



# WASHOE COUNTY

*Integrity Communication Service*

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## STAFF REPORT

**BOARD MEETING DATE: February 23, 2021**

**DATE:** January 22, 2021

**TO:** Board of County Commissioners

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**SUBJECT:** Introduction and first reading of ordinances amending Washoe County Code Chapter 110 (Development Code) within Article 302, Allowed Uses, to identify the types of review required for short-term rentals in each regulatory zone and to add an administrative review permit to the list of review types; within Article 304, Use Classification System, to update the residential use type description, add a definition for short-term rental, and update the definition for lodging services; within Article 410, Parking and Loading, to update the off-street parking space requirements table to include a reference to short-term rentals; and within Article 910, Enforcement, to specify that appeals of Administrative Hearing Office decisions related to short-term rentals would be heard by the Board of County Commissioners. Chapter 110 would also be amended to create Article 319, Short-Term Rentals (STRs), to establish standards, location limitations, defining unpermitted short-term rentals as nuisances, occupancy limits, parking requirements, safety/security considerations, signage, noise thresholds, trash/garbage collection rules, insurance requirements, Tahoe area considerations, permitting requirements, enforcement process, fees, fines, and penalties associated with short-term rentals; and to amend Article 306, Accessory Uses and Structures, by removing the procedural details for Administrative Review Permits, with those details being re-located into a new article that is updated to reflect minor changes related to short-term rentals. That article would be created as Article 809, Administrative Review Permits. The ordinances would also amend Chapter 50 (Public Peace, Safety and Morals) to include a definition of short-term rental and define unpermitted short-term rentals as a public nuisance; and amend Chapter 125 (Administrative Enforcement Code) to establish enforcement provisions related to short-term rentals, including but not limited to definitions, evidence of operation, evidence of violations, appeals and associated timeframes, stop activity orders, warnings, penalties, and penalty notices. Short-term rentals are a type of temporary lodging booked for fewer than 28-days and operated out of private residences such as homes, apartments and condos. They are commonly made available through property management

**AGENDA ITEM # \_\_\_\_\_**

companies and online booking services, and are also referred to as vacation rentals. The amendments also resolve discrepancies arising within existing Washoe County Code chapters as a result of the new code language, and other matters necessarily connected therewith and pertaining thereto.

And, if introduced, set the public hearing and second reading of the ordinances for March 23, 2021. (All Commission Districts.)

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## **SUMMARY**

The Washoe County Board of Commissioners (Board) is asked to introduce and hold the first reading of ordinances amending the Washoe County Code within Chapters 110, 50 and 125 to establish standards and processes associated with the administration and enforcement of short-term rentals (STRs) in unincorporated Washoe County.

Washoe County Strategic Objective supported by this item: Safe, secure and healthy communities.

## **PREVIOUS ACTION**

August 25, 2020. The Board was scheduled to hear the first reading of the proposed ordinances, but the meeting was cancelled. The item was not placed on a subsequent agenda due to additional discussions with commissioners and the public regarding potential changes to the draft ordinances.

February 25, 2020. The Board reviewed the proposed ordinances and provided direction to staff in lieu of conducting an introduction and first reading. More details are provided in the next section of this report.

January 7, 2020. The Washoe County Planning Commission (PC) reviewed proposed changes to Chapter 110 and voted unanimously to recommend approval of Development Code Amendment WDCA19-0008 with minor modifications.

December 10, 2019. The Board formally initiated amendments to the Washoe County Code related to STRs.

November 12, 2019. The Board heard an update on the STR project, including staff's recommendations related to standards and a permitting process.

February 26, 2019. The Board determined that by adopting changes to WCC Chapter 25 in 2007 to allow transient lodging and associated room tax, the use is allowed within Washoe County (although not yet defined within Chapter 110). Further, the Board identified it did not want to ban STRs in unincorporated Washoe County. In order to resolve potential conflict between the two WCC chapters, the Board directed staff to start the process of establishing regulations for STRs to properly administer their use.

July 10, 2007. The Board adopted changes to Washoe County Code Chapter 25 relating to transient lodging.

## **UPDATES SINCE FEB. 25, 2020 BOARD MEETING**

This section of the staff report identifies changes to the draft standards resulting from the Board's direction on Feb. 25, 2020. The remainder of this staff report includes similar content to what was provided for the Feb. 25 Board meeting, with the exception that relevant dates have been updated, and the section on proposed standards reflects the changes summarized in the list below.

- **External placard – requirement removed:** The prior draft language included a requirement for an external placard on each STR displaying the STR permit number, maximum occupancy and contact phone numbers. Per Board direction, this requirement has been removed from the current draft.
- **Unscheduled inspections – reference removed:** The prior draft allowed for reasonable unscheduled inspections in circumstances where life safety issues (including related to maximum occupancy) were present. Per Board direction, references to these types of inspections has been removed.
- **Self-certifications/annual inspections:** As directed by the Board, a physical inspection would only be required prior to initial permit issuance and every three years thereafter. In the intermediate years, self-certifications would be accepted for renewal in lieu of a physical inspection if the permit had not lapsed and there were no confirmed STR violations in the previous year. *However*, based on recent direction from the District 1 commissioner, annual inspections are preferred by the community and the commissioner. Therefore, staff is proposing the original draft ordinance proposal of requiring physical inspections annually and no self-certification is proposed.
- **Occupancy – updated calculation method:** In the original draft, occupancy limits were calculated based on square footage of individual sleeping areas. However, at the Feb. 25 meeting, the Board expressed concern about the proposed standards leading to the possibility of some parents not being able to sleep in the same room as their children, if the rooms are small. The Board's subsequent direction was to exempt children under 5 years of age from occupancy limits. Staff from Community Services, the District Attorney's office, North Lake Tahoe Fire Protection District and Truckee Meadows Fire Protection District then met to discuss the Board's direction and options for addressing the stated issues. Due to significant safety and liability concerns with creating age exemptions for occupancy limits, an alternative calculation method is proposed to address the Board direction. The revised method already exists in the International Building Code (adopted by Washoe County) and calculates occupancy limits based on the square footage of the entire home's habitable space, allowing for one occupant per 200 sq. ft. With this method, the home would have an overall occupancy limit, but would not be room-specific (ex. bedrooms). Designated sleeping areas would still need to meet minimum safety standards (smoke detectors, CO detectors, etc.)
- **30-minute response time – clarification added:** The initial draft included a requirement for the STR's local responsible party to be able to respond to complaints within 30 minutes of contact by Washoe County. Per Board direction, clarification was added stating that such response can be by phone or text, and that for circumstances where a subsequent physical response is needed, it should be able to occur within an hour unless there are uncontrollable extenuating circumstances, such as weather or traffic.
- **Number of STRs on a parcel – allowance for accessory dwellings:** In response to Board comments, the draft has been updated to allow a second STR on a parcel, if it is established within a legally permitted accessory dwelling (either attached or detached).

- **Defensible space inspections – approval process updated:** Recognizing that defensible space inspections may be difficult or impossible to conduct when properties are obscured by snow, the ordinance has been updated to allow for a conditional approval when conditions warrant.
- **Emergency restrictions – new language:** As a result of the current pandemic, new draft language has been added to address the potential for restrictions that may be imposed upon STRs during declared emergencies.
- **Timing:** If the ordinances are introduced on February 23, 2021 a second reading and possible adoption is proposed for March 23, 2021. If adopted, it is recommended that the application window for permit submittal opens May 1, 2021, followed by a 3-month grace period in which to obtain a permit (from submittal to issuance). Enforcement of standards would begin August 1, 2021. These dates are intended to allow sufficient time for: creation of the permitting processes, application materials, and online platform; staff training; a public information campaign; outreach to properties with existing STR listings, time to allow STR owners to prepare for application submittal and review, and processing and issuance of permits by staff.

## **BACKGROUND**

Short-term rentals (STRs) are a type of temporary lodging of less than 28 days operated out of private residences such as homes, apartments and condos. They are also referred to as vacation rentals and commonly available through property management companies and online booking services.

As with other industries affected by the sharing economy, the rise of online advertising platforms such as Airbnb and VRBO has disrupted the traditional lodging industry by expanding opportunities for homeowners to tap into the tourist market and offer their home for STR use. Although vacation rentals have been available in various forms for decades, these newer technologies have led to expanded temporary lodging options and a greater awareness of the prevalence of STRs in many communities. Along with that has come increased focus on the impacts of STRs on neighboring residents and the larger community. Washoe County, and especially the Incline Village/Crystal Bay area, is no exception.

Current unofficial estimates put the number of STRs in unincorporated Washoe County between roughly 500 and 1000 distinct units active at any given time, varying greatly with time of year. Over 90% are estimated to be located in Incline Village/Crystal Bay, and over 90% are whole-home rentals. At the high-end, STRs represent approximately 12.5% of housing stock in Incline Village/Crystal Bay. This is on par with other Tahoe-area jurisdictions, with the Mountain Housing Council estimating that STRs comprise 13.5% of housing stock in the Truckee/North Tahoe region.

Appropriate management of STRs is a complex and controversial issue with no simple solution. Stakeholders represent a variety of perspectives, often at opposite ends of the spectrum. Opinions range from a desire to see STRs completely banned within a community, to believing that they are a fundamental property owner right. At the root of these very different opinions is often the question of whether STRs are a residential use or a commercial use. Staff's research shows that jurisdictions and courts alike have differences of opinion on this matter, and that there is no clear consensus. After extensive research and review of public input, it is Washoe County staff's opinion that answering that question is a matter of thresholds. At lower occupancies, the use may easily be considered residential in nature, but

still have characteristics requiring mitigation (as a sort of hybrid residential use). This is because, in general, the impacts on surrounding properties are expected to not be substantially different than if the property were used in the more traditionally long-term residential way. However, at higher occupancies, the impacts (ex. parking, noise, etc.) to neighboring properties are more likely to increase to a level that the use starts to appear less residential and more commercial in nature. In some cases, these impacts may be mitigated through more restrictive standards or conditions of approval. In other cases, they cannot. Some levels of occupancy may be so high that the STR would be inappropriate in residential areas, and more appropriate to be located in commercial areas, especially those that are tourist-oriented.

Most jurisdictions in southern Nevada and around Lake Tahoe have already established or are working to establish standards and a registration/permitting process for STRs in their communities. Due to the relative newness of standards for this type of use, there is limited consensus in how STRs are regulated, with dozens of regulatory options being employed across the U.S. to manage STRs. The most commonly regulated categories deal with quality of life issues such as noise, parking and trash.

The following text provides an overview of the various work that has been completed thus far, outreach that has occurred, and recommendations for the Board to consider.

### **Process Overview**

Due to the complexity of the issue, staff attempted to craft a methodical approach to recommending standards and a permitting process for STRs. This approach is designed with five distinct phases: (1) Project planning and research; (2) Structured public engagement; (3) Drafting and adoption of standards/processes; (4) Grace period, during which public outreach about the new requirements occurs, and technology/training are put into place to support the program; and (5) Program launch, after which STRs are required to meet standards and have appropriate permits to operate. Enforcement of the new requirements will begin during this phase. The project is currently in phase 3 (drafting and adoption of standards/processes). It is also expected that staff will conduct a re-review of standards and fees approximately 6 to 12 months after program launch in order to assess effectiveness.

### **Planning, Research and First Steps**

Following direction from the Board in early 2019, a core group of staff within the Community Services Department began conducting research aimed at better understanding the impacts of STRs, possible strategies for addressing those impacts, legal and financial implications, technology innovations to help address community impacts, and the mechanisms that are most commonly used by cities and counties across the U.S.

The parameters and goals of the project were identified early in the planning process. Based on staff's understanding of the Board's direction and a review of successful STR programs around the country, the following guiding principles were established:

- Create simple, fair and enforceable standards for STRs that reflect best practices and address impacts
- Maximize voluntary compliance
- Encourage safe accommodations for visitors
- Balance competing interests
- Establish a cost-neutral fee and fine structure

During the initial research stage, Washoe County also contracted with technology provider Host Compliance to provide three main services related to STRs: address identification (tying online advertisements from dozens of platforms to real addresses); a 24/7 complaint hotline; and, a mobile registration platform. Host Compliance provides STR enforcement assistance to over 200 local jurisdictions across the United States; however, staff is proposing that enforcement in Washoe County will be conducted through the existing code enforcement process using county staff.

### **Public Outreach and Engagement**

A critical component of the project has been to identify the various stakeholder groups and better understand their perspectives on STRs. These many stakeholders can generally be grouped into the following major categories: neighbor/community members; STR host and property managers/realtors; traditional lodging industry and business; and impacted regulatory agencies.

These categories are not exhaustive; however, they represent most perspectives heard from so far. There were three major components of the initial public outreach process: (1) small-group, targeted stakeholder input meetings; (2) public workshops; and (3) an online survey.

Stakeholder input sessions: In July 2019, staff held a series of small-group stakeholder input sessions aimed at getting a better sense of the perspectives and priorities of those within each major stakeholder group. These meetings helped inform the topics and structure of later public workshops. An informal working group of various agencies was also formed in order to better understand concerns and priorities from the regulatory perspective. The working group included representatives from the Sheriff's Office, North Lake Tahoe Fire Protection District, Truckee Meadows Fire Protection District, Reno-Sparks Convention & Visitors Authority (RSCVA), Washoe County Manager's Office, business license program, code enforcement program, planning program, and building program. Staff has had several follow-up meetings with many of these agencies/programs since the original working group meetings, as well as with the Incline Village General Improvement District (IVGID), Washoe County Health District and District Attorney's Office.

Public workshops: In August 2019, two public workshops were held in Incline Village and one in Reno. There were approximately 250-300+ attendees across the three workshops (some participants attended more than one workshop). These were structured to better understand the priorities and concerns of workshop attendees, and to solicit possible solutions to address these concerns.

Online survey: An online survey was offered as an alternative or supplement to the in-person workshops. The survey was structured similarly to the workshops in terms of asking participants to identify their top areas of concern related to STRs and future standards/permitting processes, provide additional details about those concerns, and offer possible solutions. There were **569** survey responses. About **70%** of respondents represented a neighbor/community perspective, while about **20%** represented the STR host or property manager perspective.

Public response for workshops and survey: Staff's goal during the public outreach process was to identify major concerns of each of the stakeholder groups and, wherever possible, pinpoint areas of overlap. A summary of feedback received via the workshops and online

survey is included with the Planning Commission staff report (Attachment E). An analysis of the input received revealed several recurring themes, including:

- Top areas of concern related to occupancy limits, permitting process, noise and parking.
- There is general community support for regulating STRs. However, respondents vary drastically on the extent of standards that should be put in place.
- It is critical that regulations established for STRs be enforced.
- Property managers believe their existing rules for the STRs they manage are strict and adequately regulated through their state license.
- Many residents, especially in the Incline Village/Crystal Bay area, believe STRs are commercial businesses operated by non-residents of the community.
- Many hosts believe better renter education will help mitigate existing issues and are concerned that responsible hosts will be penalized for the actions of irresponsible hosts.

Additional public input received since February 23, 2020: Staff has compiled additional emails, documents, and input provided by the public since the last Board hearing on this item (see Attachment G).

### **Proposed Amendments**

Based on significant research conducted by staff, extensive public input, Board input, and an analysis of potential regulatory mechanisms and options for Washoe County, staff created a series of recommendations that were reviewed by the Board in November 2019. Draft code language was subsequently created and made available for a 21-day public comment period. The draft was then reviewed and recommended for approval by the Planning Commission in January 2020, after which the Board reviewed the initial draft and provided additional direction to staff in February 2020.

Draft code language for Chapter 110 (Development Code) has been provided with Attachment A and summarized on the following pages.

### **General Standards**

- Every STR must have a designated local responsible party available 24/7 through a single phone number who shall respond to complaints within 30 minutes of contact (via text/phone acceptable). If an on-site response is necessary, it should occur within the following hour.
- No events or other gatherings (ex. parties, weddings, etc.) are allowed that would exceed the on-site maximum occupancy associated with the STR permit.
- Permittee must be the property owner.
- Limited to one STR per parcel, with the exception that a second STR may be allowed in legal accessory dwellings; STRs must be a permanent, habitable dwelling unit (i.e. no RVs/boats). The per-parcel limitation is due, in part, to ensure better enforcement capability.
- STRs may be rented to only one group/person at a time (ex. renting out five individual rooms to five separate parties would not be permitted and is a key distinction from lodging services use types).
- Advertising for an STR is prohibited unless a valid STR permit has been issued.
- Advertisements must include the Washoe County permit number, room tax license number, maximum occupancy as allowed by the permit, number of beds (cannot exceed max. occupancy), and number of parking spaces.

- Must comply with all other federal, state, and other applicable laws/statutes, and issuance of a County STR permit does not relieve the property owner of compliance with applicable regulations, including CC&Rs or HOA restrictions.
- Existing STRs are not grandfathered; they must apply for and be issued a County STR permit in order to operate.
- Applicable room tax must be paid to the RSCVA.

### **Permitting**

- An STR permit will be considered similar to a privileged license in that revocation can occur without Board action for issues such as non-payment of fees and noncompliance. Any revocation would provide for appropriate and timely administrative appellate review.
- STR permits must be renewed annually. Property owners should be aware that standards are subject to change over time and that there is no guarantee a permit will be renewed.
- **Three permitting tiers are proposed.** These tiers are intended to recognize that below certain thresholds, and with appropriate standards in place, an STR is expected to reasonably function similarly to other residential uses. However, as occupancy increases, impacts to surrounding properties have the potential to increase. In these cases, further scrutiny may be needed to determine if the scale of the proposed STR is appropriate on the specific property and if additional mitigation can reduce impacts to a reasonable level.
  - **Tier 1:** STRs with a maximum occupancy of 10 persons or less; standard STR permit required. (*Note:* 10 or fewer is a common break point for uses like group homes and within the International Building Code’s “R” occupancies.)
  - **Tier 2:** STRs with a maximum occupancy of 11-20 persons; discretionary permit required in most regulatory zones.
  - **Tier 3:** STRs with a maximum occupancy of 21 or more persons; only allowed in areas where hotels/motels allowed; with discretionary permit; requires commercial standards.

### **Occupancy Limits**

Establishing occupancy limits also has the potential to reduce some of the major impacts commonly associated with STRs. Proposed limits are based on the International Code Council’s International Building Code, a well-recognized code generally addressing building safety standards in the United States and across the world. Proposed standards are as follows:

- One occupant is allowed per 200 sq. ft. of habitable space; total occupancy is not room-specific.
- No distinction would be made between daytime and nighttime occupancy, as impacts are expected to be similar.
- No distinction would be made on occupant age.
- Occupancy may be further limited by available on-site parking or if the property owner chooses to voluntarily limit the maximum number of occupants.

### **Safety and Inspections**

Washoe County staff has worked with both the North Lake Tahoe Fire Protection District and Truckee Meadows Fire Protection District to discuss fire and life safety concerns associated with STRs. As visitors to an STR are less likely to be familiar with a home than someone living in it, basic fire and life safety minimums are proposed to be required. The following summarizes proposed safety standards:



- Safety minimums include requirements for adequate smoke and carbon monoxide detectors; fire extinguishers; adequate egress; well-maintained fireplaces, electrical outlets/systems, hot tubs, deck railings, etc. Additional minimums may be proposed for occupancies over 10 during discretionary permit review processes.
- Areas proposed for sleeping purposes have specific safety feature requirements based in existing, adopted codes.
- Defensible space inspection will be required and conducted by the applicable fire agency.
- Basic structure safety inspection must be passed prior to issuance of an STR permit and annually thereafter; to be conducted by Washoe County building inspectors, with the exception that items such as sprinkler or fire alarm systems (if applicable) would be inspected by fire staff.

## **Parking**

All use types within the Washoe County Development Code have an associated parking standard that identifies the number of off-street spaces required. This ratio is most frequently based on square footage of the structure and/or the maximum number of employees present at any given time. However, some uses base the ratio on additional factors. For example: destination resorts require one parking space per room; indoor entertainment uses require one space per every three seats; bed and breakfast uses require one space per room, plus one per employee; motels require one per room; hostels require .25 per bed; and, single-family detached homes require two per dwelling unit.

According to the U.S. Census Bureau, the average number of residents per household in Washoe County is 2.5. In the Incline Village/Crystal Bay area, this average drops to 2.23 residents per household. These averages are reflected in the requirement for single-family homes to have a minimum of two off-street parking spaces.

When it comes to STRs, the number of occupants is generally expected to exceed Census averages for single-family dwellings – especially for STRs with multiple bedrooms. Accordingly, inadequate parking is one of the most frequently cited complaints associated with STRs – both across the nation and in the feedback heard from Washoe County residents. This is especially prevalent in the Incline Village/Crystal Bay area, where on-street parking can be severely limited or nonexistent. As a result, staff is proposing that the number of parking spaces required be based on the maximum number of occupants permitted for the STR, and that an inability to provide sufficient off-street parking would in turn potentially limit the number of occupants allowed by the STR permit.

Taking all of this into consideration, and in order to reduce potential impacts to neighboring properties, the following STR parking standards are proposed:

- No STR parking is allowed in the right-of-way.
- One parking space is required for every four proposed occupants.  
*Note: The initial ratio proposed to the Board in Nov. 2019 was one space for every three occupants; however, based on Board feedback, that ratio was changed to one space for every four occupants.*
- All parking spaces must be improved to Washoe County standards (or Tahoe Regional Planning Agency standards, if applicable) and developed on-site, within property boundaries. In multi-unit complexes, parking must be in designated parking spaces (if applicable) and limited to the number of spaces allotted to the unit.

It should be noted that parking may be limited by available TRPA coverage, and that staff's recommendation is that such limitations should not result in standards being waived. However, under certain limited circumstances where flexibility may be warranted, the Director of the Planning and Building Division would have the authority to modify the location of required parking spaces based on extenuating site features or other limiting factors. This additional flexibility was also incorporated into the proposed language as a result of Board feedback.

## **Noise**

Excessive noise, parties and loud music are some of the other most commonly heard complaints associated with STRs, and was a significant concern noted by county residents via the public workshops and online survey. Noise issues can also be one of the most difficult types of complaints to address. Many jurisdictions have established quiet hours for STRs. Opponents argue that if quiet hours are important, they should be established for all uses, not just STRs. (*Note: Although the County does not have community-wide quiet hours, there are requirements related to disturbing the peace.*) However, it can also be argued that occupancies of STRs are often higher than that of neighboring residences and that transient guests may not be as familiar with or respectful of community norms associated with noise.

The Washoe County Sheriff's Office has indicated there have been 64 calls for service related to noise in the Incline Village/Crystal Bay area in the past year, with three citations issued. It is understood that there is limited staffing by the Sheriff's Office in the Incline area, and that calls for service related to noise will have a lower priority than many other service types. Although the 24/7 STR complaint hotline by Host Compliance is expected to help with noise impacts, noise is still a concern.

Establishing quiet hours specifically for STRs is recommended by staff, allowing confirmed disturbances during these timeframes to be treated as a violation of STR standards. Additionally, due to the difficulty with noise enforcement, staff is providing an additional mechanism for consideration. Decibel-monitoring devices are a technology used by some property managers to ensure their guests are respectful of the community. They monitor decibel-levels only; there are no audio recordings. These can be used by a jurisdiction to better track STRs with repeated noise complaints. The City of Henderson recently adopted standards requiring these devices to be used as part of an STR's overall noise management plan. Staff recommends they be required for STRs with two *confirmed* noise violations.

- Quiet hours 10 p.m. – 7 a.m.
- After a second confirmed noise violation, an STR must be equipped with decibel-monitoring devices with reporting capability and records available for County review.

## **Trash**

In mid-2017, Incline Village General Improvement District (IVGID) established a zero-tolerance policy related to proper trash disposal in the Incline Village/Crystal Bay area. IVGID staff patrols the community to ensure standards are being followed and educate or cite where necessary. IVGID has indicated that since the program started, trash violations dropped significantly. With that in mind, the following trash standards for STRs are proposed:

- Trash must be managed as required by the Health District, Waste Management and IVGID (if applicable), including times when carts may be placed street-side. Cart size must be sufficient to store waste for the maximum number of occupants each week.

- STRs in IVGID service territory and other bear-prone areas must use wildlife-resistant carts and/or bear sheds, except in multi-family developments where HOAs require and enforce regular trash disposal.
- Trash violations confirmed by IVGID or the Health District count as a violation against the STR and may incur both IVGID penalties and Washoe County STR permit penalties.

### **Other Standards**

Several workshop and survey participants voiced concerns that most standard homeowner policies do not cover STR use. It is common for other jurisdictions to require STR-specific liability insurance, and the following additional standards are recommended:

- Certificate of insurance is required identifying that the property is used as an STR and provides \$500,000 minimum liability coverage per occurrence.
- Educational material provided in unit must contain: community evacuation routes; fire safety info (ex. BBQ operation, proper ash disposal, community fire danger, etc.); bear awareness brochure (if applicable); noise, trash & parking standards, occupancy limits, etc.

### **Enforcement and Revocation**

A three-pronged approach to enforcement is proposed:

- Permitting: Proactively identify unpermitted STRs and pursue permitting compliance; cite, fine and, if necessary, lien non-compliant property owners who continue to operate an STR without the appropriate permit in place. It should be noted that this approach is a departure from current complaint-based code enforcement practices; however, it is considered a necessary component of a successful STR program.
- Inspections: Required upon initial permit application and annually thereafter. Safety minimums must be in place in order to obtain an STR permit and operate.
- Operational: Confirmed violations will result in fines and potential penalties such as permit revocation. The 24/7 complaint hotline (via Host Compliance) will log citizen-initiated complaints and contact the STR's local responsible party for resolution.

Three confirmed and separate STR violations in any 12-month period will result in permit revocation and a 12-month cooling off period within which the property is ineligible to obtain an STR permit. No Board action will be required for this type of revocation, unless on appeal. Any of these individual STR violations could be appealed to the County's Administrative Hearing Office, whose decision may subsequently be appealed to a County board (with that decision appealable to the Second Judicial Court). In the interest of reducing total time to compliance, staff proposes: reducing the appeal period to 14 days (from 30 days) after an STR notice of violation is served; and adjusting the process to appeal an Administrative Hearing decision. Currently, such appeals are heard by the Board of Adjustment (BOA). Staff recommends that appeals of STR-related Administrative Hearing Orders instead be heard by the Board of County Commissioners. Since the BOA has no direct knowledge of or expertise with STR standards (the Planning Commission reviewed the ordinance), and because BOA meetings are only held ten times annually, staff believes the County Commission is better positioned to be the board to hear such appeals in a timely and effective manner. This procedural distinction was not included with the original text provided to the Planning Commission for review; which is why it is called out here.

Attachments B and C reflect additional code changes proposed for Chapters 125 (Administrative Enforcement Code) and 50 (Public Peace, Safety and Morals). The changes

in these two chapters focus on enforcement provisions related to STRs, including but not limited to inspections, evidence of operation, evidence of violations, appeals and associated timeframes, stop activity orders, warnings, penalties, and penalty notices.

### **Other Items for Consideration**

There are several other items the Board may wish to be aware of while considering this topic.

#### *Permit Fees*

Proposed permit fees will be detailed in a separate fee and fine staff report for action by the Board concurrent with the second reading and adoption scheduled for March 23, 2021. In summary, a cost-neutral fee structure is proposed to ensure, to the extent possible, that implementation and enforcement of the STR program is paid for by those who own and operate STRs, not general taxpayer dollars. Thus, the fee structure is designed to incorporate costs such as: safety and fire inspections; permit processing and review; Host Compliance software and services; enforcement of non-permitted STRs and violations of STR standards, etc. Additionally, per requests by the Board, the proposed fee structure will include a discount on the STR permit fee for STRs that use a licensed property manager as the designated local responsible party. It is expected that this fee structure will be reassessed after the first 6 to 12 months of operation in order to ensure costs are appropriately covered, and to propose adjustments at that time, if necessary. *Note: NRS 278.020 provides a governing body general power to regulate land use for purposes of health, safety, morals, and welfare of the community. Included within this authority is the imposition of fees for services to support that regulation, and fines to support its enforcement (NRS 237.060).*

#### *Fines*

Proposed fines will be detailed in a separate fee and fine staff report for action by the Board concurrent with the second reading and adoption scheduled for March 23, 2021. In summary, research related to STRs has made it clear that fines and penalties must be significant enough to deter violations; otherwise, it may just be considered the cost of doing business for an operator. Washoe County's current code enforcement approach for land use violations is focused more on achieving compliance, rather than penalizing the property owner. Therefore, current fines for Development Code violations are set relatively low and are considered insufficient to deter STR violations. As a result, staff is proposing a new and separate higher fine structure, with unpaid fines becoming liens against the property. Funds from paid fines would be used to offset impacts to the Administrative Hearing Office.

#### *Staffing Needs*

One additional code enforcement officer is needed to assist with implementation and enforcement of the program, with the position included in the FY21 budget. Building safety inspections will be conducted by existing Washoe County Building Inspectors. Fire inspectors from the applicable fire district will inspect defensible space and, if applicable, smoke alarm and/or sprinkler systems. The cost of such inspections will be paid for by the STR applicant. Host Compliance's services will be used for matching advertisements to real addresses and the 24/7 complaint hotline. STR permit fees are expected to cover all of these costs.

#### *Effective Dates*

Staff recommends at least a three-month grace period from the first date of accepting permit applications. If the Board adopts the ordinance on March 23, 2021, the recommended effective date for allowing application submittals is May 1, 2021. The recommended effective date for enforcement is August 1, 2021. The period between adoption of the ordinance and permit application submittal is needed to provide time to set up the associated internal processes, technology needs, and application materials. The grace period between May 1, 2021 and July 31, 2021 is for the purpose of advertising the new standards to the public and to begin processing and issuing of STR permits. As noted previously, an additional code enforcement officer position is budgeted for FY21 to support the STR efforts, and the hire date for this position is estimated to be in early summer of 2021.

#### *Room Tax*

The Reno-Sparks Convention and Visitors Authority (RSCVA) requires hosts of STRs to obtain a transient lodging tax (aka room tax) license. The RSCVA assesses a 13% room tax on STRs in Washoe County. That room tax is paid to the RSCVA, which keeps a portion and then distributes the remainder to various state, regional and local agencies. Per State law and various government ordinances, Washoe County receives 1/13th of the room tax paid in unincorporated County areas. Based on a 5-year average, RSCVA receives approximately \$1.6M annually for room taxes associated with STRs in the Incline Village/Crystal Bay area. Washoe County receives 1/13th of that amount, which is approximately \$125,000 annually. The amount the County receives from STRs outside of the Incline area is negligible. Room tax distributed to Washoe County currently goes into the General Fund. As part of this project, staff will investigate opportunities to reduce potential overlap in the permitting processes between the two organizations.

#### *Tahoe Regional Planning Agency (TRPA)*

TRPA recently established a list of regulatory options for jurisdictions to apply to STRs within the Tahoe Basin in order to meet TRPA goals and policies. These will be considered a third criterion in TRPA's scoring system for awarding residential allocations to jurisdictions around Lake Tahoe. The focus is largely on locational, operational and enforcement parameters. Washoe County has been actively involved in these conversations with TRPA. The proposed ordinances are expected to meet many of TRPA's parameters.

#### *Demographics*

With the highest concentration of STRs located in the Incline Village/Crystal Bay portion of Washoe County, there has been some interest in the demographics of that area. The following information was pulled from 2013-2017 American Community Survey 5-Year Estimates for zip code 89451, which represents most, but not all of the area. This information is provided to paint a general picture only. There are approximately 7,800 dwelling units, with approximately 52% comprised of single-family detached homes. The area is characterized by a large contingent of second homes, and just under 53% of the dwelling units are classified by the U.S. Census Bureau as vacant. Slightly more than 34% of the homes are owner-occupied. 75% of the homes were built prior to 1990. The average household size of owner-occupied homes is 2.08. The average household size of long-term renter-occupied homes is 3.02. Approximately 74% of residents moved into their home in the year 2000 or later. Just under 93% of the homes have four bedrooms or fewer.

#### *Standards for Incline Village/Crystal Bay vs. Rest of Washoe County*

It is important to note that many residents in the Incline Village/Crystal Bay area have requested that STR standards within the Tahoe Basin be different than those in the rest of Washoe County. The majority of STRs in the County are located in Incline Village/Crystal Bay and therefore most recommendations were drafted with that area primarily in mind. Regional adjustments are included in the proposed code language for items such as wildlife-resistant carts in bear-prone areas, variations in defensible space requirements/inspections, TRPA parking standards, and regulatory zone differences within the new Tahoe Area Plan (expected to be adopted in the coming months).

### **FISCAL IMPACT**

Costs to administer and enforce STR standards and permitting have been calculated, and proposed STR permit fees and fines have been designed to cover these costs. This cost-neutral fee structure is intended to ensure, to the extent possible, that implementation and enforcement of the STR program is paid for by those who own and operate STRs, not general taxpayer dollars. Specific details regarding fees and fines will be provided in a separate staff report for action by the Board concurrent with the second reading and adoption scheduled for March 23, 2021.

### **RECOMMENDATION**

It is recommended that the Board introduce and conduct a first reading of the ordinances provided as Attachments A, B and C and set the public hearing for second reading and possible adoption for March 23, 2021.

### **POSSIBLE MOTION**

Should the Board agree with staff's recommendation, a possible motion would be:

“Move to introduce and conduct a first reading of ordinances amending the Washoe County Code at Chapter 110 (Development Code), within Article 302, Allowed Uses, to identify the types of review required for short-term rentals in each regulatory zone and to add an administrative review permit to the list of review types; within Article 304, Use Classification System, to update the residential use type description, add a definition for short-term rental, and update the definition for lodging services; within Article 410, Parking and Loading, to update the off-street parking space requirements table to include a reference to short-term rentals; and within Article 910, Enforcement, to specify that appeals of Administrative Hearing Office decisions related to short-term rentals would be heard by the Board of County Commissioners. Chapter 110 would also be amended to create Article 319, Short-Term Rentals (STRs), to establish standards, location limitations, defining unpermitted short-term rentals as nuisances, occupancy limits, parking requirements, safety/security considerations, signage, noise thresholds, trash/garbage collection rules, insurance requirements, Tahoe area considerations, permitting requirements, enforcement process, fees, fines, and penalties associated with short-term rentals; and to amend Article 306, Accessory Uses and Structures, by removing the procedural details for Administrative Review Permits, with those details being re-located into a new article that is updated to reflect minor changes related to short-term rentals. That article would be created as Article 809, Administrative Review Permits. Short-term rentals are a type of temporary lodging booked for fewer than 28-days and operated out of private residences such as homes, apartments and condos. They are commonly made available through property management companies and online

booking services, and are also referred to as vacation rentals. The amendments also resolve discrepancies arising within existing Washoe County Code chapters as a result of the new code language, and other matters necessarily connected therewith and pertaining thereto; and, to introduce Bill Numbers (insert bill numbers as provided by the County Clerk) and set the public hearing for second reading and possible adoption of the ordinances for March 23, 2021.”

Attachments:

- A. Chapter 110 Draft Ordinance (Updated July 2020 and January 2021)
- B. Chapter 50 Draft Ordinance
- C. Chapter 125 Draft Ordinance (Updated July 2020)
- D. Minutes of Feb. 25, 2020 Washoe County Commission Meeting: <https://bit.ly/2X9xbFB>
- E. Planning Commission Signed Resolution 20-01
- F. Planning Commission Staff Report and Addendum for WDCA19-0008
- G. Public Comments Received Since January 2, 2020