



# WASHOE COUNTY

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## STAFF REPORT

**BOARD MEETING DATE: September 17, 2024**

**DATE:** July 8, 2024

**TO:** Board of County Commissioners

**FROM:** Trevor Lloyd, Planning Manager, Planning & Building Division, Community Services Dept., 328-3617, [tlloyd@washoecounty.gov](mailto:tlloyd@washoecounty.gov)

**THROUGH:** Kelly Mullin, AICP, Division Director, Planning & Building Division, Community Services Department, 328.3619, [kmullin@washoecounty.gov](mailto:kmullin@washoecounty.gov)

**SUBJECT:** Public Hearing: Second reading and possible adoption of an Ordinance amending Washoe County Code Chapter 110 (Development Code) in Article 319 (Short Term Rentals (STRs)) by modifying various sections in order to: clarify maximum occupancy limitations associated with an STR permit; limit STRs to one per parcel in the Tahoe Planning Area; prohibit new STRs in accessory dwellings in the Tahoe Planning Area; clarify when an STR permit must be relinquished; remove requirement for an outdoor fireplace permit from the Truckee Meadows Fire Protection District; allow for an updated STR permit renewal date via payment of a pro-rated renewal fee; remove the requirement for a signed notary for STR renewal applications; clarify that a new STR permit is required with each change of parcel ownership; grant a 30 day automatic grace period for renewals with a possible additional 30 day discretionary grace period that may be granted by the Director of Planning and Building; and clarify violation and revocation regulations; and by amending Washoe County Code Chapter 125 (Administrative Enforcement Code) to reduce the appeal period for STR stop activity orders from 30 days to 14 days; and all matters necessarily connected therewith and pertaining thereto. (All Commission Districts.)

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### SUMMARY

To conduct a second reading of and possibly adopt an ordinance amending Washoe County Code Chapter 110 (Development Code), Article 319 Short Term Rentals and Chapter 125 (Administrative Enforcement). The proposed code amendments will be described in detail beginning on page 4 of this staff report.

This proposed ordinance is in response to direction received from the Washoe County Board of County Commissioners (Board) at its December 19, 2023, meeting, and is supported by the Planning Commission's recommendation. The proposed code

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

amendments are also based on permitting experiences to date, extensive public and agency input, and an analysis of potential regulatory amendments.

**Washoe County Strategic Objective supported by this item:** Economic Impacts: Support a thriving community.

### **PREVIOUS ACTION**

July 16, 2024. The Washoe County Board of County Commissioners (Board) introduced and conducted a first reading to amend various sections of Article 319 of the Washoe County Development Code as well as Chapter 125 of the Administrative Enforcement Code for the purpose of streamlining the permitting and enforcement process relating to short term rentals.

May 7, 2024. The Planning Commission initiated an amendment and approved a resolution to amend various sections of Article 319 of the Washoe County Development Code as well as Chapter 125 of the Administrative Enforcement Code for the purpose of streamlining the permitting and enforcement process relating to short term rentals.

December 19, 2023. The Board provided direction for staff to proceed with code amendments to 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.

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 1, 2022. The Washoe County Planning Commission (PC) reviewed the proposed amendments to Washoe County Code Chapter 110 (Development Code), Article 319, Short Term Rentals (STRs), and voted unanimously to recommend approval of Development Code Amendment WDCA22-0001 to the Board.

February 22, 2022. The Board received a staff presentation on the implementation of the short-term rentals program (STRs) since regulations went into effect on May 1, 2021, and received a series of policy recommendations. The Board provided direction to staff to draft a code amendment addressing occupancy calculations (i.e. change in methodology), parking requirements, trash/garbage collection rules, insurance requirements and permitting requirements.

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 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.

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, the 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.

## **BACKGROUND**

On December 19, 2023, following considerable public input, the Board provided policy direction to staff on code amendments to streamline the permitting and enforcement of STRs. At the direction of the Board, Planning staff hosted three community workshops to discuss the possible amendments to the County's STR regulations. The Board directed staff to proceed with code amendments to modify the STR regulations as provided in this staff report.

## **Process for Development Code Amendments**

The Washoe County Development Code is Chapter 110 of the Washoe County Code (WCC). The Development Code broadly regulates allowable and permitted land uses, subdivision of land, planning permit requirements and procedures, signage, infrastructure availability, land use development standards, and other related matters. Because the Development Code covers so many varying aspects of land use and development standards, it is expected that from time to time it may be necessary to change or amend one or more portions of the Development Code to keep it up to date with the most current and desirable trends in planning and development.

The Development Code amendment process provides a method of review and analysis for such proposed changes. Development Code amendments may be initiated by the Washoe County Board of County Commissioners (BCC), Planning Commission (PC), or an owner of real property.

After initiation, the PC considers the proposed amendment in a public hearing. If the PC recommends approval, such approval is recorded by resolution. The BCC hears all amendments recommended for approval, and amendments recommended for denial upon appeal. The BCC will hold an introduction and first reading of the ordinance (proposed amendment), followed by a second reading and possible ordinance adoption in a public hearing at a second meeting at least two weeks after the first reading. Unless otherwise specified, ordinances are effective 10 days after adoption.

### **Proposed Article 319 Amendments and Rationale**

The following code amendments are recommended (new language is in bold font & deleted language is in strikeout text):

1. Clarify that occupancy standards for STRs apply whether or not the STR property is being rented or occupied by the owner and remove language “familial association” (Section 220.319.15(a)(4)).

No events, parties, or weddings (regardless of payment ~~or familial association~~), are allowed or may be advertised. A party is defined as any gathering in excess of the approved on-site maximum occupancy associated with the STR permit. **The maximum occupancy associated with an active STR permit applies to the owner(s) of the STR and their invitees regardless of whether the STR is being rented or used for other purposes.**

*This new language will clarify that the occupancy standards apply to all STRs regardless of the rental status of the property to include when the STR is being occupied by the owner of the STR. Additionally, the term familial association is being removed as it is unnecessary language and presents potential enforcement challenges.*

2. Include new language specifying that renters of a property may not obtain a permit for an STR (Section 220.319.15(a)(5)).

Applications for an STR permit may be initiated by the property owner or authorized agent of the property owner. However, the permittee must be the property owner(s) of the STR property. **A non-owner that has executed a long-term rental lease may not be an STR permittee.**

*This new language will ensure that long-term renters do not obtain permits to operate STRs on properties they do not own.*

3. Prohibit STRs in accessory dwellings in the Tahoe Area Plan. (Section 110.319.15(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). **Effective October 14, 2024, it is**

**prohibited for newly permitted STRs to be established in accessory dwelling units (ADUs) within the Tahoe planning area. Those STRs established in ADUs in the Tahoe Planning Area which were permitted prior to October 14, 2024, shall remain valid provided the ownership of the parcel remains the same.**

*This language would prohibit the establishment of new STRs within accessory dwelling units in the Tahoe planning area. Properties outside of the Tahoe planning area would not be subject to this restriction. The purpose of this restriction is to support work force housing in the Tahoe Basin which has been identified as a priority for by the Board. This provision would only apply to those applying for new STR permits as the existing permits would be grandfathered.*

4. Requirement for relinquishing an STR permit. (Section 110.319.15(a)(15)).

**A property with an active STR permit is subject to all STR regulations of this Article, such as parking and occupancy maximums, regardless of the short term rental status (for example, whether the STR is being rented at any given time). If a property owner does not want to be bound by all STR regulations, then the STR permit for that property must be relinquished.**

*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. These restrictions include the number of occupants staying within the STR, the ability to host an event or party, etc. If an STR violation occurs, it is overly burdensome for code enforcement staff to determine if the violation was caused by the STR renters or by the owner of the property. For this reason, Washoe County staff does not distinguish between the two and the Board is being asked to adopt this language to formalize the current practice of code enforcement staff.*

5. Remove requirement for permit from Truckee Meadows Fire Protection District. (Section 110.319.20(c)(15)).

~~Outdoor wood-burning solid-fuel fireplaces or solid-fuel burning fire pits are prohibited within the boundaries of the Tahoe Area Plan planning area. 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 discovered 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.*

6. Clarify that in the Tahoe Planning Area, properties may become temporarily inaccessible. (Section 110.319.20(c)(17)).

The STR shall remain accessible to emergency service vehicles and personnel per the applicable fire district and emergency responder's requirements. **In the Tahoe planning area, it is understood that properties may become temporarily inaccessible due to excessive snowfall and delays in snow plowing availability.**

*During periods of excessive snowfall, roads may become inaccessible for emergency vehicles. This language is being added to ensure that an STR is not in violation of this provisions due to natural inclement weather challenges.*

7. 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 for a change their renewal date, the Board is asked to adopt 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 crunch of renewal applications within a short window of time.*

8. Requirement for a new STR permit when a property is sold or transferred to a new owner. (Section 110.319.30(a)(3) Enforcement).

**Transfer of Property. If a property is transferred to a new owner, all listing advertisements and STR rental activity must cease immediately. If the new property owner wishes to continue the STR use on the property, a new application must be submitted to Washoe County and a new STR permit must be obtained by the new property owner prior to short term renting or advertising.**

*Currently, Washoe County staff requires the submittal of a new STR permit application when a property is sold, and where the new owner wishes to continue operating the STR. The Board is asked to adopt 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 modify all of the contact information, including the local responsible party and authorized agent, if applicable. Also, the exercise required to complete the submittal checklist will better ensure that the new STR permit holder is aware of the STR rules and regulations and thus reduce the potential for violating those regulations.*

9. Allowing for a grace period for renewal permits. (Section 110.319.30(a)(4) Enforcement).

**Grace Period for Renewals. An automatic grace period of 30 days from the expiration of the annual permit shall be granted as an accommodation to allow permittees to successfully renew their STR permit(s). An additional grace period of no more than 30 days may be granted for good cause and provided the applicant is working in good faith to finalize the renewal at the discretion of the Director of Planning and Building.**

*This language would allow for a grace period of up to 60 days for the issuance of STR renewals. 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 accommodate the processing of all STR permit applications received during this time. *Planning staff will continue to send notices of upcoming deadlines and will continue to seek application submittals prior to their expiration dates. However, renewal application submittals are not evenly distributed throughout the year. Rather most are submitted within a short two-to-three-month time-period creating a bottleneck of applications for staff to process and the additional time will help ensure that the permitting time frames are in compliance with code.*

10. STR violations from other agencies. (Section 110.319.30(c) Enforcement).

Noncompliance of Standards. 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 **Director of 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, code enforcement may use evidence gathered by the Incline Village General Improvement District (IVGID) resulting from investigation of trash violations, or evidence reported by the Washoe County Sheriff's Office when responding to disturbing the peace calls (for example, noise after quiet hours) or to parties exceeding approved maximum STR occupancy, as the basis for opening an investigation into a violation of STR standards and the potential issuance of a penalty notice.**

*Washoe County has one code enforcement staff member assigned to enforce the STR program between the hours of 8 to 5, Monday through Friday. For this reason, this language provides clarification that in the course of their normal operations, if the GID or the Sheriff's Office 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 may use such evidence in support of the issuance of a notice of violation for that activity.*

11. Removing requirement to notarize applications for STR permit renewals. (Section 110.319.35(a)(3) Inspections and Self-Certification).

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 requirement for notarizing the self-certification checklist for renewal applications would be removed. Common feedback provided by STR permit holders is that this requirement is overly burdensome and redundant as the initial application requires a signed notarization.*

12. 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 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.*

13. Additional grounds for revocation of STR permit. (Section 110.319.40(b)(4))

**Unauthorized/unpermitted alterations to the STR structure occurs, or upon discovery of previous unauthorized/unpermitted structure alterations, without required building permits.**

*To better ensure life and safety of STR guests, this language helps ensure that if construction occurs on a property with an active STR permit without the required building permit, such action is grounds for revocation of an STR permit.*

14. Reduce the appeal time for a stop activity order from 30 days to 14 days. (WCC Chapter 125).

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, the number of days to appeal a stop activity order for an STR shall be reduced from 30 days to 14 days.*



### **STR Violation Fees and Penalties**

Planning staff plans to bring forward changes to the master fee schedule to the Board in September 2024. 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.

Additionally, the Board will consider a fee reduction for STR property owners who either live all or most of the time within the home they are renting out or claim their property as their sole residence.

### **Public Outreach and Engagement**

Staff hosted an in-person workshop at the Incline Village Library on November 15, 2023, and two zoom meetings were held on November 16 and November 28, 2023. The workshops were well attended with approximately 25 participants attending the November 15<sup>th</sup> workshop, about 35 participants attending the November 16<sup>th</sup> workshop and about 20 participants attending the November 28 workshop. As a result of the workshops and the noticing for the workshops, staff gathered many comments. All comments are included as Attachment E to this staff report.

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 ADU's in the Tahoe planning area.
- Objections to the 60-day grace period, STR permit holders should be held accountable to complete applications on time.
- Availability of code enforcement resources, prompt responses needed.
- Should be a cost recovery for code enforcement officers.
- Opposition for property owner having multiple STRs
- Violations issued by other GIDs (not just IVGID) should count toward STR violation.
- Opposition expressed to holding STR owners to same standard when the STR is not rented.

- STR permit is a privilege and should be held to the same standard 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 enforcement.
- Concern expressed for safe evacuation in case of emergency.
- Include NLTFPD to 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 BCC 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 without 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.

### **Planning Commission's Findings**

Washoe County Code Section 110.818.15(e) required the Planning Commission to make **at least one** of the following findings of fact. The Planning Commission was able to make all four findings in support of the proposed amendment.

1. Consistency with Master Plan. The proposed development code amendment is in substantial compliance with the policies and action programs of the Washoe County Master Plan.

2. Promotes the Purpose of the Development Code. The proposed development code amendment will not adversely impact the public health, safety or welfare, and will promote the original purposes for the development code as expressed in Article 918, Adoption of Development Code.
3. Response to Changed Conditions. The proposed development code amendment responds to changed conditions or further studies that have occurred since the Development Code was adopted by the Board of County Commissioners, and the requested amendment allow for a more desirable utilization of land within the regulatory zones.
4. No Adverse Effects. The proposed development code amendment will not adversely affect the implementation of the policies and action programs of the Conservation Element or the Population Element of the Washoe County Master Plan.

### **FISCAL IMPACT**

No fiscal impact.

### **RECOMMENDATION**

It is recommended that the Board of County Commissioners hold a second reading and adopt the attached ordinance amending Washoe County Code Chapter 110 (Development Code), to amend the Development Code within Article 319, Short Term Rentals and Chapter 125, Administrative Enforcement Code.

### **POSSIBLE MOTION**

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

“Move to adopt Ordinance Number (insert ordinance number as provided by the County Clerk) amending Washoe County Code Chapter 110 (Development Code), Article 319, Short Term Rentals (STRs) by modifying various sections in order to: clarify maximum occupancy limitations associated with an STR permit; limit STRs to one per parcel in the Tahoe Planning Area; prohibit new STRs in accessory dwellings in the Tahoe Planning Area; clarify when an STR permit must be relinquished; remove requirement for an outdoor fireplace permit from the Truckee Meadows Fire Protection District; allow for an updated STR permit renewal date via payment of a pro-rated renewal fee; remove the requirement for a signed notary for STR renewal applications; clarify that a new STR permit is required with each change of parcel ownership; grant a 30 day automatic grace period for renewals with a possible additional 30 day discretionary grace period that may be granted by the Director of Planning and Building; and clarify violation and revocation regulations; and by amending Washoe County Code Chapter 125 (Administrative Enforcement Code) to reduce the appeal period for STR stop activity orders from 30 days to 14 days; and all matters necessarily connected therewith and pertaining thereto.”

Attachments:

- A. Working Copy of Proposed Ordinance
- B. Planning Commission Resolution No. 24-11
- C. Planning Commission Staff Report for WDCA24-0003
- D. Planning Commission Minutes for May 7, 2024
- E. Public Comment
- F. BCC Ordinance (Clean Copy)