

ATTACHMENT 1

Short-Term Rental Overlay Zone Concepts

The following outline summarizes the Planning Commission’s draft concepts for two options to regulate short-term rental uses. Implementation of either concept will rely on concurrent implementation of a Short-Term Rental License Ordinance. Key definitions and an outline of the draft licensing requirements are provided below. A comparison of the two Overlay Zone options is also provided.

Definitions

Short-Term Rental (STR) – For the purpose of this summary, STRs include all whole or partial housing units rented for 30 days or less. [This term includes all types of land uses currently defined in the Community Development Code as Vacation Home Rentals (VHRs), Vacation Rentals, and Temporary Short-Term Rentals. It also includes “Hosted STRs.”]

Hosted STR – The use of one guestroom located within a dwelling unit while the owner or other permanent resident is residing and present in the dwelling unit. [Both overlay zone concepts would allow for unlimited Hosted STRs with no restrictions on the number of days or occurrences per year.]

Primary Residence – The place in which a person’s habitation is fixed for the term of the license and is the person’s usual place of return. A person can only have one primary residence. [This definition is modeled after the Denver code. Proof of primary residence requires a Colorado driver’s license or identification card and at least two of the following: motor vehicle registration, voter registration, federal or state tax return, or other form as applicable.]

STR Licensing

A Short-Term Rental License will be required for all STRs to operate within the City. This will include all types of STRs, including Hosted STRs, regardless of what Overlay Zone or type of dwelling unit they are located in. There will not be a distinction between single-family homes/duplexes and multiple-family units for licensing purposes. Details of the STR Licensing include:

- Annual renewal and fee.
- Licenses will be nontransferable with change in ownership.
- License fee will be set to cover costs. Anticipated costs include one-time CityView software configuration and potential Municipal Court software upgrade, as well as ongoing costs for contract services including Granicus and the Municipal Court Prosecutor, increased staffing for Municipal Court and Finance, and potentially additional enforcement and inspection staff positions.
- Self-inspection checklists affirming minimum safety measures are in place and in working order, such as smoke detectors, carbon monoxide detectors, and fire extinguishers. This checklist will be developed in collaboration with the Building Official and Fire Marshal.
- Minimum operational requirements including:
 - Maximum occupancy limits and prohibition on outdoor sleeping/camping.
 - Minimum parking standards and an approved parking plan.
 - 24-hour local contact/responsible party and a maximum complaint response time.

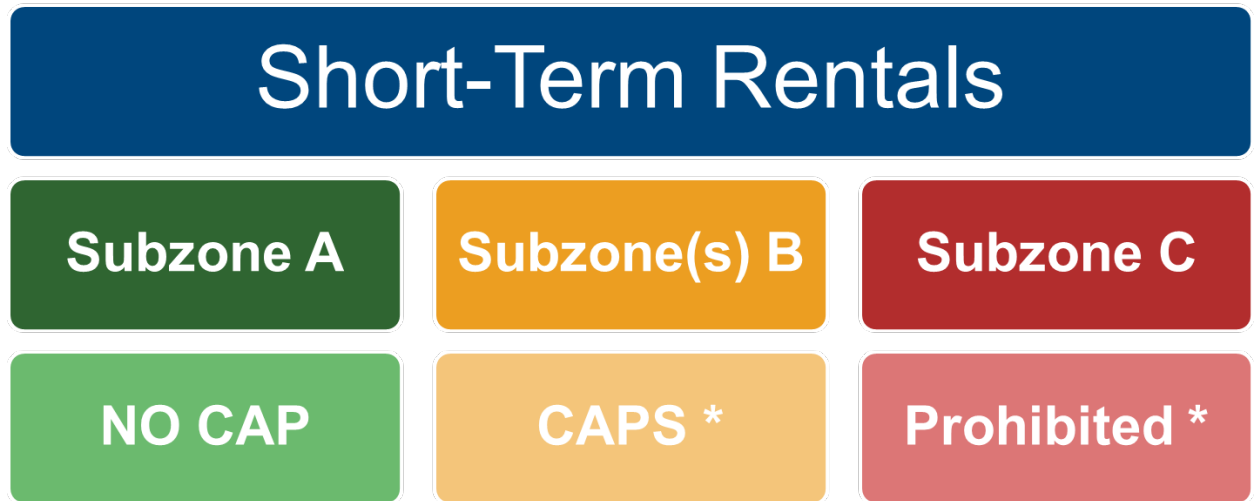
- Violations of City Codes related to trash, parking, and noise, as well as any violations of STR operational requirements will constitute a violation of a STR License. Such violations will be tracked, and enforcement action will be taken as authorized by City Code.
- License revocation process.
- Data collection, such as prior use of the dwelling unit (primary residence, second home, long-term rental, short-term rental) and current use (primary residence, second home, investment property).

Option A: Overlay Zone with Caps

This concept would consist of the following subzones (refer to Figure 1):

1. **By-Right (A)** – The By-Right subzones would not be subject to a cap. An unlimited number of STRs would be licensed within By-Right subzones, and there would be no restrictions or limits on the number of days or occurrences per year.
2. **Restricted (B)** – The Restricted subzones would be subject to caps on the total number of STR licenses per Restricted subzone. There would be no restrictions or limits on the number of days or occurrences per year. Hosted STRs would be exempt from the caps. Caps to be set based on subzone density and character.
3. **Prohibited (C)** – The Prohibited subzones would prohibit all short-term rentals except Hosted STRs. These subzones consist of properties zoned Open Space and Recreation (OR), Industrial (I), and Manufactured Housing (MH).

Figure 1. Overlay Zone with Caps



* Hosted STRs exempt

Additional details and considerations for implementing this option:

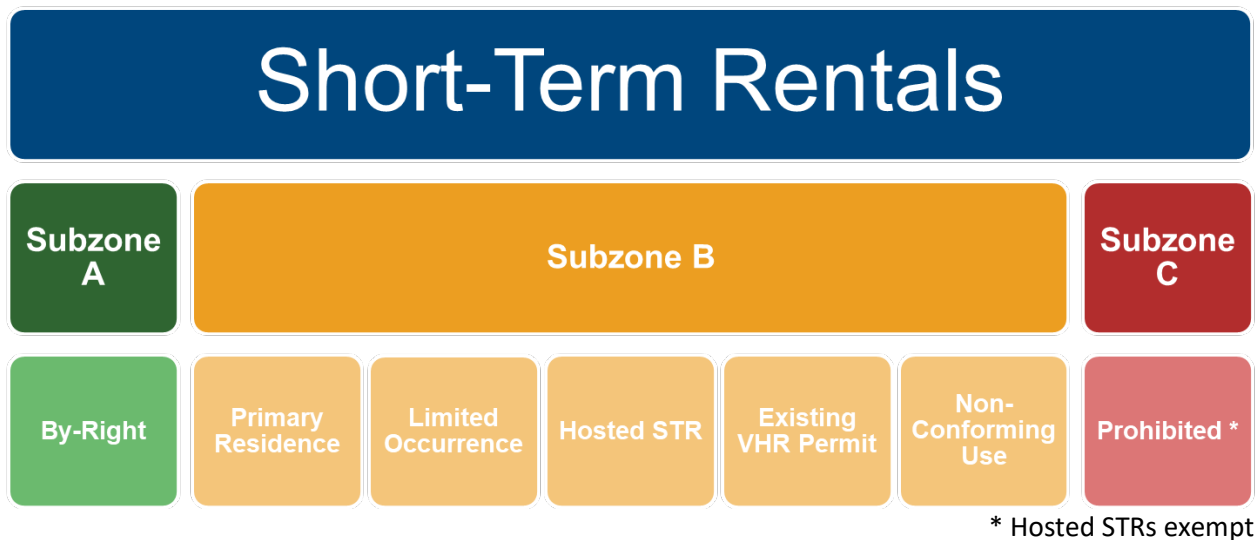
- Caps would be implemented and enforced through the annual STR licensing.
- Once caps are met, a waitlist would need to be maintained.
- Two STR License types would be needed.
- Existing VHR Permits and other legal nonconforming STRs (if applicable) could be accommodated within the caps.

Option B: Overlay Zone with Restrictions

This concept would consist of the following subzones (refer to Figure 2):

1. **By-Right (A)** – The By-Right subzones would not be subject to any restrictions. An unlimited number of STRs would be licensed in the By-Right subzones, and there would be no restrictions or limits on the number of days or occurrences per year.
2. **Restricted (B)** – The Restricted subzones would allow STRs to be licensed and occur within all dwelling units per the following three limited exceptions:
 - a. **Hosted STR**
 - b. **Primary Residence** – STRs limited to a maximum of 60-120 cumulative days per calendar year.
 - c. **Limited Occurrence** – STRs limited to a maximum of 6 occurrences and 30 cumulative days per calendar year.
3. **Prohibited (C)** – The Prohibited subzones would prohibit all short-term rentals except Hosted STRs. These subzones consist of properties zoned Open Space and Recreation (OR), Industrial (I), and Manufactured Housing (MH).

Figure 2. Overlay Zone with Restrictions



Additional details and considerations for implementing this option:

- All dwelling units have the ability to be used as an STR.
- Four STR License types would be needed.
- Compliance with Primary Residence and Limited Occurrence STR License types could be difficult and time consuming.
- Existing VHR Permits and other legal nonconforming STRs (if applicable) would not be subject to the same restrictions as other STRs in the Restricted subzones.

Comparison: Caps v. Restrictions

The following table identifies key similarities and differences between the two Overlay Zone concepts.

	A: Caps	B: Restrictions
Implemented through STR Licensing	✓	✓
License Types	2	4
Unlimited STRs in By-Right subzones	✓	✓
Limits potential negative impacts in Restricted subzones, by:	✓	✓
Limiting number of days or occurrences		✓
Limiting number of STRs	✓	
Allows some STR opportunity for all dwelling units		✓
Requires extensive monitoring and reporting to ensure compliance with specific license types		✓
Existing VHR Permits and other legal nonconforming STRs could be treated the same as all STRs in Restricted subzones	✓	

Existing VHR Permits

Adoption of either Overlay Zone concept will need to account for existing permitted VHRs. Currently, VHR Permits require an annual renewal. These permits are vested land use approvals and run with the land until the owner fails to renew annually or the City revokes for cause. As part of an Overlay Zone and Licensing regulatory approach, Staff anticipates valid VHR Permits be allowed to continue. Since all STRs will require an annual STR License, the VHR Permit annual renewal would be replaced by the new licensing requirement. Staff anticipates VHR Permits would gradually decrease over time as owners choose not to obtain an annual STR License, the City revokes permits for cause, or as owners fail to use the permitted dwelling unit as an STR for a specified period of time. Current nonconforming use language in the Code states the legal nonconforming uses terminate when a use ceases to operate for a period of six months.

Nonconforming Status

The vast majority of existing STRs are unpermitted. This is because STRs of multiple-family dwelling units (Vacation Rentals) are currently allowed by-right. In addition, VHRs located within the RR and G zone districts are also allowed by-right. Some of these existing unpermitted STRs would likely be impacted under one or both of the Overlay Zone concepts. Adoption of a new ordinance will need to address whether these STRs would be granted legal nonconforming status. If they are afforded such status, each impacted property would need to be approved through the Legal Nonconforming Registration process in order to document the STR use was legally established prior to adoption of a new ordinance. Staff anticipates legal nonconforming STRs would gradually decrease over time as owners choose not to obtain an annual STR License or they fail to use the registered dwelling unit as an STR for a specified period of time. Current nonconforming use language in the Code states the legal nonconforming uses terminate when a use ceases to operate for a period of six months.

Rezoning

Both Overlay Zone concepts could allow for a process to rezone neighborhoods or developments from Restricted to By-Right if a Homeowners' Association (HOA) could demonstrate that the properties are subject to Qualifying Declarations that expressly permit STRs. Such Qualifying Declarations would need to be in place or amended to expressly permit STRs within a specific time period after adoption of the ordinance.

Implementation

Implementation of a new ordinance will require both staff and budgetary resources. Initial implementation will take at least six months and require the following:

- Development of a STR License application/renewal process and review/approval workflow in CityView software. [Will have one-time fiscal impact.]
- Public outreach to inform property owners and property managers of new process, requirements, and standards. [May have fiscal impact.]
- Reconfiguration of Granicus compliance monitoring per new policies.
- Hiring of at least one Short-Term Rental Compliance Officer. This position was already included in the approved 2022 budget.
- Processing of Legal Nonconforming Registrations, if applicable.
- Processing of STR Licenses for all STRs.
- Creation and administration of a STR Wait List, if applicable.

Ongoing implementation will require the following:

- Annual contract services for STR monitoring, identification, and auditing (Granicus). [Will have ongoing fiscal impact.]
- Increased contract legal services for the City's Municipal Court Prosecutor. [Will have ongoing fiscal impacts.] This item is directly related to Council's goal to address the City's short-term rental issue through adoption of regulatory policies, enforcement rules, licensing procedures, and establishment of a fee structure.
- Increased staffing and potentially a software upgrade for Municipal Court. [Will have ongoing fiscal impact for increased staff time and possibly one-time fiscal impact for software upgrade.]
- Additional enforcement and inspection staff depending upon workload. [Would have ongoing fiscal impact.]
- Increased staffing for sales tax licensing, collection, and auditing depending upon workload. [Would have ongoing fiscal impact.]