

The logo features the words "CITY WATCH" in a bold, black, sans-serif font, with a magnifying glass icon over the letter "I" in "CITY". Below this, the word "PREVIEW" is written in a lighter, blue, sans-serif font. The entire logo is centered on a solid blue rectangular background.

# CITY WATCH PREVIEW

## CITY COUNCIL PREVIEW – TUESDAY, JANUARY 21, 2020

The Columbia City Council will meet in regular session an UNUSUAL Tuesday meeting on January 21, 2020. The meeting was delayed by one day due to the observance of Martin Luther King, Jr. Day on the 20<sup>th</sup>. All city offices will be closed on Monday, January 20 and trash pick-up will be delayed by one day for the following week.

This meeting is expected to be long, even though there are very few items subject to public hearings, and no New Business on the agenda. There are a few appointments, a few Scheduled Public Comments and the regular Consent Agenda. Short-Term Rentals are expected to be the main topic of the evening. Keep reading for more details.

### SHORT TERM RENTALS ON THE AGENDA

After nearly two years of debate, work sessions and seminars, the topic of short-term rentals has formally moved to the council stage. A public hearing will be held on the issue during the regular council meeting on January 21. The council will hear a presentation from city staff on work already completed on this topic to date, and is expected to receive not only a draft version of a new set of regulations for short term rentals – but is also expected to get a look at “companion” legislation drawn up by city staff in the Introduction and First Reading section of the agenda.

The “companion” legislation will presumably include specific items such as a fee and fine structure for the operation of short term rentals; possibly some requirements for inspections and registration; a methodology for handling complaints; and a structure for the implementation of any policies and rules that are eventually adopted. None of the companion legislation will be enacted, however, if the council does not approve the main draft legislation. **Want to know what some of that “companion legislation” will look like? Well, then, be sure to read the next item in this report.**

The **basic** draft legislation is expected to allow “hosted” short-term rentals in all parts of town; make “unhosted” short term rentals subject to a conditional use permit process; and define a short-term rental as a type of business, which would mean it would require a business license to operate. It is also being suggested that all short-term rentals display a Rental Certificate of Compliance. (Regular rentals can apply for dual compliance certificates.)

The original proposal received a tie vote when it was heard by the Planning and Zoning Commission, so it comes to the council with no official recommendation for approval or denial. It is also expected that

some council members may suggest amendments of their own that were not a part of the original draft legislation.

Anyone who would like to comment on the short-term rental topic will be given 3 minutes to speak during the meeting on the 21<sup>st</sup>. Short term rentals is the first item under Old Business. This is expected to draw a significant amount of public comment.

[FOR A COPY OF THE ENTIRE JANUARY 21 CITY COUNCIL AGENDA, WITH ATTACHMENTS, FOLLOW THIS LINK](#)

[TO READ A COPY OF THE PROPOSED ORDINANCE, FOLLOW THIS LINK](#)

### **THE SHORT-TERM RENTAL LEGISLATION YOU HAVEN'T SEEN YET**

Better late than never, right? Well, maybe, depending on what you think of the newly proposed Short-Term Rental regulations. During the regular meeting on January 21, the council will hold a hearing on the main STR regulations. But, if you look in the section of the agenda called Introduction and First Reading you will notice two items that won't be on the council agenda for discussion until February 3. These items include amending Chapters 13 and 26 of the city code requiring any short term rental owner to obtain a business license to be able to use their property as an AirBnB; require any operator to carry business liability insurance for the property; allow the city to apply the lodging tax to regular bed and breakfasts and all short term rentals; require the operator of any short-term rental to show their financial books to the City Manager upon demand for verification that the operator is remitting the proper amount of lodging tax, and, in Chapter 26 of the code, ADDING both *bed and breakfasts* and *short term rentals* to the existing definition of "hotels, motels and tourist courts."

Wait a minute. In the other regulations that WILL be talked about on January 21, Section 29-1.11 (a) (as proposed) specifically says that "The definition of hotel shall EXCLUDE bed and breakfast establishments and short-term rentals." Both definitions appear in the same set of city ordinances, so which one is it? This may be one issue that the council discusses on Tuesday night.

Another piece of "companion legislation" includes amendments to Chapter 22 to add short-term rental units to the Rental Conservation Program. Here's how the staff report describes this part of the new rules:

*"The Rental Conservation Law requires owners of rental properties to apply for Certificates of Compliance for each rental building that they own. Each rental dwelling unit must pass an inspection; after Certificates of Compliance are issued, an owner need only renew its application in three years. Extension (renewal) without inspection is not allowed if a property is cited for code violations during the term of the Certificate. If a Certificate is renewed in three years without inspection, the rental property must be inspected again in a maximum of six years from the initial application.*

*The existing ordinance is designed for conventional residential rental properties housing residents of the community. The proposed amendment would define short-term rentals and related terms and subject short-term rentals to the inspection requirements of conventional rentals.*

*There are (also) a number of provisions that apply specifically to STRs; namely, an affidavit attesting to the number of days an owner resides at the address (270 days per year); the contact information for a designated agent of the owner; and a list of web-site or other media platforms where the dwelling will be advertised for short-term rental. It is also stated that an owner that holds an active Certificate for Compliance for long-term rental at the time of application for an STR need not re-certify the heating and ventilation systems of the dwelling.*

*There is no proposal to amend the fee schedule other than to affirm that the application and inspection fees apply to short-term rentals. Owners of rental properties pay an initial application fee of \$60 per building with an inspection fee of \$26 per unit; additional fees are required for re-inspections (\$43); failure to meet the inspector (\$34); and extension/renewal of a Certificate of Compliance (\$43) after three years. A third-party heating and ventilation systems certificate of inspection and approval is required to accompany applications and renewals. That is an additional out-of-pocket expense for landlords/STR hosts or operators.”*

The city estimates it will receive about \$26,000 in total Rental Conservation Program fees (or about \$85 per short term rental unit. But that number does NOT represent the total cost to the owner of a short-term rental property. For instance, it is unknown what the cost of liability insurance will be per STR unit. If the STR you want to run is NOT hosted, you will have to obtain a Conditional Use Permit. The application for that CUP is \$425 (application and advertising fee), and if you have legal representation during your public hearings, it could be costly.

Owners will also be required to remit 5% of gross receipts in the form of a lodging tax to the city; and there will be additional fees for business licenses which are presumably variable (this is in addition to the Rental Conservation inspection and administrative fees.) If you are already operating more than one short term rental in a multi-family building, you will be restricted to using only one unit as an STR, so that would represent a loss of income. And, if you regularly rent to more than 3 or 4 people, the new rules will prohibit that as well, (unless, of course, you are able to get a Conditional Use Permit.)

One other interesting note appears in the staff report regarding the new fees. The report explains:

*“Additional costs would result (to the city) from the need to enter and manage applications; perform required inspections; **and perform enforcement activities.**”*

It appears that the city intends to assign enforcement of the new rules to the Neighborhood Services Department (although that is not specifically stated). Logically then, it would seem that there would be a Neighborhood Services representative on-call around the clock to also enforce the problems cited in public testimony related to parking, trash, noise, trespass, drunkenness and over-occupancy that occurs in the wee hours of the morning. City representatives have also implied that they may need to hire a professional monitoring service to keep track of STR listing on multiple online platforms. The cost of that service has not been articulated, although it has been hinted that the city may use some of the lodging tax proceeds to fund such a service, although that use is not specifically allowed in the legislation that established the original tax.

If you are keenly interested in this topic, there are several links to various ordinances and staff reports related to STRs. Download the full agenda at the following link, then follow the sublinks in the agenda to the documents you want to read. Bill numbers dealing with short-term rentals are: **B348-19, B22-20 and B23-20.**

[LINK TO THE FULL COUNCIL AGENDA](#)

### **ONE MORE SHORT-TERM RENTAL CONSIDERATION**

People who are proponents of short-term rentals may not want to hear this, but it is possible that the reclassification of short-term rentals as a “business” rather than “residential” use could trigger an unintended consequence related to property taxes. In fact, simply listing your property as being available as a short-term rental could change your property tax calculations in some cases. That could increase your annual real property tax liability or could in turn affect your monthly loan payments if your escrowed property taxes are rolled into your loan.

CityWatch does not provide legal advice, and as such, the information provided here should not be used as the entire basis for any business decision you make that involves consideration of local or state law. What we can provide, however, is a reference to a case that involved the appeal of a property tax rate imposed on a property that exhibited both residential and commercial uses and involved the housing of transient guests on some occasions.

The case is from 2004 and is often referred to as the Shipman vs. Dominion Hospitality case which was decided on appeal by the Missouri Supreme Court. If applied to local homeowners or property owners offering rooms for rent to transient guests, it could have a chilling effect on that practice and could result in higher than expected costs associated with listing a property on online, guest room booking service sites.

We encourage you to read the summary of this decision yourself. Please note that the decision was dependent on several key words and terms including the terms “transient housing”, “residential and commercial uses”, “short-term and extended stay occupants”, and the word “primary”.

[HERE'S A LINK TO ONE VERSION OF THE CASE SUMMARY](#)

### **THE KIND OF CHICKENS YOU CAN'T HAVE IN TOWN**

You can raise chickens in your back yard in Columbia, but you may not be able to build a Raising Cane's chicken restaurant in the downtown area. Here's the case. The applicant wants to build a Raising Cane's chicken restaurant on the empty lot just south of Lucky's on Providence Road. That land is located within the downtown zoning district known as M-DT. Ordinarily, you can build a chicken restaurant downtown, but under the new code, if you want to have a drive-through lane on the restaurant you have to obtain a Conditional Use Permit. That's what the applicant is requesting.

Unfortunately, when this request originally went to the P&Z Commission, they denied the permit on a 5 to 2 vote, meaning that the city council receives this item with a recommendation of denial. As has been pointed out, there are several restaurants and other facilities with drive-through facilities located in the downtown area (for instance, the Hardees restaurant right across the street). Those other facilities, however, were built before the new zoning code was adopted and this is the FIRST request for a Conditional Use drive-through Permit under the new rules.

The restaurant is proposed to be a one-story, 3,316 square foot building with 25 parking spots. The front of the building would be oriented toward Providence Road with parking located on the north side of the building. Access to the site would be from the rear via a shared access driveway that connects to the Lucky's access driveway on the north to the parking lot/driveway access for Custom Complete Automotive on the south. Both northern and southern connection driveways access Providence Road.

The subject restaurant site is not permitted to have direct driveway access to Providence Road, but the applicant would provide pedestrian connectivity via an ADA-accessible approach from the Providence Road sidewalk.

Some people believe that a drive through in this location would present some traffic problems. Others think it would damage the “walkable” nature of this area on the very edge of downtown. Yet others think it would be just fine; don’t think it would be out of character for the area as it has developed over time; and have heard good things about the Raising Cane’s franchise.

The council will consider this item under Old Business on Tuesday evening.

### **BE SURE TO FEED THE METER**

You may be somewhat surprised, but the Missouri Supreme Court actually gets into the business of setting parking fines for municipalities through the state. Recently, they established a new set of court rules that could result in higher fines and court costs for infractions ranging from over time parking to parking in tow zones, parking in spaces reserved for handicapped drivers, etc. The rules also establish a schedule for court costs that can be imposed in addition to the actual fine.

Although the municipal court does retain some discretion in the imposition of minimum and maximum fines and court fees, best practice indicates that the city should amend its current code to better reflect the intent of the court. As an example, the current fine for regular overtime parking is \$15.00 if paid within 15 days and \$30.00 if paid after the 15-day grace period. The new rules would change the local fine to \$15.50 if paid by the court date that is now being listed on each ticket – and \$37.00 if you pay after the stated court date. There is also the possibility that the court could impose court costs on each such ticket, but the proposed legislation will limit that discretion for minor parking infractions to the keep the total cost near current levels. In no instance can local parking fees result in a charge of more than \$225.00.

The proposed legislation goes through the entire schedule of municipal parking fees and fines and sets rules regarding the imposition of extra court fees if a person pays parking tickets without actually appearing in court. Other municipal cases, however, often have additional court fees imposed, and a schedule of those fees is enumerated in the new rules. Net financial impact of the new rules is expected to be generally revenue neutral, but if you are a frequent flier in municipal court, you may want to review these changes. (See link contained in the main agenda document).

[HERE’S A QUICK LINK TO THE MAIN AGENDA FOR JANUARY 21.](#)

### **THE OTHER STUFF**

Most items on this week’s agenda appear under the Consent portion of the Agenda. Here are a few items from that section:

- Officially setting the election for City Council in Wards 1 and 5 for April 7, 2020
- Authorizing additional agreements with Burns & McDonnell for more work at the airport
- Authorizing CDBG grant agreement with Services for Independent Living, Job Point, the Food Bank and the Housing Authority
- Authorizing a special event permit for the 2020 True False Film Fest
- Getting unused money back from CAT TV

The council is also expected to make appointments to 4 different boards and commissions and remove one person from the Citizens Police Review Board due to non-attendance by the member.

### P&Z PREVIEW

The Planning & Zoning Commission will meet on Thursday, January 23. Here's the line up for that meeting:

#### Subdivision And Public Hearing

- Cherry Street Hotel replat of .41 acres at the northwest corner of Cherry and Hitt Street (includes a design adjustment regarding dedication of utility easements downtown)

#### Public Hearing

- 1001 S. Providence zoning change from PD to MN (tabled from last meeting)

During the work session, P&Z will discuss the Columbia Urban Service Area boundaries and how sewer service is extended and can affect those boundaries.

### QUICK ELECTION NOTES

Filing officially ended for seats on the Columbia City Council on January 14. Two seats are up for grabs in the April 7, 2020 election. Here are the people who filed by the deadline:

#### Ward 1

**Pat Fowler**

**Greg Pierson**

**Mark Anderson**

(Incumbent Clyde Ruffin did NOT file for re-election.)

#### Ward 5

**Matt Pitzer** will run unopposed.

### Columbia School Board

The school board race has a different filing deadline of January 21. As of press time, here is the list of candidates for three seats on the board:

**Jonathan Sessions** (Incumbent)

**Helen Wade** (Incumbent)

**Chris Horn**

**David Seamon**

### Boone Hospital Board of Trustees

Two candidates filed for two seats on the Board of Trustees by the deadline. They are:

**Jerry Kennett** (Incumbent chair of the board)

**Bob McDavid** (Incumbent)

Filing for other county, state representative, state senate and statewide races opens on February 25 and runs through March 2020.

### THE MARTIN LUTHER KING, JR. HOLIDAY

On Martin Luther King Jr. Day, the tradition has become that everyone takes the time to do something for someone else. Whether you volunteer in a formal setting, or simply do something special on your

own, it's a great way to celebrate this important holiday. Several special events will also be held throughout the community to commemorate the day including a 6:30 PM Candlelight Walk along Ash Street from the Armory to St. Luke's Church. The event is free and open to the public.

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