



# WASHOE COUNTY

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## STAFF REPORT

**BOARD MEETING DATE: December 19, 2023**

**DATE:** November 22, 2023

**TO:** Board of County Commissioners

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**SUBJECT:** Recommendation to provide direction to staff on amendments to Washoe County Code Chapters 110 (Development Code) and 125 (Administrative Enforcement Code) specific to changes to the regulations for short-term rentals (STRs) in unincorporated Washoe County. The Board is asked to provide direction to staff regarding specific STR regulations for the purpose of streamlining STR permitting and enforcement processes in accordance with the Board's initiation of code amendments at the August 22, 2023, meeting. The amendments may include, but are not limited to: limiting STRs to one per parcel in the Tahoe planning area; prohibiting new STRs in accessory dwellings in the Tahoe planning area; clarifying when an STR permit must be relinquished; allowing for an updated STR permit renewal date via payment of a pro-rated renewal fee; removing the requirement for a signed notary for STR renewal applications; clarifying that a new STR permit is required with each change of parcel ownership; granting a 60 day grace period for renewals; clarifying violation and revocation regulations; reducing the appeal period for STR stop activity orders; increasing STR penalties; reducing fees for STR permits in partial home rentals; and resolving possible discrepancies that may arise within existing Washoe County Code chapters as a result of amendments. (All Commission Districts.)

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### **SUMMARY**

In response to direction from the Washoe County Board of Commissioners (Board) at their August 22, 2023, meeting, staff was asked to initiate code amendments to the County's STR regulations for items proposed by staff that would assist in streamlining and adding clarity to current STR permitting and enforcement processes. Staff was also given direction to prepare draft amendment language to the STR regulations in Chapters 110 and 125 of the Washoe County Code. Prior to returning to the Board for a first reading of a proposed ordinance, staff was asked to take these draft amendments to the community and receive public comment and report back to the Board. As a result of the Board's direction and

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

public engagement, staff has prepared a series of policy recommendations, which can be found beginning on page 5 of this staff report. The Board is asked to review these recommendations and provide direction to staff on whether the Board supports, rejects, or wishes to modify the specific recommendations. With this guidance, staff will then create a draft ordinance for circulation to the Planning Commission prior to returning to the Board for a first reading.

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

### **PREVIOUS ACTION**

August 22, 2023. The Board initiated amendments to Washoe County Code Chapters 110 (Development Code) and 125 (Administrative Enforcement Code) pursuant to WCC 2.030 and 110.818.05 to streamline and clarify current STR permitting requirements and enforcement processes to explore the option of a tiered approach for property owners utilizing their primary residence as an STR, and to engage the public. The Board directed staff to return to the Board in December with feedback from the public on the staff-proposed code amendments.

May 10, 2022. The Board adopted Ordinance No. 1686, which made amendments to various provisions of Washoe County Development Code (Chapter 110) in Article 319, *Short-Term Rentals*.

March 23, 2021. The Board adopted Ordinance Nos. 1665, 1666 and 1667, which amended Washoe County Code Chapters 110, 50 and 125 to establish 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.

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, short-term rental use is allowed within Washoe County (although it was 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.

### **AUGUST 22, 2023, BOARD DIRECTION**

On August 22, 2023, the Board was asked to provide policy direction to staff on code amendments to streamline the permitting and enforcement of STRs. The Board was also asked to provide direction regarding whether to limit (cap) the total number of STRs in Washoe County, specifically within the Tahoe planning area. The Board directed staff not to implement a cap on the total number of STR permits. However, the Board directed staff to draft code language to help streamline the STR permitting and enforcement processes, to explore the option of a tiered approach for property owners utilizing their primary residence as an STR, and to engage the public and return to the Board in December with substantial feedback from the public on staff-proposed code amendments.

Additionally, the Board asked staff to consider whether to include HOA verification based on an HOA's CC&Rs as part of the County's approval process prior to issuance of STR permits. This matter has been explored in depth by planning and legal staff and both have determined that this approach is highly problematic and would put the County in the untenable position of enforcing private agreements to which the County is not a party. CC&Rs consist of private restrictive covenants (promises) made between an HOA and the homeowners who live within the boundaries of the HOA's jurisdiction. CC&Rs are specifically designed for enforcement between neighbors within a community, i.e., the HOA. Local governments have no authority to enforce private restrictive covenants, and doing so would involve an improper delegation of the local government's police power to private individuals.

Further, there are multiple practical difficulties were the County to attempt to enforce an HOA's CC&Rs. For example, interpreting CC&Rs can become a monumental task as they tend to be long and intricate and often use terminology that may be inconsistent with County Code. Additionally, CC&Rs are often amended over the years, and HOAs go in and out of operation. Finally, such a verification process would make an already lengthy permitting process even lengthier and more burdensome than the process already is and would put the County at risk of litigation.

### **AMENDMENTS RECOMMENDED FOR CONSIDERATION**

A list of possible code amendments and fee changes have been prepared as directed by the Board. Below is a list of the proposed changes with bold text representing new language and strikeouts representing language to be removed.

1) Limit STRs in Tahoe Planning Area to One STR per Parcel and Prohibit STRs in Accessory Dwellings

Section 110.319.15 Standards (a)(6)

Only one STR will be permitted per parcel, with the exception that a second STR may be allowed **on properties located outside of the Tahoe planning area**, if established within a legally permitted attached or detached accessory dwelling. The STR must be a legally permitted, permanent, habitable dwelling unit (for example, no RVs, boats, detached garages, etc. to be used as an STR). **It is prohibited for new STRs to be established in accessory dwelling units within the Tahoe planning area.**

*The Board is asked to consider limiting the number of STRs on a given parcel in the Tahoe Planning Area to one and also prohibiting the establishment of new STRs within accessory dwelling units. Properties outside of the Tahoe planning area would be allowed to have a second STR if established in a legally permitted accessory dwelling (current regulations). Further, properties outside of the Tahoe planning area would not be subject to the restriction on establishing new STRs within an accessory dwelling unit. The purpose of the latter restriction is to support work force housing in the Tahoe Basin which has been identified as a priority by the Board. This provision would only apply to those applying for new STR permits as the existing permits would be grandfathered. This proposal has received broad support by non-STR owners in the Tahoe area.*

2) Requirement for relinquishing an STR permit.

Section 110.319.15 Standards (a)

**A property with an active STR permit is subject to all STR regulations of this Article regardless of the occupancy status (for example, whether the STR is being rented at any given time). In the event that a property owner chooses not to adhere to all STR regulations, then the STR permit for that property must be relinquished.**

*Existing code provides that properties with active STR permits are subject to all STR regulations and restrictions throughout the life of the STR permit whether the STR is being rented or not. The proposed language is intended to clarify that should the property owner no longer wish to be subject to STR standards, the STR permit must be relinquished.*

3) Remove requirement for outdoor fireplace permit from Truckee Meadows Fire Protection District

Section 110.319.20 Safety Standards (c)(15)

Outdoor wood-burning solid-fuel fireplaces or solid-fuel burning fire pits are prohibited within the boundaries of the Tahoe Area Plan. ~~Within the rest of unincorporated Washoe County, these require a permit from the Truckee Meadows Fire Protection District.~~

*Following the original adoption of Article 319 (Short Term Rentals), it was identified that the Truckee Meadows Fire Protection District does not issue permits for outdoor solid fuel burning fire pits and therefore this language is unnecessary. The Board is asked to remove this language to clean up this discrepancy.*

4) Allow for pro-rated permitting fees

Section 110.319.25 Permit Fees

Fees associated with STR permits shall be paid in the amounts identified in the master fee schedule and permit application. Non-payment of fees is cause for cancellation of an in-process STR application or revocation or non-renewal of an existing STR permit. **An STR permit holder may request or be assigned an updated STR permit renewal date upon invoicing or payment of a pro-rated permit fee.**

*In order to accommodate the request of some STR permit holders to allow a change to their renewal date, the Board is asked to allow for a pro-rated permit fee. This request will also help to better distribute the expiration dates more evenly throughout the year and alleviate the large influx of renewal applications within a short window of time.*

5) Requirement for a new STR permit when a property is sold.

Section 110.319.30 Enforcement (a)(3).

**If a property with an active STR permit is sold and the new property owner wishes to continue the STR use, a new application must be submitted to Washoe County and a new STR permit must be obtained by the purchasing property owner.**

*Currently, a new STR permit application is required to be submitted when a property is sold, and when the new owner wishes to continue operating the STR. The Board is asked to consider the above language to formalize this practice in code. It is essential that a new property owner obtains their own STR permit in order to ensure: required safety features remain in place; STR contact information remains accurate (including the local responsible party and authorized agent if applicable); and that the new STR permit holder is aware of the STR rules, regulations and penalties, thus reducing the potential for violating those regulations.*

6) Allowing for a grace period for renewal permits.

Section 110.319.30 Enforcement (a)(4)

**A grace period not to exceed 60 days from the date of expiration may be granted for STR renewals at the Director of the Planning & Building Division's discretion provided the applicant is working in good faith to finalize the renewal.**

*The Board is asked to consider authorizing the Division Director to grant a grace period of up to 60 days for the issuance of STR renewals to provide flexibility when circumstances warrant. Planning staff will continue to send notices of upcoming deadlines and will continue to seek application submittals prior to their expiration dates.*

7) STR violations from other agencies

Section 110.319.30 Enforcement (c)

Any violation of required STR standards shall be enforced through a combination of the enforcement mechanisms contained in Washoe County Code Chapters 50.300 (*Nuisance Code*), 110.910 (*Enforcement*), and 125 (*Administrative Enforcement*), as applicable. The Planning and Building Division Director, or her/his designee, shall determine compliance with these standards. A violation is considered confirmed

when all required due process has been provided, appeals exhausted, and the violation has been found to exist. **Additionally, any violation of trash standards adopted and enforced by a General Improvement District (GID) or Northern Nevada Public Health (NNPH), or a disturbing the peace citation issued by the Washoe County Sheriff's Office (WCSO) shall be considered an STR violation to the same extent as a violation issued under this Article 319 of the Washoe County Development Code.**

*STR standards related to trash and noise can overlap with regulations adopted and enforced by other agencies. For this reason, the Board is asked to consider the addition of clarifying language that if, in the course of their normal operation, IVGID, the Sheriff's Office or NNPH issues a citation for an activity that is determined to be a violation of Washoe County's STR regulations, then Washoe County code enforcement staff will issue a notice of violation for that activity. The evidence compiled by the applicable agency that issued the citation will be used as the basis for STR enforcement action by the Planning and Building Division.*

8) Removing requirement to notarize applications for STR permit renewals

Section 110.319.35 Inspections and Self-Certification (a)(3)

The property owner provides a signed ~~and notarized~~ self-certification checklist attesting that the property meets the safety standards identified in this article.

*In order to help streamline the permitting process and remove additional submittal requirements, the Board is asked to remove the requirement for notarizing the self-certification checklist for renewal applications. Common feedback provided by STR permit holders is that this requirement is overly burdensome and redundant as the initial application requires a signed notarization. In addition, many STR permit holders reside out of state, where notary services may be difficult to obtain or where notary laws may differ from Nevada.*

9) Clarify that the property owner and not the property is subject to one year suspension for a permit revocation.

Section 110.319.40 Permit Revocation.

Revocation of an STR permit shall be subject to the requirements of this section. In the event an STR permit is revoked through any of the below procedures, a new STR permit shall not be issued ~~for~~ to the same property **owner(s) of the subject property** for a period of one (1) year immediately following the date of revocation.

*The purpose of this language is to help clarify that the revocation of the STR applies to the property owner (and their behavior/violations) rather than the property so that in the event that the property is sold, the new property owner is not subject to the same one-year suspension for violations they did not commit.*

10) Additional grounds for revocation of STR permit.

Section 110.319.40 Permit Revocation. (b)

**Construction occurs on the property without required building permits.**

*To better ensure life and safety of STR guests, staff is asking the Board to consider language that if construction occurs without required building permits on a property with an active STR permit, such action is grounds for revocation of an STR permit. Depending*

*on the type of unpermitted work that was performed, it could take a substantial amount of time to obtain the required permit approvals and correct any construction found to violate applicable building codes. A property should not be rented to the public during this time.*

11) Reduce the appeal time for a stop activity order from 30 days to 14 days.

WCC Section 125.157(8):

Hearing required; appeals. The respondent who has received a stop activity order or remediation order may request an administrative hearing regarding the stop activity order or remediation order by contacting the administrative hearing office within 30 calendar days from the date the stop activity order or remediation order was served, **unless the Stop Activity Order was issued for a violation of the Short-Term Rental (STR) ordinance in which case an appeal must be requested within 14 calendar days from the date notice of the Stop Activity Order was served.**

Because of their injunctive nature, if the person who is served with a stop activity order or remediation order asks for a hearing, an administrative hearing officer will expeditiously be appointed, and a hearing will be conducted within 30 calendar days of the receipt of the appeal by the administrative hearing office. A stop activity order remains in effect pending the hearing. The deadline for a remediation order is suspended pending the hearing. The hearing will be conducted in accordance with the provisions for hearings, and the issuance, enforcement, and appeal of administrative orders as set out in this chapter. The decision of the administrative hearing officer may be taken directly to judicial review in accordance with this chapter at the option of the appellant. If appeal is made to the board of adjustment for violation of WCC chapters 100 and 110, the decision of the board of adjustment is subject to judicial review in accordance with this chapter. Appeals of a decision of the administrative hearing officer regarding all other chapters of WCC shall proceed directly to petition for judicial review.

*To help streamline the enforcement process and reduce the potential number of appeals, and to align the appeal period with the shortened appeal timelines associated with civil penalty notices for violating STR regulations, staff is asking the Board to reduce the number of days to appeal a stop activity order for an STR from 30 days to 14 days.*

12) Increase Penalties for STR violations.

Operating an STR without the required permit:

1<sup>st</sup> Violation - \$1,500

2<sup>nd</sup> Violation by same property owner - \$3,000.

3<sup>rd</sup> Violation (and all subsequent violations for continuing to operate without a permit) - \$5,000

All other STR violations:

1<sup>st</sup> Violation - \$750

2<sup>nd</sup> Violation - \$1,500

3<sup>rd</sup> Violation - \$3,000

*The current penalty for operating an STR without a permit is \$1,158.40. Code enforcement staff have experienced challenges with a number of repeat violators who continue to operate their STR without the required permit. Staff recommends a tiered penalty approach*

*similar to the tiered fines for administrative penalties (currently at \$400/\$700/\$1,000 for 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> violations of STR standards while holding an active STR permit). This approach is already functioning for other STR violations to help reduce the number of repeat violations. Based on previous Board statements and direction, the increased amounts being proposed are intended to be more punitive with the goal of reducing the volume of infractions and overall time to compliance. The fine amounts are based, in part, on what other jurisdictions have levied in the past, as well as applicable legal cases. For example, the Town of Truckee uses this fine schedule.*

13) Reduce STR Permitting Fees for Partial Home Rentals or Primary residence.

STR applicants or permit holders who rent out a portion of their home or who claim the home as their primary residence, as determined by the tax cap status on file with the Assessor's Office, shall receive a reduced fee on their application or renewal fees.

*The Board is asked to consider a possible fee reduction for those STR property owners who live all or most of the time within the home they are renting out. The first scenario involves property owners who rent out a portion of their home while living in the home. The second scenario involves property owners who live in the STR permitted residence most of the year but wish to rent it out from time to time.*

## **COMMUNITY WORKSHOPS**

Staff hosted an in-person workshop at the Incline Village Library on November 15, 2023, and a Zoom meeting on November 16, 2023. The workshops were well attended with approximately 25 participants attending the November 15<sup>th</sup> workshop and about 35 participants attending the November 16<sup>th</sup> workshop. Several interested parties reported difficulty accessing the link to the November 16<sup>th</sup> workshop. For this reason, Washoe County staff advertised and hosted another Zoom workshop on November 28<sup>th</sup> with approximately 16 participants attending this final workshop. Comments received are included as Attachment A to this staff report.

Attendees represented a variety of perspectives, including those generally in favor of or opposed to STRs. Top areas of input and public concern were related to the following:

- Support for more immediate revocation based on severity of violation(s).
- Significant support for prohibiting STRs in accessory dwellings in the Tahoe planning area.
- Objections to the 60-day grace period; STR permit holders should be held accountable to complete applications on time.
- Should be a cost recovery for code enforcement officers.
- Opposition to property owners having multiple STRs.
- Violations issued by other GIDs (not just IVGID) should count toward STR violation.



- Opposition expressed to holding STR owners to the same standards when the STR is not rented.
- STR permit is a privilege and should be held to the same standards whether it is rented or not.
- Need for more transparency for tracking complaints. Violation information should be readily available.
- Support was given to reduce the fees for partial home rentals or when the STR property is the primary residence of the STR owner.
- Need for more enforcement staff and more vigorous and responsive enforcement.
- Concern expressed for safe evacuation in case of emergency.
- Desire to include fire protection districts on the list of agencies who can cite violations.
- Opposition expressed for removing the notary requirement for renewal permits. The notary adds validity and is only a minor inconvenience.
- One year suspension for revoked STRs should apply to both the property and the property owner(s).
- Concern was raised that workshops and the review of the STR regulations only apply to the items identified by the Board at their August 22, 2023, meeting. There should be a comprehensive review of all STR regulations.
- Concern expressed that if violations by other agencies are cause for STR violations, then opposing neighbors could misuse these agencies.
- Opposition to allowing STR owners to relinquish their permits as this will encourage STRs to operate with a permit.
- Support for new owners to be required to obtain a new permit when property is purchased.
- Support given for violations by other agencies to count as STR violations.
- Support for revocation for construction completed with a permit.
- Consider a one year waiting period for STR permit from the purchase of a residence.
- Make it easier to identify and contact the STR representative.
- Opposition expressed to making the local responsible party's contact information publicly available.

### **FISCAL IMPACT**

Direction at this time will result in the use of additional staff time to amend the applicable ordinances. Specific fiscal impact associated with direction from the Board will be defined in future staff reports for Board action, including potential penalty increases and/or fee reductions.

**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 on the items listed in the above staff report]*”

Attachments:

A. General public comments received