



COLUMBIA CITY COUNCIL MEETING MINUTES TUESDAY, JANUARY 10, 2023

The Columbia City Council conducted a Work Session on Tuesday, January 10, 2023 at City Hall, 1737 Main Street, Columbia, South Carolina. The Honorable Daniel J. Rickenmann, Mayor called the meeting to order at 3:02 p.m. and the following members were present: The Honorable Howard E. Duvall, Jr., The Honorable Edward H. McDowell, Jr., The Honorable William Brennan, The Honorable Aditi Bussells, and The Honorable Tina N. Herbert. Also present were Ms. Teresa Wilson, City Manager and Ms. Erika D. Moore Hammond, City Clerk. The meeting was advertised in accordance with the South Carolina Freedom of Information Act.

INVOCATION

The Honorable Edward H. McDowell, Jr. offered the invocation.

CITY COUNCIL DISCUSSION

1. Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 5, Buildings and Building Regulations, to add Article IX, Short Term Rentals

Councilor Duvall explained that the Short Term Rentals Ad Hoc Committee has wrestled with this ordinance over the last year. We held three public meetings and other meetings with representatives of the short term rental industry led by David Bergman and Kit Smith as the coordinator of neighborhoods. We have tried to reach a happy median between not allowing any short term rentals in residential neighborhoods to allowing them under certain circumstances and establishing a cap. Both sides have provided input on the draft you have today which is followed by another document with possible changes. I would like to reach a consensus on any further changes, bring it to a Council session for first reading, and then have a public hearing between first and second reading. I am trying to expedite the matter to give us the 90-day period before the first of July, which is when the ordinance calls for registration to be in place.

Ms. Teresa Wilson, City Manager said there is a public hearing requirement when fees are associated with an ordinance.

Mr. James Knox, Esq., Senior Assistant City Attorney reviewed the draft short term rentals ordinance with the members of City Council. Section 5-400 states that this ordinance only applies to short term rentals used for a period of less than 30 days. It does not apply to long term rentals leased for a period of 30 days or greater. Section 5-401 covers the defined terms used in the ordinance. The ordinance differentiates between owner-occupied and non-owner occupied dwellings. Section 5-402 contains the bulk of the regulations.



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Councilor Bussells asked how they came up with the \$1,000,000 insurance policy in §5-402(d) given that there would not be any liability to the city.

Mr. James Knox, Esq., Senior Assistant City Attorney said it is also for personal injury damage. It is the current requirement for Airbnb.

Mayor Rickenmann inquired about the purpose of adding that requirement when there are at least two sets of coverage already. How does that relate to the homeowner who rents out their house? As long as they live at their house for 275 days of the year, that's their full residence under state law. There is a gap for anything under 90 days and we don't have jurisdiction over that. A lot of the short term rentals are not done 7-days per week. They are owner-occupied and not assessed at the 6% rate. They are not required to report anything they rent for less than 72 days. How do we deal with the homeowner in this situation?

Mr. James Knox, Esq., Senior Assistant City Attorney clarified that the provision for insurance is not an additional policy.

Councilor Duvall said state law allows you to rent an owner-occupied home for 72 days a year without being assessed at 6%, but it does require you to report those rentals to DOR. They are not allowed to rent without regulation. You have to collect and remit taxes.

Councilor Herbert asked staff to clarify what we do have jurisdiction on.

Councilor Bussells asked if the six parking spaces in §5-402(m) apply to overnight parking.

Mr. James Knox, Esq., Senior Assistant City Attorney said there is no distinction between overnight parking and parking spaces for the duration of the stay. This is a compromise. The neighborhood associations wanted to ensure that we regulated this and prevented an overflow of cars spilling in front of other people's houses.

Mayor Rickenmann asked what happens in a neighborhood where we only required a single car driveway. Wouldn't we want the owner to provide overflow parking? We should distinguish between overnight and daytime parking.

Councilor Duvall said we may be able to include an exemption for overnight parking.

Councilor Bussells said the requirement to notify neighbors in §5-402(p) could include a lot of households.



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Councilor Duvall said there is a possible change to this section. The owner or responsible representative must notify the immediately adjacent households that the property is being operated as a STR as well as any neighborhood association.

Mayor Rickenmann suggested that the STR be identified with a placard.

Councilor Duvall said the industry doesn't want their house identified as a STR because they are afraid of people breaking in. They will get a permit and use the permit number in advertisements.

Councilor Brennan suggested layering STRs in our GIS mapping.

Councilor Herbert expressed concerns with §5-402(o). I do not make a lot of my own bookings. I don't understand the necessity of that requirement.

Councilor Duvall explained that the neighborhood association wanted a system where the guest would take a picture upon arrival and send it to the owner or call to confirm arrival. To get around that, we said that it was up to the owner or representative to make sure that the person who rented the STR is in fact occupying the STR. If a guest uses a third party to make a reservation, whose personal information would be in the system?

Mr. James Knox, Esq., Senior Assistant City Attorney said the system would have information for the person making the booking. It is incumbent upon the person making the booking to use the guest's information when making the booking.

Councilor Bussells said it is simply determining that the guests who are listed on the reservation are the ones that are occupying the STR.

Councilor Herbert asked staff to verify the industry's two year records retention policy.

Mayor Rickenmann said I want to understand the general concerns about privacy. What is the intent of requiring owners to keep the names, email addresses and phone numbers of guests for that period of time in §5-402(f)? Is that actionable by the city?

Councilor Duvall said owners are currently required to keep that information. We want to access the information for tax purposes.



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Mayor Rickenmann said it is more about the rental transaction than the personal information. We only want to see the rental record. We need the right to audit. Can we ask for the reconciliations?

Councilor Herbert said I read it from a safety perspective.

Councilor Duvall agreed to review §5-402(f) so that we have access to the rental record.

Mayor Rickenmann questioned the minimum guest age requirement in §5-402(i).

Councilor Brennan said the recommendation is to change the minimum guest age to at least eighteen (18). We should mirror the platforms as much as possible. §5-402(e) gives us the option of reviewing the property for making sure it is safe and in compliance. A safety inspection would probably stem from getting a report that a STR had some code deficiencies. Do you have to lay eyes on every STR prior to issuing a permit?

Mr. David Hatcher, Housing Official / Code Enforcement Division said no but they have to provide a self-checklist when they apply for the permit. This applies to owner and non-owner occupied.

Mayor Rickenmann said we need to consider clearance from other departments during the permitting process.

Councilor McDowell asked if there is adequate staffing.

Mr. David Hatcher, Housing Official / Code Enforcement Division recommended the addition of staff to help enforce the STR regulations.

Mayor Rickenmann asked if a business license would give us the right to audit all records when needed.

Mr. James Knox, Esq., Senior Assistant City Attorney reviewed §5-403 which imposes a requirement for all STR operators in the city to obtain a city issued permit to be renewed on an annual basis. Permits will only be issued to owners or representatives who reside or have a business within 45 miles of the property.

Mayor Rickenmann asked if we can make the renewal dates consistent with the business license renewal date.



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Ms. Teresa Wilson, City Manager said we are having a discussion about triggers. There needs to be a check-off list for various things.

Mr. James Knox, Esq., Senior Assistant City Attorney continued to review §5-403 and §5-404.

Mayor Rickenmann asked why there is a distinction in fees for owners and non-owners.

Councilor Duvall said we have investors coming into residential neighborhoods and turning STRs into mini hotels. It is a violation of our zoning ordinance. The original ordinance had a \$500 registration fee. The STR industry agreed with the \$250 fee in §5-404(b)(3).

Councilor Herbert said we can't allow STRs and then penalize some of the people.

Mayor Rickenmann said I prefer that they all pay for a business license.

Councilor Bussells suggested that there be a set fee across the board. If I brought another property and already had an active permit, could I transfer my permit to that property?

Mr. James Knox, Esq., Senior Assistant City Attorney said there's nothing currently prohibiting that. Section 5-404(a) outlines the information that must be provided. Section 5-404(c) requires a permit holder to notify the City of any changes to the information submitted in the application within 30 days after the change occurs. Section 5-405 outlines the criteria for permit issuance. If met, the city would have to grant the STR application within 30 days of application submission.

Mayor Rickenmann asked if we choose who to inspect because §5-405(a)(2) leaves it open.

Councilor Duvall said the debate from the industry's point of view, is that code enforcement would sit on the application. This allows them to certify that everything is correct on their property and obtain a permit rather than wait on an inspection. The Code Enforcement Division can inspect the property if they believe an inspection is necessary. This assures the applicant that they will get a permit if they meet the criteria.

Councilor Herbert said certification by the applicant should be first.

Mr. James Knox, Esq., Senior Assistant City Attorney suggested that the applicant has to certify that the dwelling unit meets all criteria and the city will conduct a safety inspection if deemed necessary by the building official.



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Councilor Brennan asked if there is a feedback mechanism.

Mr. James Knox, Esq., Senior Assistant City Attorney reviewed §5-406 which imposes a cap on permits issued for non-owner occupied short term rentals located in a residential district. The cap will be determined by how many permits are issued 90 days after this ordinance is passed. If 500 permits have been issued after 90 days, the cap becomes 500 for non-owner occupied STRs.

Mayor Rickenmann asked how we can create a system that provides current operators the opportunity to fulfill the requirements of this ordinance. Are we okay with not having a cap on owner-occupied short term rentals?

Mr. James Knox, Esq., Senior Assistant City Attorney proposed that the ordinance become effective 30 to 60 days after passage to allow staff time to prepare for implementation.

Councilor McDowell asked how many code enforcement officers are needed.

Mr. David Hatcher, Housing Official / Code Enforcement Division said we need at least one inspector dedicated to compliance. We will need two if we don't use a third party vendor.

Mayor Rickenmann asked the city manager to confirm if the collected accommodations taxes can be used to fund the inspection of these short term rentals.

Councilor Herbert said my strong recommendation is that we set a temporary cap to allow us to collect data and then determine if caps are needed and at what level.

Councilor Duvall said the recommendation is to create a committee comprised of council members, neighborhood leaders, and members of the STR industry to review the data and possible changes to the ordinance. On the STR owner side, they would like to have the ability to bring an undesirable piece of property up to code and online as a STR in addition to the cap. At the proper time, we would recommend that it be setup as a special exception through the Board of Zoning Appeals (BOZA).

Ms. Teresa Wilson, City Manager said who is to say that the cap in a particular residential district is too much or too little. Seems like it should be based off a percentage depending on the residential district. All of our residential districts are different.

Councilor Duvall said the neighborhoods wanted a restriction in 29201 and 29205 because that's where the predominance is. The committee did not want to go in that direction.



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Ms. Teresa Wilson, City Manager said I am cautions from a staff perspective. I don't want to put anything in place where arbitrary decisions are being made by the staff.

Mr. James Knox, Esq., Senior Assistant City Attorney said the intent is to study empirical data to see what is out there. If you impose this cap, you are limiting the amount of data you will get.

Councilor Herbert said we should be pre-empted from reducing the cap once it is set.

Councilor Bussells said we will need to have certain mechanisms listed in this ordinance to collect data, including the business licenses and the permits.

Councilor Rickenmann said the data is there. Should we pay to get that information before we go down this path? It will give us a basis for collections.

Councilor Duvall sought clarification on Ms. Wilson's concerns.

Ms. Teresa Wilson, City Manager said the intent of the compromise was so that you did not end up with more STRs. The way this is written, you could end up with more STRs. Current owners would have to meet the requirements but it doesn't prevent additional folks from coming in. If there is an influx of interest in this, your cap could be well above what the residential area intended for it to be. If the cap is temporary, how do we as staff dial it back?

Councilor Rickenmann asked if the permit is transferrable when a LLC is sold. I don't want to create an artificial market.

Councilor Bussells said we all agree that the cap is unsettled.

Mr. James Knox, Esq., Senior Assistant City Attorney continued to review §5-406. Once the cap is established, potential applicants will be placed on a waiting list at no cost. As permits become available, they will be notified by the city that they can apply. Section 5-407 allows for someone in possession of a STR permit to rent the same property for more than 30-days without having to get an additional permit as required by our existing rental regulation ordinance so long as they are in compliance with the existing rental regulations. No additional notification is needed. However, if you have an existing long term rental permit, you will need a STR permit to rent a house out for less than 30 days.



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Mayor Rickenmann said we should be notified when an owner switches from a short term rental to a long term rental.

Mr. James Knox, Esq., Senior Assistant City Attorney explained the violations within §5-408. I recommend making it exactly the same [point system] as the long term rental ordinance.

Mayor Rickenmann said we give violations to the owners, but we don't give anything to occupants. I want it to be clear and distinct that both parties are violators and should be fined.

Councilor Brennan said I don't know if it is being done consistently.

Mr. David Hatcher, Housing Official / Code Enforcement Division said the notice of violation is sent to the owner and the tenant. If it is a care of premise type issue, the tenant is noticed.

Mr. James Knox, Esq., Senior Assistant City Attorney explained that §5-409 is the same as the long term rentals except for (a) which says the accumulation of 10 or more points triggers the revocation proceedings on a STR permit. I suggest changing it to 15, which is the same as the long term rental ordinance. The appeals process is the same.

Mayor Rickenmann asked to receive an updated version during the first week of February and suggested bringing the ordinance back at the next work session on February 14, 2023. It would be great to understand what the current penetration is and how we want to approach it.

Ms. Teresa Wilson, City Manager said we are checking to see if one of our current vendors can provide the information. What are you looking for?

Mayor Rickenmann said we need to know the amount of money being generated, the number of units, and the average stay. I believe that short term rentals do have a place. We need a mechanism for dealing with the bad actors.

Councilor Brennan agreed that upfront data collection is necessary but we also need data collection over time. What is the tipping point for a neighborhood? What is the data telling us? Both parties were very agreeable to this during the process.

There was a consensus of Council to not change §5-406. Permit cap for residential districts at this time. Leave the text in red for future consideration.



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EXECUTIVE SESSION

Upon a motion made by Mr. Duvall and seconded by Dr. Bussells, Council voted unanimously to enter into Executive Session at 4:48 p.m. for the discussion of **Items 2** through **4**, as amended to add ImaGen, LLC to **Item 3**.

2. Discussion of negotiations incident to the proposed purchase of property pursuant to S. C. Code §30-4-70(a)(2)

*Capital City Stadium
Olympia Fire Station*

3. Discussion of negotiations incident to proposed contractual arrangements pursuant to S.C. Code §30-4-70(a)(2)

*CEZ, Inc. Market Place Project
South Main Streetscape Project*

4. Receipt of legal advice related to matters covered by attorney-client privilege pursuant to S.C. Code §30-4-70(a)(2)

Homeless Services

ADJOURNMENT

The meeting was adjourned at 6:30 p.m.

Respectfully submitted:

Erika D. Moore Hammond, CMC
City Clerk