



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: January 25, 2022

DATE: December 25, 2021

TO: Board of County Commissioners

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SUBJECT: Recommendation to acknowledge an update on the short-term rental program (STRs), to include discussion and possible direction to staff on recommended changes to existing short-term rental regulations within unincorporated Washoe County, and/or provide additional policy direction to staff regarding any other changes desired by the Board prior to bringing back specific ordinance amendments. The staff recommendations and potential policy direction from the Board include, but are not limited to, the following subjects: occupancy calculations (i.e. change in methodology recommended by staff), parking requirements, safety/security considerations, trash/garbage collection rules, insurance requirements, permitting requirements, enforcement process, fees, fines, and penalties associated with short-term rentals, and resolving possible discrepancies that may arise within existing Washoe County Code chapters as a result of any new recommendations. (All Commission Districts.)

SUMMARY

In response to direction from the Washoe County Board of County Commissioners (Board), staff has prepared a presentation to update the Board on the implementation of the short-term rentals program (STRs) since regulations went into effect in March of 2021 and permitting began on May 1, 2021. In addition, staff has prepared a series of policy recommendations, which can be found beginning on page 7 of this staff report. The Board is asked to review these recommendations and either support them, reject them and/or provide additional policy direction to staff prior to the drafting of any actual code language changes that will come back to the Board for subsequent approval. The policy direction includes, but is not limited to, the following subjects: occupancy limits, parking requirements, safety/security considerations, trash/garbage collection rules, insurance requirements, permitting requirements, enforcement process, fees, fines and penalties associated with short term rentals.

AGENDA ITEM # _____

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

PREVIOUS ACTION

March 23, 2021. The Board held the second reading and adopted Ordinance numbers 1665, 1666, and 1667 amending the Washoe County Code within Chapters 110, 50 and 125 establishing standards and processes associated with the administration and enforcement of STRs in unincorporated Washoe County.

February 23, 2021. The Board introduced and held the first reading of ordinances amending the Washoe County Code within Chapters 110, 50 and 125 establishing standards and processes associated with the administration and enforcement of STRs in unincorporated Washoe County.

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 it is not yet defined within Chapter 110). Further, the Board identified it did not want to ban short-term rentals 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.

BACKGROUND

Short-term rentals are a type of temporary lodging of brief duration (28 days or less) operated out of private residences such as homes, apartments or condos. They are

commonly available through property management companies and online booking services. They are also referred to as vacation rentals and generally booked for fewer than 28-days.

As with other industries affected by the sharing economy, the rise of online advertising platforms such as Airbnb and VRBO has broadened the traditional lodging industry by expanding opportunities for the average homeowner to tap into the tourist market and offer their home for short-term rental 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 short-term rentals in many communities. Along with that, has come an 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.

UPDATES SINCE ADOPTION OF SHORT-TERM RENTAL REGULATIONS

At the time of adoption, the Board directed staff to provide an update within the following year on permitting trends and to evaluate the effectiveness of the program. The Board also requested that staff provide policy recommendations, as appropriate, for the Board’s consideration and direction.

Permitting Trends

On May 1, 2021, the County began accepting STR applications. To date, a total of 635 “Tier 1” (1 to 10 occupants) applications, twelve (12) “Tier 2” (11 to 20 occupants) applications and zero (0) “Tier 3” (21 or more occupants) applications have been received. Tiers are intended to recognize that below certain occupancy thresholds, and with appropriate standards in place, an STR is expected to reasonably function similarly to other residential uses. As occupancy increases, impacts to surrounding properties have the potential to increase. Therefore, the higher the tier, a higher-level of review is necessary. Of those applications, 467 Tier 1 permits and eight (8) Tier 2 permits have been issued. Twelve (12) permits were cancelled for various reasons.

The remaining active applications are primarily being stalled due to additional information required for a complete application submittal or due to failed inspection(s). Ninety-six percent (96%) of issued STR permits are located within Incline Village/Crystal Bay. Of the 467 issued Tier 1 STR permits, the location of residence for owners is as follows:

Top 3 States by Ownership				
MAIL STATE	# of Permits	% of Permits	Avg_Occup	Occup_Sum_
CA	266	57.1%	5.7	1519
NV	135	29.0%	6.0	812
TX	10	2.1%	6.3	63
OTHER	55	11.8%	6.0	333

Based on issued permits, the average approved occupancy is 5.8 occupants per STR; the average number of legal bedrooms is 3; and the average habitable square footage is 1,167s.f. Fifty-eight percent (58%) are managed by a certified property manager. Over two-thirds (70%) are located in condominiums and the remaining are in single family residences (20%).

Of the 467 issued Tier 1 permits, 178 failed the first Building inspection and 75 failed the first fire/defensible space/sprinkler/monitored alarm inspection. Additionally, 42 took three or more building inspections to pass.

Out of the 467 issued Tier 1 permits, ten (10) were owners identified to have two active STRs, with the remaining permits being held by just one owner. Forty-five (45) permit holders were listed as being a limited liability company (LLC) or a holdings company as the property owner.

Host Compliance

Washoe County contracted with technology provider Host Compliance (now Granicus) to provide two main services related to short-term rentals: 1) address identification and monitoring (tying online advertisements from dozens of platforms to real addresses) and 2) a 24/7 complaint hotline. The subscription cost for these services is approximately \$23,000 per year. This cost was originally anticipated to be \$60,000 (resulting in a reduction of expenses of approximately \$37,000) because it included a mobile registration feature which was ultimately not purchased. Host Compliance (Granicus) provides short-term rental services to over 200 local jurisdictions across the United States.

Enforcement

In accordance with previous direction provided by the Board, official enforcement of the STR ordinance began on August 1, 2021. An enforcement “grace period” that began on May 1, 2021 (when the County began accepting STR applications) ended on August 1, 2021. However, this grace period proved insufficient to address the high level of STR activity occurring in the community and to accommodate the processing of all STR permit applications received during this time. Many of the applications submitted prior to the August 1st enforcement deadline had yet to be fully processed (and permits issued), which meant that code enforcement staff technically would have had to begin issuing \$1,158 fines to all such applicants for operating or advertising without a permit. That course of action was not feasible given the amount of available enforcement resources, nor appropriate in the opinion of staff.

Therefore, code enforcement decided to prioritize enforcement resources and focus initial enforcement on properties that were still actively advertising on STR listing platforms (based on data from Host Compliance) but which had not submitted an STR application by the August 1st enforcement deadline. This enforcement approach included an initial contact letter/warning to all properties identified as meeting these criteria (to the extent contact information could be verified) and resulted in approximately 250 letters being mailed. This outreach was successful from an enforcement perspective, resulting in most of the properties that were contacted subsequently submitting STR applications or complying with the STR ordinance by taking their advertisements down, ceasing rental activity, or converting to long term rentals. However, approximately 25 properties did not respond nor submit applications. Code enforcement then shifted to focus on those properties with a second round of contact letters and warnings, and ultimately issuance of stop activity orders and penalty notices.

The primary goal/priority of enforcement at this time is to get all active STRs permitted to ensure that required inspections occur and public safety standards are addressed. This approach does not mean that other enforcement issues are not being addressed, only that getting all active STRs permitted is the primary focus at this time. Code enforcement has been (and will continue) to investigate complaints received; and if investigation warrants, commence enforcement proceedings per the Administrative Enforcement process set forth

in WCC Chapter 125. It is important to note that due process must be provided as part of any administrative enforcement proceedings, to include the right to appeal to the Administrative Hearing Office (and challenge the evidence presented). Fines are not automatically assessed based on accusations or complaints. An important aspect of enforcement is the willingness of complainants to submit witness statements/affidavits as evidence to support complaint allegations, particularly when there is only photographic evidence (time and date stamped) of nuisance violations such as parking, occupancy, and trash. The reason this is an important aspect of enforcement is because there is only one enforcement officer dedicated to all STR enforcement. This position works a regular schedule of 7:30 a.m. to 4:30 p.m. Monday through Friday, so there is no 24/7 enforcement nor patrolling during weekends.

Another important aspect to the current enforcement approach is utilization of the Host Compliance 24/7 complaint hot line. Staff has been referring all complainants to this resource (as does the STR webpage) so that all complaints are easily documented and tracked in one source. Staff checks the hot line for new complaints daily. At present, if the complaint can be addressed by the registered local responsible party (LRP), then staff will reach out to that contact, inform them of the complaint, and follow up with the response provided. This essentially results in a two-pronged enforcement approach, one of which utilizes/relies on the LRP to ensure good behavior (primarily regarding nuisance activity, such as loud noise, parking, not putting the trash out, etc.), and the other focused on opening official violation cases that are resolved through the administrative enforcement process (most of which involve operating without a permit). Given available staff resources, it is important that staff builds relationships with the LRPs and property managers so that they will take ownership of issues arising at their properties and ensure they are operating as good neighbors.

As of the writing of this report, enforcement staff had many open violation cases and enforcement activity was steadily increasing. Staff will provide a more detailed summary of enforcement activities to date as part of the presentation to the Board on this item. This summary will include both the Host Compliance hot line complaint data (type, number, etc.), and the case data for violations being addressed through the Administrative Enforcement process (type of violation, fines assessed, etc.). In general, like most enforcement efforts county-wide, staff is finding that the majority of property owners are complying with the STR ordinance and want to be a responsible operator.

Public Outreach and Engagement

A critical component in determining the successes and/or shortfalls of the program is to solicit input from identified stakeholders for their experiences and recommendations since the adoption of STR regulations. Generally speaking, these stakeholders can be grouped into the following major categories: neighbor/community members; short-term rental host and property managers/realtors; traditional lodging industry and business; and impacted regulatory agencies and/or supporting agencies. Staff's goal during the outreach process was to identify major concerns of each of the stakeholder groups and, wherever possible, pinpoint areas of overlap. An analysis of the input received revealed several recurring themes discussed in more detail below.

STR Owner and Property Manager Workshop

On October 12, 2021, a Zoom meeting was held between 12:00 and 1:00pm, by invitation only, to request feedback specifically on the permitting process and the STR

owner/property manager's experiences with this process. A total of 520 individual email recipients received the meeting invitation. Fifty-two people were in attendance. A total of 27 emails were also received and are included as Attachment A to this staff report.

Top areas of comment were related to the following:

- Most notable comments were related to occupancy calculations; mainly citing an STR's ability to accommodate more than is currently allowed using habitable space calculation versus number of legal bedrooms.
- While some expressed the application and permitting process went 'smooth'; many also expressed frustration with difficulty navigating the online permitting platform (www.onenv.us). Many also expressed they were unsure what documentation was needed to meet minimum application requirements. Specifically citing the following comments related to application submittal:
 - Lengthy permit submittal instructions (due in part to staff's attempt to provide the public a clear step-by-step guide for navigating the permitting platform)
 - Unclear how to draw the floor plan appropriately, specifically citing habitable space discrepancies
 - Unsure of the appropriate documentation to submit for the minimum insurance requirements
 - Proof of verified parking in condominiums
- There seemed to be a consensus that STR regulations are necessary and respondents are generally in support of the County's current approach.
- Concern of being unfairly targeted for enforcement complaints.
- Enforcement should prioritize 'bad actors' and those that have made no effort to obtain their STR permit before any others.

General Public Workshop

On October 19, 2021, a Zoom meeting was held between 5:00 and 6:30pm and was open to the public. The County Communications Team sent a "C-Blast" to all Commissioner District email lists. Nearly 9,000 individual emails received notice of the workshop. Seventy-eight (78) people were in attendance. A total of 34 emails were received in response for request for comment and are included as Attachment B to this staff report.

Top areas of public concern and input were related to the following:

- Expressed general support for County's effort to regulate STR's
- General nuisance concerns: noise, trash, occupancy and parking
- Over-saturation of STRs and impacts on current housing needs
- Additional impacts to wildfire danger/threats and evacuations
- Availability of code enforcement resources
- Access to STR permitting data, specifically requesting a GIS layer for STR issued permit locations and contact information
- Belief of conflicting rules with homeowner association CC&R's

- Occupancy calculations
- Negative impacts on “community character”

Regulatory Agency Outreach

Staff held a series of one-on-one stakeholder input sessions in order to better understand concerns and priorities from the regulatory partners’ perspective. Agency outreach included representatives from the Sheriff’s Office, North Lake Tahoe Fire Protection District, Truckee Meadows Fire Protection District, Reno-Sparks Convention & Visitors Authority (RSCVA), Incline Village General Improvement District (IVGID), Sun Valley GID, Washoe County Manager’s Office, business license program, code enforcement program, planning program, and building program, as well as Washoe County Health District and District Attorney’s Office. Staff has maintained contact with all affected agencies and held several follow-up meetings throughout the implementation of the STR program.

Current Expenses and Revenues:

There are 556 STR Permits that have provided partial or full payment from May 1st to December 20, 2021, which has generated \$207,984 in revenues for the STR Program (General Fund) and excludes the fees allocated and already transferred to the Planning Division (for overall processing and review of permits), the Fire Districts (for STR Fire Inspections) and the Building Enterprise Fund (for plan review and building inspections).

Initial STR Program Expenses were projected at an annual (12 months) recurring cost of \$192,219 based on 500 STR Permits. To date (May 1, 2021, to December 20, 2021), after just 7.5 months, the STR Program expenses amount to \$93,933.57. A Code Enforcement Officer was hired in July and the above amount accounts for only 5 months of salary costs.

The STR Program has sufficient revenues to cover projected costs, but Staff recommends waiting for a full year (12 months) of STR Program operations (until May 1st of 2022) to better evaluate program costs, resources, revenues, fines and fees.

Below is the RSCVA Room Tax revenues since the county began accepting applications:

	May 21-Nov '21	13%	1%
WA Homeowners	\$ 127,322.00	\$ 16,551.86	\$ 1,273
WB Homeowners	\$ 1,924,629.25	\$ 250,201.80	\$ 19,246
Vacation Rental	\$ 15,394,835.07	\$ 2,001,328.56	\$ 153,948
Total	\$ 17,446,786.32	\$ 2,268,082.22	\$174,467.86

The *WA Homeowners* category above represents STRs in unincorporated Washoe County outside of the Tahoe Basin, while the *WB Homeowners* category represents the STRs located in Incline Village and Crystal Bay. The *Vacation Rentals* category includes only STRs licensed by property management companies and these STRs are all located in Incline Village and Crystal Bay.

STAFF AMENDMENT RECOMMENDATIONS FOR CONSIDERATION

Based on the permitting experiences to date, the extensive public and agency input, and analysis of potential regulatory amendments, staff submits the following policy recommendations for consideration:

1. Propose the notarized affidavit be expanded to include the minimum insurance requirements verses a certificate of insurance.
 - a. Staff has found many insurance companies do not provide a document that clearly indicates all of the required minimum insurance requirements. This has resulted in frustration for some applicants and has put the burden on staff to decipher innumerable insurance policies. Instead, staff recommends the onus be put on the applicant to certify, via the notarized affidavit, that they carry the appropriate insurance as currently required.
2. Clarify requirements in condo/multi-family for parking where parking is unassigned.
 - a. In cases where a condominium does not offer 'parking passes', staff recommends allowing proof of parking assigned to a unit by written document (CC&R's or HOA letter), in addition to passes in the amount of 1 parking space for each 4 occupants, and to ensure that overflow parking is not used.
3. Revise method for maximum occupancy calculations
 - a. The most common complaint heard was related to occupancy calculations. The properties most affected by the current STR occupancy calculation (currently 1 occupant per 200 sf of habitable space) were condos due to their small footprint. STR permits have been issued to 325 condos, representing 70% of all issued STR permits to date. Of the 325 permitted condos, 170 (52%) contain 3 bedrooms; and were therefore, disproportionately impacted by the current calculation methodology. Using the current occupancy methodology, condos with 3 bedrooms ended up with a maximum occupancy of 5 people, which was not perceived as practical nor fair. In addition, there are 58 permits issued to single family properties that also have 3 bedrooms. Therefore, the following is proposed as a new method for maximum occupancy and would apply to both single family homes as well as condos as the change should remain equitable for both housing types:

The occupant load shall be calculated as:

A) Two (2) occupants for every legally permitted bedroom in accordance with Section 110.319.20(a)(1) and in addition to this (+)

B) The remainder of the home shall be calculated as one (1) occupant for every 200 square feet of habitable space in accordance with Table 1004.5 of the 2018 International Building Code (IBC) or the currently adopted edition.

The two calculations (A+B) shall be added to yield the total allowed occupancy of an STR.

4. Possible refuse considerations
 - a. In discussions with IVGID, the most common complaint received is related to trash nuisances. While there is no available data to determine whether the complaints are predominantly generated from STRs, staff recommends the Board consider eliminating “wildlife resistant carts” from Article 319 and instead require specifically installation of a “bear box” in IVGIDs service territory prior to issuance or re-issuance of an STR permit. Staff also recommends adding language requiring the proper use of a bear box and issuing a violation notice if not used properly.
5. Replace reference to Tier 3 STR Permits (Administrative Permit) with a Special Use Permit
 - a. Currently the STR Ordinance allows Tier 3 permits (STRs with more than 21 people) in regulatory zones where hotels, motels and other transient dwelling units use types are allowed with an AP (administrative permit) which goes to the Board of Adjustment for public hearing approval. Staff recommends changing Tier 3 STRs to be approved through a special use permit (SUP) which involves a public hearing at the Planning Commission and the ability to add conditions tailored to address specific impacts of the STR location/circumstances.

STAFF RECOMMENDED FEE CHANGES

1. Require additional fees beyond first two building inspections
 - a. As discussed above, a considerable number of properties failed the STR building inspection and required more than the two visits which are included in their initial application fee. Staff recommends adding a 1-hour fee of \$90 for each inspection beyond the first two for any property requiring more than 2 visits to pass the STR Building inspection.
2. Permit Fees for North Lake Tahoe Fire Protection District to be increased
 - a. NLTFPD has expressed the program has had a larger burden on staff time and resources than originally projected. As such, NLTPD is requesting their inspection fees be increased by 1 hour from \$90 to a total of \$180 to better cover the costs of implementing their role in the program.

FISCAL IMPACT

Specific fiscal impacts associated with direction from the Board will be defined in future staff reports for Board action. Direction at this time will result in the use of additional staff time to amend the applicable ordinances as directed.

RECOMMENDATION

It is recommended that the Board either confirm staff’s recommendations and/or provide additional policy direction for possible amendments to the existing regulations of short-term rentals within unincorporated Washoe County.

POSSIBLE MOTION

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

“Move to confirm staff's recommendations or provide the following additional policy direction associated with the regulation of short-term rentals within unincorporated Washoe County: *[provide specific direction which may include staff's recommendations involving occupancy calculations, parking requirements, trash/garbage collection rules, insurance requirements, permitting requirements, enforcement process, fees, fines, and penalties and/or provide additional policy direction...]*”

Attachments:

- A. STR Owner and Property Manager Workshop Comments Received
- B. General Public Workshop Comments Received