



## PLANNING DEPARTMENT

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**To:** Board of County Commissioners

**From:** Jessica Potter, Senior Planner; April Kroner, Planning Director; Brandi Timm, Planning Technician

**Date:** May 25, 2021 Regular Meeting

**Subject:** Introduction and First Reading of an ordinance for the regulation and management of Short-Term Vacation Rentals (STRs)

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### **Purpose**

This is the first reading to introduce an ordinance for the regulation and management of Short-Term Vacation Rentals. The adoption of an ordinance requires two readings; the second reading is scheduled for June 22, 2021 and the ordinance will be appropriately published as required by state statute, should the BOCC determine it is appropriate to move forward.

### **Background**

In December 2018, the BOCC adopted short-term vacation rental (STR) regulations applicable to properties within the unincorporated areas of Summit County (PLN17-151). The STR regulations have been in effect since March 2019, and the County has been engaged in permitting and monitoring STRs since that time. The vast majority of the STR regulations are contained in Section 3821 of the Land Use Code (Code).

The State of Colorado enacted legislation (HB20-1093) which went into effect on September 17, 2020, allowing Counties to administer STR programs with licenses as opposed to land use permits. Specifically, the law allows counties to “fix the fees, terms, and manner for issuing and revoking (STR) licenses issued”. Licensing allows Counties to streamline enforcement and address non-compliance more effectively. At a BOCC work session on October 27, 2020, and again on April 13, 2021, the Board directed staff to proceed with the following in order to transition to a licensing program:

1. An STR Ordinance to change from a ‘permit’ program to a ‘licensing’ program per the change in state legislation.
2. A Code Amendment in order to smoothly transition to a licensing program. While the Ordinance could be adopted without a change to the Code, the Code Amendment (PLN20-076) will change ‘permit’ to ‘license’ in the Land Use Code and streamline the regulations into the Ordinance to avoid redundant regulations in both documents. A Code Amendment is a Class 5 process heard by the Countywide Planning Commission (CWPC) and BOCC; the CWPC met on May 3 and unanimously recommended approval of the proposed Code Amendment which will be heard by the BOCC at a Public Hearing on June 22, 2021.

## **Proposal: STR Licensing Ordinance**

### **Structure and Relationship to the Code:**

The proposed ordinance is essentially a cut and paste from the Code, aside from the inclusion of the new enforcement provisions, formatting, and the replacement of “permit” to “license”. The only other modifications are minor clarifications to existing policy, which are noted in the attachments and in a subsequent section of this report. Details about use, zoning, applicability, and the Conditional Use Permit (CUP) review process will stay in the Code and the remaining regulations concerning short-term rentals, such as application requirements, site plan standards, occupancy and other standards will be moved into the ordinance. This proposed organization is a more user-friendly approach for the public and staff, as having identical regulations in both places would be difficult to navigate, redundant, and further complicate future revisions to the regulations.

### **Advantages of an Ordinance and Licensing Program:**

The main benefit of adopting an ordinance is related to enforcement and revocation. Currently, the approximately 4,000 STR permits within the unincorporated county are issued by the Planning Department as land use permits. With the adoption of an STR ordinance, the County will have the ability to regulate STRs as licenses. The current process available to the County in the Land Use Code pertaining to permits is cumbersome, involving certified letters, considerable staff resources, attorney time, and no ability to impose fines without a court proceeding. With a license, the County can immediately levy fines through tickets, similar to a traffic ticket, enforceable through the Sheriff’s Office. In addition, revocation of a license can occur with an administrative process that has a significant benefit for both sides, namely in time and expense, compared to a court proceeding. (A detailed discussion of the advantages of a licensing system is documented in the work session staff report for this request, PLN20-076.)

### **Complaints, Enforcement and Revocation:**

In addition to moving over the existing code language, the proposed ordinance contains expanded provisions pertaining to complaints, enforcement, and revocation of licenses. The Planning Department, Attorney’s Office, and Sheriff’s Office have been working together to arrive at the regulations as outlined below.

#### **Complaints:**

There is little changed from the existing Code regulations regarding complaints. There is a complaint hotline in existence that citizens use to register complaints. Complaints range from excessive noise and trash issues, to occupancy or parking violations. Once received, a complaint is then directed to the responsible agent on file with the license. As per the existing regulations, the responsible agent is supposed to respond to the complaint within 1 hour. The proposed ordinance clarifies that failure of the responsible agent to respond to the complaint within 1 hour is a violation of the ordinance.

#### **Violations:**

Per the provisions set forth in the authorizing statute, violations of the ordinance will constitute a Class 2 petty offense. Staff is proposing a graduated fee schedule, with the fine associated with the first offense proposed at \$250, the second offense at \$750, and the third offense at \$1,000. The purpose of the fine structure is to incentivize compliance without imposing excessive fines. Staff arrived at these fines by comparing them to other misdemeanor offenses, while taking into account the commercial aspect of the operation and the incentive violators may have to pay fines while continuing to operate in violation of the ordinance.

## Revocation:

The existing regulations have a revocation process, which is in place to respond to life-safety issues, to preserve the residential character of Summit County's neighborhoods, and ensure that repeat violators have appropriate consequences if they continually violate the STR regulations. The revocation process in the proposed Ordinance is expanded to provide more clarity regarding the process and ensure that due process is provided for license holders. The proposed ordinance states that a license may be suspended or revoked for any violation of the Ordinance or the previously enacted Development Code regulations, and revocation or suspension proceedings shall be initiated if any of the following occurs:

- a. A licensee has been cited for 2 or more offenses within a 3 month period;
- b. A licensee has had 3 or more substantiated complaints within a 3 month period;
- c. A licensee submits a license application or other document as part of the license review process that contains or represents fraud, misrepresentation, or a false statement of material fact;
- d. A licensee violates or violated the STR regulations in a manner that significantly endangers the public health, safety, and/or welfare;
- e. A licensee fails to pay sales and/or property taxes as required.

The hearing will be conducted by the Community Development Director, or designee, and may result in a license being suspended for up to 6 months or revoked. Licensees who have had their licenses revoked may reapply after one year. In addition to testimony presented at the hearing by the owner, the following will be considered:

- a. The nature and seriousness of the violation
- b. Impact of the violation on the neighborhood and/or community
- c. Corrective action, if any, taken by the licensee
- d. Prior violations
- e. The likelihood of recurrence of the violation or violations
- f. Entirety of the circumstances surrounding the violation
- g. Willfulness or lack thereof on the part of the licensee
- h. Length of time the licensee has held a license

This process for revocation seeks to balance the rights of the STR operator, including their ability to provide corrective action, with the goal of preserving the character of neighborhoods and enforcing the adopted regulations.

## **Minor Clarifications to Existing Policy:**

The Planning Department has been implementing and administering the STR regulations since their adoption in 2018 and has identified a handful of areas for clarification. Those are called out in the attachments and also noted below to ensure transparency.

### 1. Clarifications of taxes due (Ordinance)

- Current: A property that short-term rented at any point in a year is subject to the State of Colorado statutory personal property tax declaration requirements. Similar to sales taxes on short-term rentals, this is a long-standing requirement that was unchanged by the adoption of STR regulations by Summit County.
- Proposed: Recommend explicitly stating in the Ordinance that all property taxes that are lawfully assessed against a short-term rental unit shall be paid to the appropriate taxing authority. Non-compliance may result in revocation or non-renewal of the short-term rental license.

- Explanation: This amendment is proposed by the Treasurer’s office for clarification.
2. Inclusion of information about tire traction and winter driving in the Good Neighbor Guidelines (Ordinance)
    - Current: No regulations.
    - Proposed: New subsection proposed in the Ordinance that adds language related to winter vehicle traction and snow removal requirements, which will also be required in the ‘Good Neighbor Guidelines’.
    - Explanation: Staff has received complaints that rental cars and other vehicles are not adequately equipped for driving in the winter, especially on some of the steeper driveways and on non-maintained roads. Property owners and managers should be required to inform renters about this issue.
  3. Clarifications concerning partial-home rentals (Ordinance)
    - Current: The current language states that: “Partial-home short-term vacation rentals shall be advertised and used consistent with the permitted use as a single dwelling unit including occupancy limits and access (i.e., shall not be advertised as a separate apartment, and shall not solely utilize a separate entrance)”.
    - Proposed: Recommend clarifying to explicitly state that partial home short-term rentals are rental of a room within the dwelling with shared access, parking, and cooking facilities.
    - Explanation: If properties have a separate entrance and separate cooking facilities they become, by definition in the Code, another unit, which is not supported by single-family residential zoning. If property owners want to have a secondary unit on their property, they may pursue this option via an Accessory Apartment, a subordinate unit which is deed-restricted for the local workforce.

**Next Steps:**

An Ordinance requires two readings, if the BOCC chooses to move forward, the second reading can be scheduled for the June 22 Regular Meeting of the BOCC. Staff recommends that the BOCC introduce, read, and order published in the Summit Journal the proposed Ordinance 20, an Ordinance for Short-Term Vacation Rental Regulations, and further that the BOCC set a public hearing in accordance with C.R.S. §30-15-406 to consider approving the Ordinance.

**Attachments:**

The proposed ordinance and amendments to the Land Use Code are attached. For the Code Amendment, additions are shown in red, with deletions in blue strikethrough. A substantial portion of the Code was copied into the ordinance. That language was left almost entirely unchanged in the Ordinance with the exception of the revisions detailed in the staff report and swapping of “permit” to “license”.

- A: Proposed Short Term Vacation Rental Ordinance
- B: Proposed changes to Chapter 3
- C: Proposed changes to Chapter 15