 guests would be accommodated under the existing UDC parking standards and guests 5-8 would require between 1 or 2 additional parking spaces. Newly constructed parking spaces would need to be compliant with the UDC's standards for size and placement on the lot. In portions of the City where lot development occurred prior to reliance on the automobile and driveway design is often single-wide, the issues associated with on-site parking are exacerbated.

### **Additional Elements**

The attached "final draft" regulations also contains additional elements that are supported by the Commission's "guiding principles", have the ability to address the issues expressed by Council as important considerations, and are viewed by staff as being necessary to ensure the legal and orderly integration of this land use into the community. The regulations proposed within these elements have been recommended for approval by the Planning Commission and are believed sufficient to address the issue at hand. These additional elements address the following topics:

• Registration	• Accessory Dwelling Unit use as an STR
• Reservations	• Signage
• Dwelling unit usage	• Accessibility
• Certificate of Compliance posting	• Certificate of Compliance transferability
• Safety requirements	• Licensure Revocation
• Rental platform identification	• Conditional Use Permit criteria

### **Conclusion**

A copy of the proposed "final draft" regulations is attached for the Council's review and authorization to either proceed to a public hearing or make further revision as directed is requested.