

The Regular Meeting of the
Brian Head Town Council
Via Zoom Meeting ID#
www.zoom.us

Meeting ID# 826 8216 6181

TUESDAY, SEPTEMBER 08, 2020 @ 1:00 PM

AGENDA

- A. CALL TO ORDER**
- B. PLEDGE ALLEGIANCE**
- C. DISCLOSURES**
- D. APPROVAL OF THE MINUTES:**

- 1. July 28, 2020, Town Council Meeting
- 2. August 11, 2020 Town Council Meeting

- E. REPORTS / PUBLIC INPUT ON NON-AGENDA ITEMS.**

- F. AGENDA ITEMS**

- 1. NICK VASELS PRESENTATION.** Nick Vasels will present the Town with some historical donations.
- 2. DISCUSSION ON CONTRACTORS BUILDING W/O PERMITS.** Bret Howser, Town Manager. The Council will hold a discussion on contractors who are building/working without a building permit.
- 3. ORDINANCE AMENDING THE WATER & SEWER CODE.** Aldo Biasi, Public Works Director. The Council will consider an ordinance amending the Water and Sewer Code.
- 4. NIGHTLY RENTAL CODE DISCUSSION.** Bret Howser, Town Manager. The Council will hold a discussion on Nightly Rentals.
- 5. POTENTIAL FUTURE AGENDA ITEMS.** The Council will discuss potential items for future agendas.

- G. ADJOURNMENT**

Date: September 4, 2020

Available to Board Members as per Ordinance No. 11-003 authorizes public bodies, including the Town, to establish written procedures governing the calling and holding of electronic meetings at which one or more members of the public board may participate by means of electronic communications. In compliance with the Americans with Disabilities Act, persons needing auxiliary communications aids and services for this meeting should call Brian Head Town Hall @ (435) 677-2029 at least three days in advance of the meeting.

CERTIFICATE OF POSTING

I hereby certify that I have posted copies of this agenda in three conspicuous locations; The Mall, Post Office and the Brian Head Town Hall and have posted copies on the Utah Meeting Notice Website and the Brian Head Town website and have caused a copy of this notice to be delivered to the Daily Spectrum, a newspaper of general circulation.

Dated this 4th day of September 2020.
Nancy Leigh, Town Clerk





Brian Head Town Council Update

September 1, 2020

BRIAN HEAD MARSHALS OFFICE:

Let me start by apologizing for not getting this update to you last month. I hope this will help give you a bit of a feel for what the summer of 2020 has been like. The Marshal's Office has been very busy. Actually, we have been record setting busy. I have been comparing calls for service and incidents and without question we are burning the candle at both ends.

COVID-19 has affected us and our day to day activities, but we have been able to work through it and have kept Brian Head safe. One of our deputies had to be quarantined for a 14-day period. Not because he had COVID, but because someone in his family had tested positive for it. We also had one of our regular part time deputies take an extended vacation. This put us down a full-time deputy for two weeks and added a great deal of stress and workload on our small department. But we are happy that we are, as of September 1st back up to full staff and will be ready for a busy Labor Day weekend.

Deputies have been chasing cases and handling a larger than normal workload. As we had staff meeting last week, Sergeant Guymon brought it to our attention that he has investigated three felony cases this summer and is awaiting prosecution on these cases. All, other deputies have been very busy with handling large crowds of people and just trying to keep the town safe and prevent crime with a big visual presence. We have dealt with a large number of noise complaints, illegal burning calls, and tons of citizen assist type calls. We also handled sexual assault, assault, domestic violence, and drug calls. Accidents were also a thing to handle this summer with a couple injury accidents. But it seems strangely that our medical calls have not been too crazy for the number of people that are out and about.

With all of this crazy stuff going on, we still have been able to get some real quality training in. It really helps to have qualified instructors within our own agency. We have been able to tailor the training to fit our schedules and to fit our current demands. Deputy Brad Benson did a fantastic job setting up a firearms qualification training. This training involved a real practical approach to firearms. Not just a "stand on the line" and shoot a target training. But a more realistic move and shoot with obstacles while using cover and concealment. Deputy Jeff Morgan was able to set up a great dive training in the Bristlecone Pond. This was great to get our dive gear out and utilize it and refresh. We were able to pull up a few fishing poles and

chairs if you need one. Other items that we have placed in the pond for training include a replica of a WWII torpedo. We were able to do a search pattern and locate this object in near 0 visibility.

As mentioned earlier we have had a larger than ever number of incidents handled. I did a quick audit and looked at this summer's numbers compared to 2019.

July 2019 Incidents- 86

July 2020 Incidents- 101

August 2019 Incidents- 48

August 2020 Incidents- 110

Also attached to this update is our speed trailer numbers. They are huge numbers of vehicles. Keep in mind that almost all of these roads are "No Outlet" roads and the cars usually are being counted coming and going. But when I saw that we had nearly 23,000 hits on Spruce Street during the 10 days starting July 3rd I wasn't really surprised. The weeks before and following the 4th of July felt crazy with people.

BRIAN HEAD FIRE DEPARTMENT:

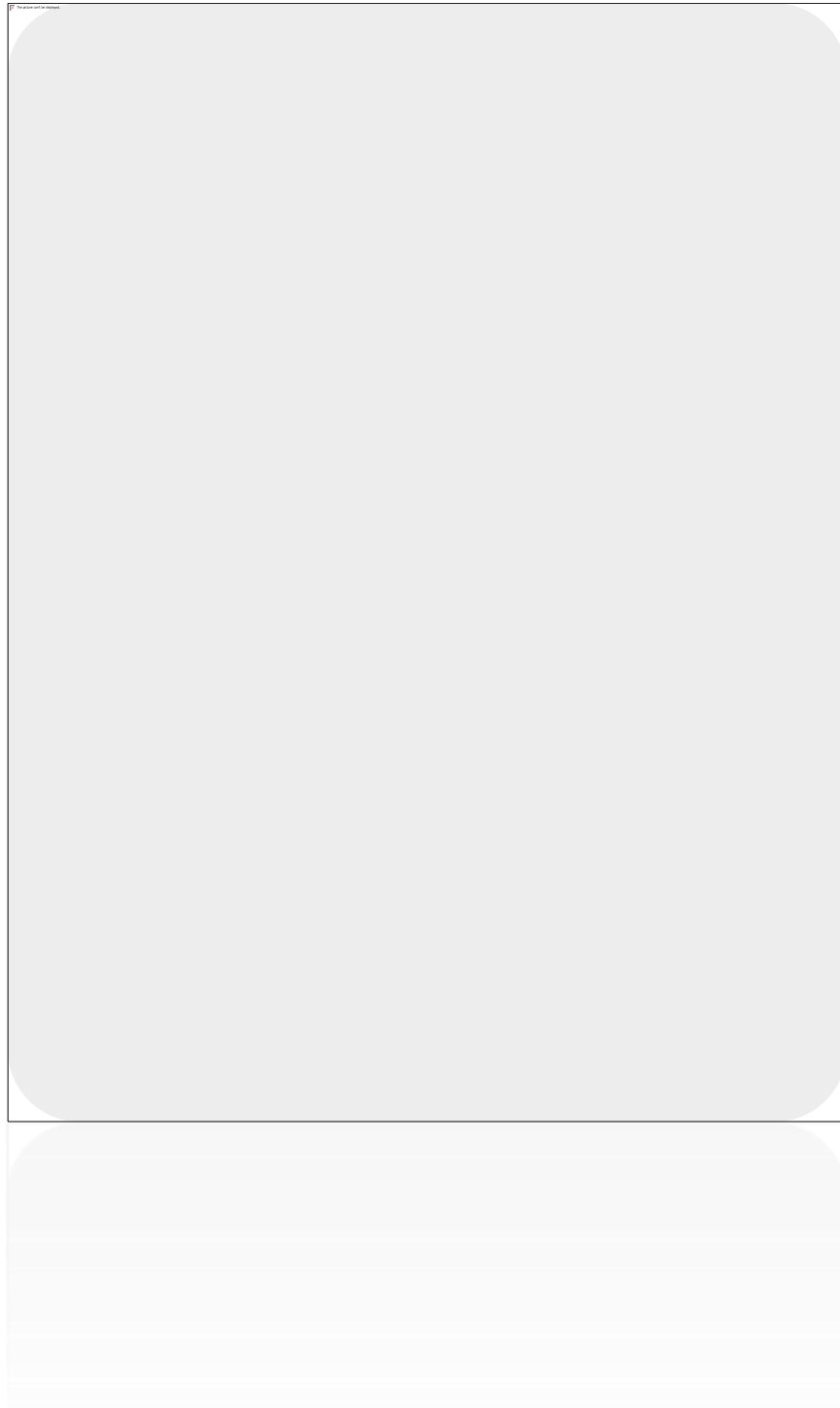
The fire department has been mostly staying close to home due to the extreme drought. We have only had one wildland fire callout that wasn't automatic aid. We responded to a large fast-moving fire on July 4th in the area of Lund with our water truck. There was a great response from other local agencies and the fire was quickly controlled and we were released the same day. We also responded to a fire in Summit, one in Parowan near the TA truck stop and on that same day we responded to a fire on the interstate that was on the buckhorn.

We experienced a car fire that started some brush on the hill next to it on fire. We were able to quickly extinguish both the care fire and the brush that had caught fire.

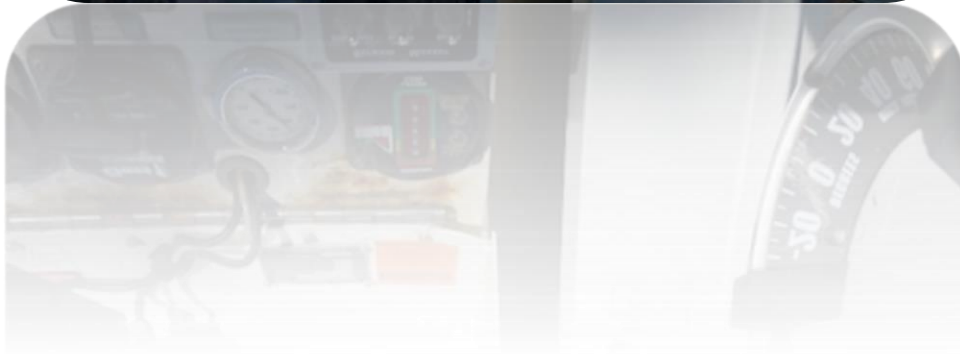
We also had our first rescue with the ladder truck (Truck 711). Two elderly ladies were out on the 2nd floor deck at White Bear when the door closed behind them and locked. They called out to a gentleman who was loading his families' car to leave for home and asked for assistance. We were able to deploy the ladder and safely bring the two ladies to the safety of the ground.

We have also started clearance on the Archer Range of hazard fuels. The fire department was able to get in and start cutting, limbing and thinning vegetation. The towns local Community Wildfire Preparedness Group held a successful event and

came in and piled the cut debris. This debris will cure and be burned this coming fall, winter or even next spring when conditions are appropriate.

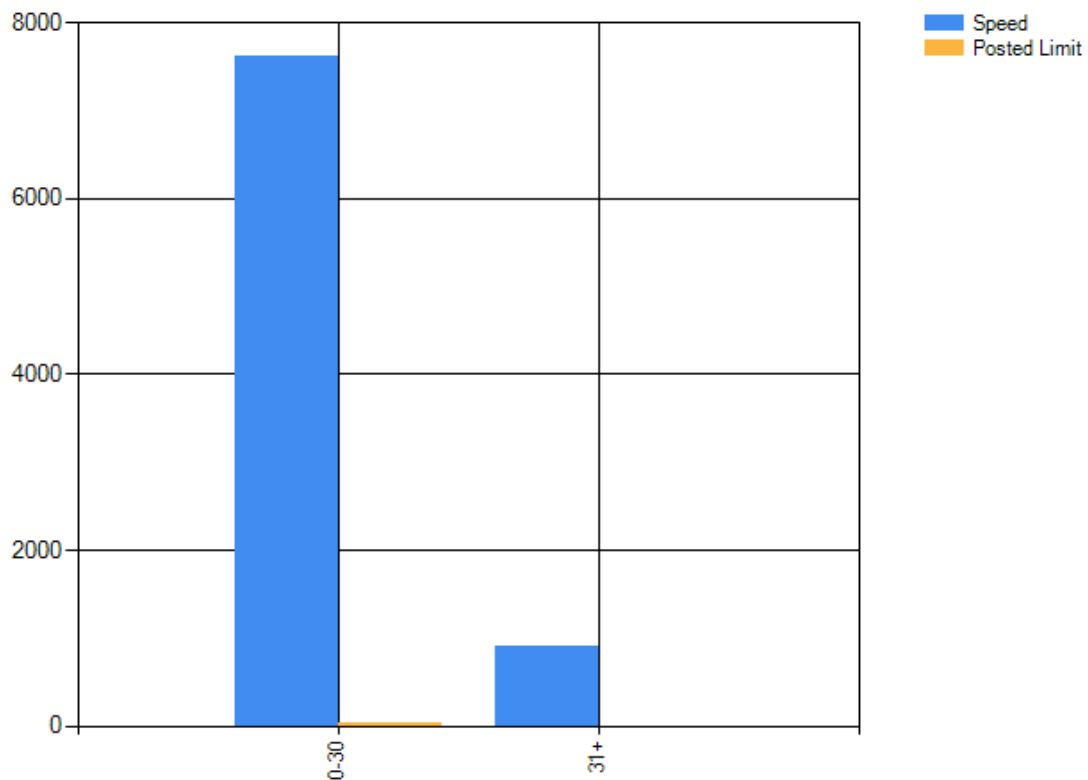






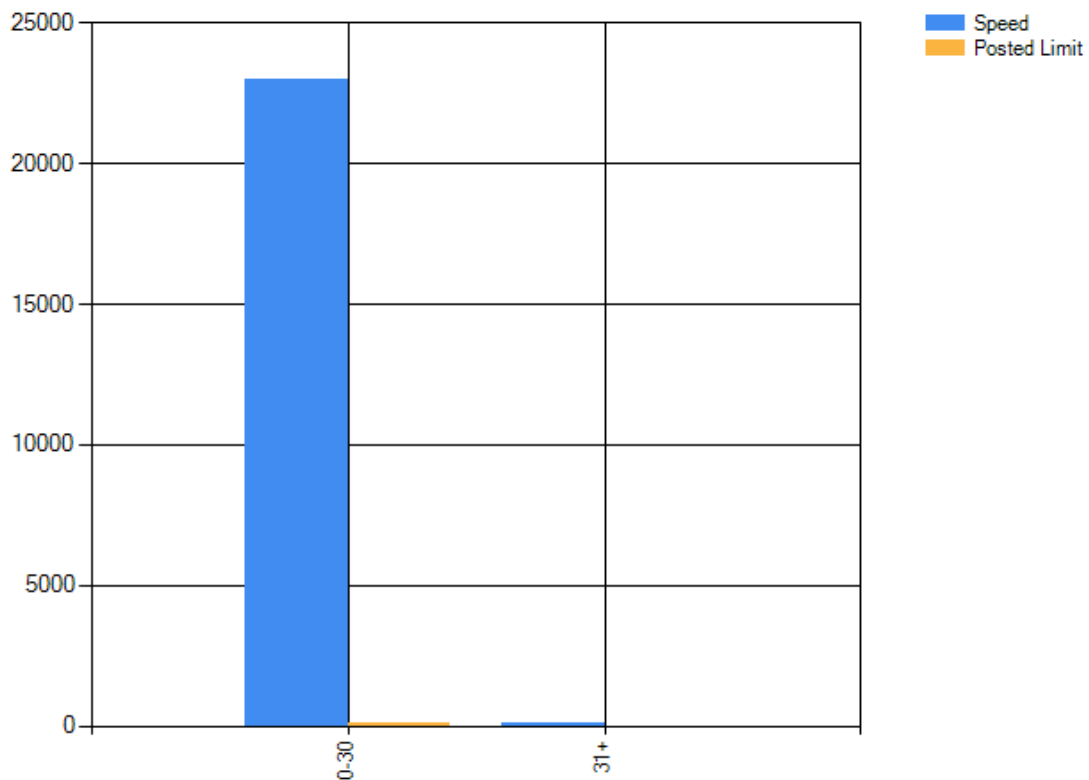


Date: 09/02/2020 00:00
Report Start Date: 06/16/2020 09:00
Report End Date: 07/03/2020 04:00
Time Interval: 60 minutes
Speed Interval: 5 mph
Posted Speed Limit: 25 mph
Average Speed: 17 mph
Highest Speed: 49 mph
50th Percentile: 15 mph
85th Percentile: 29 mph
Number Above Speed Limit: 1908
Total Number of Vehicles: 8522



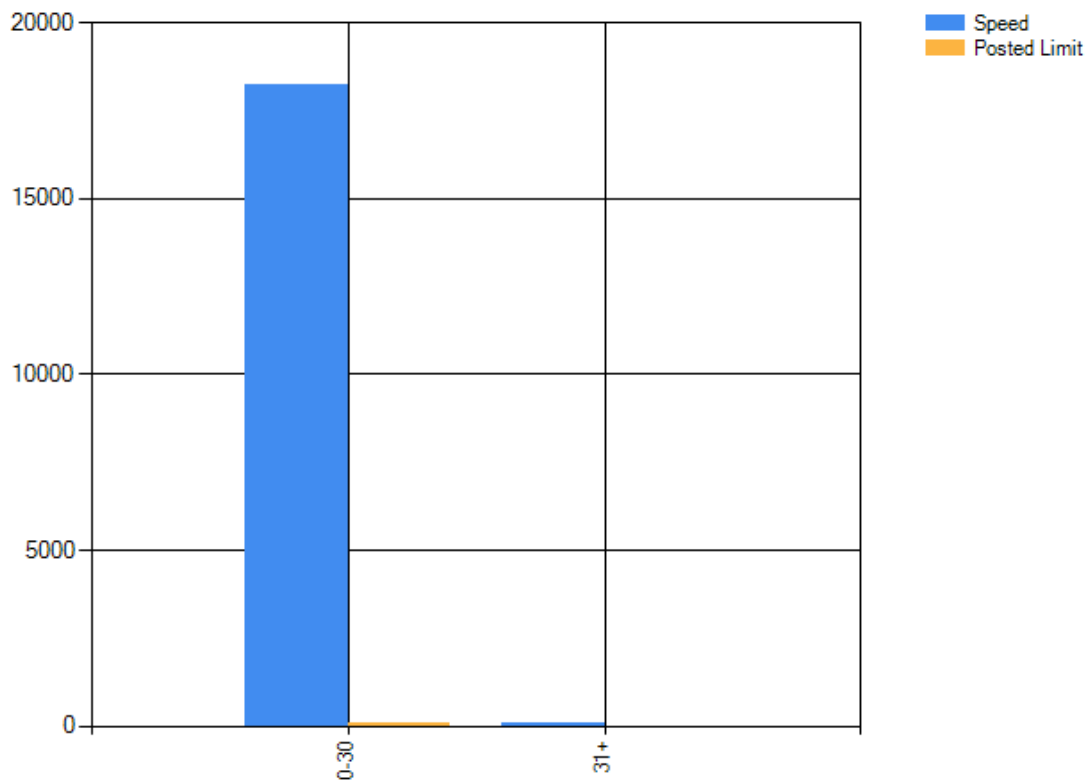
Steam Engine/Snowshoe West Bound

Date: 09/02/2020 00:00
Report Start Date: 07/03/2020 03:00
Report End Date: 07/12/2020 19:00
Time Interval: 60 minutes
Speed Interval: 5 mph
Posted Speed Limit: 25 mph
Average Speed: 13 mph
Highest Speed: 50 mph
50th Percentile: 12 mph
85th Percentile: 20 mph
Number Above Speed Limit: 276
Total Number of Vehicles: 22997



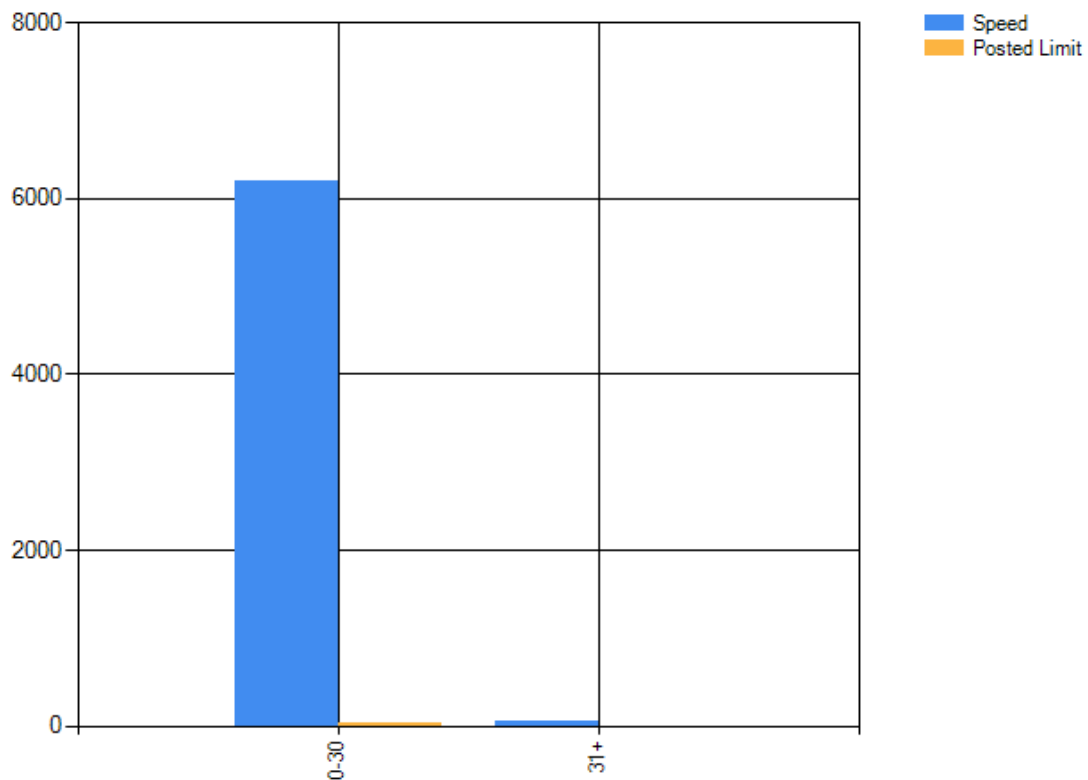
Spruce Street/Thunder Mountain West Bound

Date: 09/02/2020 00:00
Report Start Date: 07/12/2020 18:00
Report End Date: 07/30/2020 22:00
Time Interval: 60 minutes
Speed Interval: 5 mph
Posted Speed Limit: 25 mph
Average Speed: 10 mph
Highest Speed: 48 mph
50th Percentile: 10 mph
85th Percentile: 16 mph
Number Above Speed Limit: 93
Total Number of Vehicles: 18236



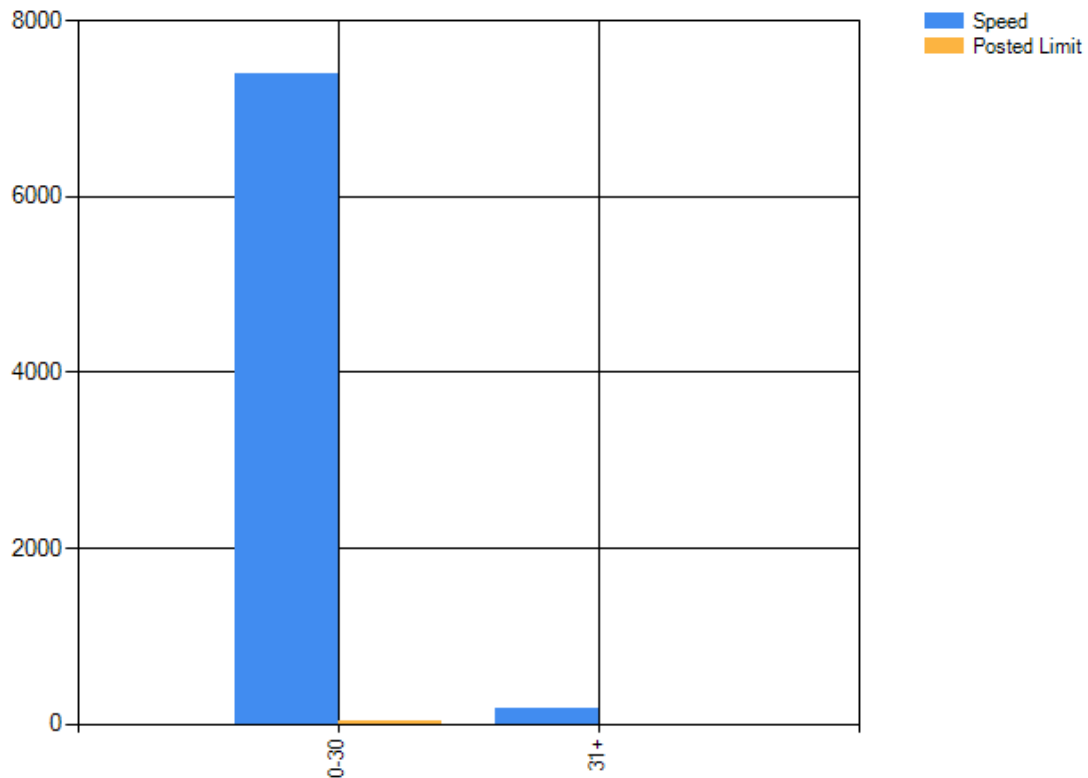
Mountain View Drive West Bound

Date: 09/02/2020 00:00
Report Start Date: 07/30/2020 22:00
Report End Date: 08/09/2020 14:00
Time Interval: 60 minutes
Speed Interval: 5 mph
Posted Speed Limit: 25 mph
Average Speed: 12 mph
Highest Speed: 44 mph
50th Percentile: 11 mph
85th Percentile: 18 mph
Number Above Speed Limit: 225
Total Number of Vehicles: 6250



Kodiak East Bound/Lorts Home

Date: 09/02/2020 00:00
Report Start Date: 08/12/2020 08:00
Report End Date: 08/26/2020 15:00
Time Interval: 60 minutes
Speed Interval: 5 mph
Posted Speed Limit: 25 mph
Average Speed: 11 mph
Highest Speed: 54 mph
50th Percentile: 9 mph
85th Percentile: 17 mph
Number Above Speed Limit: 442
Total Number of Vehicles: 7576



Kodiak West Bound/Lorts Home



Brian Head Town
Public Works Department Update
September 8, 2020

Hurry, hurry, hurry, the leaves have started to change. Public Works is in the final stretch of this busy construction season and is driving hard to get the project complete that have been assigned to the department. The following are updates on the projects that we have been working on.

STREETS

- Repairs have been made by the contractor on the punch list. Public Works looks forward to having this project wrapped up.
- The top course of road base has been applied to Look Out Circle
- Millings have been applied to the surface of Snowflake other than a short section left open for a contractor to run services to a new cabin which should be done the week of the 7th.
- The rest of the milling project is Gurr Well and Spruce. If there are any extra millings this year, staff will look at a test section on Aspen to help with dust control in this area.

CULINARY

- Chlorination equipment is turned on and Staff is tuning the system for the various levels of flow that we get from the springs and wells. Staff have installed smart valves at million gal and mammoth tank sites that automatically adjust the amount of chlorine dosage as the flow of water increase or decreases. Crystal Mountain will not need a smart valve as it is only a dedicated well source.
- Mountain View water line is complete, and Staff will do a final inspection and get the line chlorinated, tested and turned into the system.
- Equipment for the million-gal pump station has arrived and staff will begin the install on the week of the 14th of September
- Staff is working with a Pump contractor and Town Hall well is scheduled to be pulled this month for the new pump and motor install.

TRAILS & PARK

- The Phase Two trail project has begun, and Sun Rock is wasting no time on getting work done. They plan to move into the pond section the week of the 7th after the Labor Day holiday.
- Cement pads for pavilions have been prepped and are scheduled to be poured on Tuesday the 8th.
- The new gravel beach section has been installed. Staff took the rock down as far as they were able to and not sink a skid loader or mini track hoe in the pond.

- The farmers called to release their water. Although it seemed a bit early, Staff look at the contract and there are two factors that trigger the release. It is either done by date, or by when the Yankee Reservoir is below the 150 mark. Being below the 150 mark is what triggered the release to be early this year.
- The next section of Zig Zag fence is scheduled to be installed in the next few weeks on the pond section.

SEWER

- Twin D has completed the yearly cleaning and camera inspection of the Towns sewer system sections for this year.
- As part of the Capital Facilities project, Staff and Alpha have collected data on the exposed manholes to be added to the GIS system.
- Staff has raised up some of the manhole lids, so they are not so deep under the surface. This will help speed up the process next time these lids need to be located. Fiberglass sewer markers have been ordered and will be installed once they arrive to also mark the location of the manhole.

IN-HOUSE PROJECTS

Public works will continue to work on in-house projects and maintaining equipment as needed. If you have any questions or concerns, please do not hesitate to call.



Equipment parked after applying road base on Look Out Circle



Rock wall re-redone and pad extended to fit pavilion



Rocks being removed as part of the Trail project around the pond



New Trailer put to use the second day after the purchase to transport a min excavator onto the Mountain.



Pavilion Pad ready for cement

YC Brian Head Hotel LLC
dba Best Western Premier Brian Head Hotel & Spa
314 Hunter Ridge Dr
Brian Head, UT 84719

Brian Head Town
23 North Hwy 143
Brian Head, UT 84719

Dear Brian Head Town Counsel:

Due to the economic hardship of COVID-19 to our hotel, the Best Western Premier Brian Head Hotel & Spa, but the hotel industry as a whole; we had to close this property as of March 26, 2020. This included the layoff of our whole staff and the stop to our cash flow operations for the property.

Since you provide utility to the property at a flat rate, we urge that you discuss the possible regulation of metered/usage service rates instead of the flat rate dependent on the number of hotel rooms. Without the cashflow and the halt of tourism in our industry, it is difficult to make payments for your utility services especially since services are at a minimum which is not reflected in the flat rate billing statement.

We own over 18 hotels across the nation and all utility services are provided directly from the local governances/municipalities, except for Texas which is at a competitor market. All these services are set at metered/usage rate service instead of flat rate because they understand the seasonality of our industry. For example, our 8 properties in Alaska (some more remote than Brian Head) are set a metered/usage rate and during our summer months the bill is almost 3 times as higher than it would be during the winter. Again, it really is all dependent on the tourism of our hotel industry which Alaska has been hit the hardest with crew ship tours being cancelled until next year, even possibly until 2022.

Never have our owners or this industry seen such a downturn in tourism because of COVID-19. More than anything, we've collaborated with our lenders and vendors (including utility services) at all property locations to help with setting up payment plans or offer some type of relief. There are federal COVID-19 assistance programs but unfortunately, they are limited on providing funds for utility services or they restrict funds directly to go back to payroll or lenders.

With all this being said, we urge you to talk to local businesses including us in providing either some type of relief program, payment plan setup but more importantly the issuance & regulation of metered/usage rates for hotel businesses.

Should have any questions or concerns please feel free to contact our executive administrator overseeing the accounting for this property, Aly Leon at 775-829-4611 or aly@thekishangroup.com.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Balbir Gosal', is positioned above the printed name.

Balbir Gosal

Owner

YC Brian Head Hotel LLC



STAFF REPORT TO THE TOWN COUNCIL

SUBJECT: Water & Sewer Code Amendments
AUTHOR: Bret Howser
DEPARTMENT: Administration
DATE: September 8, 2020
TYPE OF ITEM: Legislative Action

SUMMARY:

Council will consider an ordinance amending Title 7 Chapters 1 & 2 of the Town Code, revising and clarifying requirements to connect to the water and sewer systems.

BACKGROUND:

With the installation on the Mountain View and Salt Pile water lines, the Town has been getting requests for information on what is required to connect and possibly extend the water main line to surrounding areas. The Town Code Title 7- Utilities either does not address these issues or has grey area on what is allowed. Staff is proposing clarification on certain items which are already in the code, but not necessarily enforced, such as a requirement to connect to the Culinary or Sewer system.

The Council discussed these proposed changes on July 14, 28, and August 11. Staff received direction to:

- Require new builds within 300 ft of the water system to connect
 - Not require remodels/additions to connect to the water system
- Measure the distance from the system to the furthest corner of the frontage of the property
- Dispense with Town involvement in reimbursement agreements between private parties connecting to the system
- Requiring existing structures that have the line run to their property line or across their property line to connect to the system within three years
- Clarify Section 7-1-3 using bullet points
- Add a reference to State Statute in 7-2-3

ANALYSIS:

Previously proposed changes in red

Proposed changes resulting from Council discussion in blue

Staff newly proposed changes in purple

7-1-3: MANDATORY CONNECTION REQUIREMENTS:

- A. It shall be mandatory for any property owner constructing a new dwelling unit or facility, ~~owning or maintaining a building~~ used for human occupancy and/or constructing or installing any water fixture utilizing culinary water as provided under the provisions of this chapter, ~~and other appropriate regulations adopted by consolidated fee schedule by the Town Council,~~ to apply and pay for the appropriate water connection, and connect to the town water system, whenever that system is within three hundred feet (300') of ~~any~~ the furthest point of the adjacent property line

~~on which the building or water fixture is installed or erected where the waterline is installed in a Town street, right of way or Town approved easement.~~

- B. It shall ~~also~~ be mandatory for any property owner who owns or maintains a building used for human occupancy to connect to the Town water system whenever that system is located ~~at or across~~ adjacent to and extends the length of any property line abutting a Town-approved street, right of way or easement in which the system is located ~~and extend the system to the furthest point of the property line adjacent to the Town approved street, right of way or Town approved easement in which the water system is located~~ within three (3) years of time the system was extended to their location. ~~All connections shall be through an approved water meter.~~
- C. The system shall be extended to the furthest point of the property line adjacent to ~~when extended inside a the~~ Town approved street, right of way or a Town approved easement in which the water system is located.
- D. All connections shall be through an approved water meter.

7-1-4: CONNECTION TO SYSTEM:

C. Waiver of Water Connection Requirement: In the event that a water connection is required by this chapter, but is not practically feasible due to unusual circumstances, a letter of waiver may be provided by the Public Works Director stating the nature of the unusual circumstances. Unusual circumstances shall be determined by the Public Works Director and may include such things as grade, physical barriers, insufficient capacity of the system, distance of home from the property line, topography, etc. Additionally, the Town shall explain its intent to provide, or not to provide, for a future water connection, as well as a statement of acknowledgment for the use of an appropriate on-site water system.

Title 7 Utilities Chapter 2 Water Use and Service Article C. Water Facilities Construction Cost Reimbursement Guidelines and Provisions

- Staff proposes that this entire section of the Code be repealed. Line extension agreements and collection of payments/reimbursements should not be the responsibility of the Town and should remain between the private parties. (Please see attachments for the entire section of this Code)

SEWER CODE

7-2-3: Use of Public Sewer Required

- B. Connection Required: Pursuant to §10-8-38 of Utah State Code, any owner of property located within the Town shall connect (hook up) to the Town system when a sewer mainline is within three-hundred feet (300') and is installed in a Town Street, Right of Way or Town approved easement of any portion of the property boundary as follows:

Title 7 Utilities Chapter 2 Sewer Use and Service Article A. Sewer Facilities Construction Cost Reimbursement Guidelines and Provisions

- Staff proposes that this entire section of the Code be repealed. Line extension agreements and collection of payments/reimbursements should not be the responsibility of the Town and should remain between the private parties. (Please see attachments for the entire section of this Code)

FINANCIAL IMPLICATIONS:

The new connections will have a financial impact on the Town's funds. As more people connect to the system, it will help pay for the cost of the Mountain View and Salt Pile Water Line projects. It will also spread the water mains throughout the area.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends that Council adopt the proposed revisions to the Utility Code

PROPOSED MOTION:

I move to adopt ordinance No. 20-009 an ordinance amending the Water and Sewer Code, Title 7, Chapter 1 and Chapter 2 of the Town Code as presented.

ATTACHMENTS:

A – Ordinance Amending Title 7 Chapters 1 & 2 of the Town Code

B – Current Water & Sewer Codes – This was a request from the last Council meeting

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ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 7, UTILITIES, 7.1.3 WATER USE AND SERVICE, MANDATORY CONNECTION REQUIREMENTS, AND 7.2.3 SEWER USE AND SERVICE, USE OF PUBLIC SEWER REQUIRED AND REPEALING CHAPTER 1. ARTICLE C: WATER FACILITIES CONSTRUCTION COSTS REIMBURSEMENT GUIDELINES AND PROVISIONS AND CHAPTER 2, ARTICLE A: SEWER FACILITIES CONSTRUCTION COSTS REIMBURSEMENT GUIDELINES AND PROVISIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Brian Head Town Council has determined it necessary to amend the Town's Water and Sewer Code in order to establish the rules and regulations for water and sewer connections and service of the Town's culinary water system and sewer system; and

WHEREAS, the Council determined that it was in the best interest of the Town to repeal Chapter 1, Article C of the Water Code and Chapter 2, Article A of the Sewer Code to eliminate the reimbursement agreements between property owners and the Town when a water or sewer line is installed; and

WHEREAS, the Brian Head Town Council has determined that it is in the best interest of the public health, safety, and welfare of Brian Head Town to amend Title 7, Chapter 1.3 of the Water Code, and Chapter 2.3 Sewer Code of the Brian Head Town Code.

NOW, THEREFORE, BE IT ORDAINED BY THE BRIAN HEAD TOWN COUNCIL, IRON COUNTY, STATE OF UTAH AS FOLLOWS:

SECTION 1. The Brian Head Town Water Code 7.1.3 and Sewer Code 7.2.3 are hereby amended as follows:

TITLE 7, CHAPTER 1 WATER USE AND SERVICE:

7-1-3: MANDATORY CONNECTION REQUIREMENTS:

- A. It shall be mandatory for any property owner constructing, ~~a new dwelling unit or facility owning or maintaining a building~~ used for human occupancy and/or constructing or installing any water fixture utilizing culinary water as provided under the provisions of this chapter, ~~and other appropriate regulations adopted by consolidated fee schedule by the Town Council~~ to apply and pay for the appropriate water connection, and connect to the town water system, whenever that system is within three hundred feet (300') of ~~any the furthest point of the adjacent property line on which the building or water fixture is installed or erected~~. Where the waterline is installed in a Town street, right of way or Town approved easement.

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- B. It shall be mandatory for any property owner who owns or maintains a building used for human occupancy to connect to the Town water system whenever that system is located adjacent to and extends the length of any property line abutting a Town approved street, right of way or easement in which the system is located within three (3) years of time the system was extended to their location.
- C. The system shall be extended to the furthest point of the property line adjacent to the Town approved street, right-of-way or a Town approved easement in which the water system is located.
- D. All connections shall be through an approved water meter. (Ord. 09-12, 7-28-2009)

7-1-4: CONNECTION TO SYSTEM:

- C. **Waiver of Water Connection Requirement:** In the event that a water connection is required by this chapter, but is not practically feasible due to unusual circumstances, a letter of waiver may be provided by the Public Works Director stating the nature of the unusual circumstances. Unusual circumstances shall be determined by the Public Works Director and may include such things as grade, physical barriers, insufficient capacity of the system, distance of home from the property line, topography, etc. Additionally, the Town shall explain its intent to provide, or not to provide, for a future water connection, as well as a statement of acknowledgment for the use of an appropriate on-site water system.

TITLE 7, CHAPTER 1 WATER USE AND SERVICE, ARTICLE C: WATER FACILITIES CONSTRUCTION COSTS REIMBURSEMENT GUIDELINES AND PROVISIONS are hereby repealed in its entirety.

TITLE 7, CHAPTER 2, SEWER USE AND SERVICE:

7-2-3: USE OF PUBLIC SEWER REQUIRED:

- B. **Connection Required:** Pursuant to §10-8-28 of Utah State Code, any owner of property located within the Town shall connect (hook up) to the Town system when a sewer mainline is within three hundred feet (300') and is installed in a Town Street, Right of Way or Town approved easement of any portion of the property boundary as follows:

TITLE 7 CHAPTER 2 SEWER USE AND SERVICE, ARTICLE A: SEWER FACILITIES CONSTRUCTION COSTS REIMBURSEMENT GUIDELINES AND PROVISIONS are hereby repealed in its entirety.

SECTION 2. Effective Date. Upon this Ordinance being adopted by the Brian Head Town Council of Iron County, Utah, all provisions of this ordinance shall be incorporated into the Brian Head Town Code under Title 7, Utilities.

SECTION 3. Repealer: All provisions of the Brian Head Town Code that are inconsistent with the express terms of this ordinance shall be repealed. All other provisions

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of the Brian Head Town Code shall remain in full force and effect as codified.

SECTION 4. Conflict. To the extent of any conflict between other Town, County, State, or Federal ordinances or regulations, and this ordinance, the more restrictive is deemed to be controlling.

SECTION 5. Severability Clause. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

PASSED AND ADOPTED BY THE BRIAN HEAD TOWN COUNCIL OF IRON COUNTY, UTAH this ____ day of September 2020, with the following vote.

Town Council Vote:

Mayor Clayton Calloway	Aye____	Nay____
Council Member Lynn Mulder	Aye____	Nay____
Council Member Larry Freeberg	Aye____	Nay____
Council Member Kelly Marshall	Aye____	Nay____
Council Member Shaun Kelly	Aye____	Nay____

BRIAN HEAD TOWN COUNCIL
BRIAN HEAD, UTAH

By: _____
Mayor Clayton Calloway

ATTEST:

Nancy Leigh, Town Clerk

(SEAL)

CERTIFICATE OF PASSAGE AND POSTING

I hereby certify that the above Ordinance is a true and accurate copy, including all attachments, of the Ordinance, passed by the Town Council on the ____ day of September 2020 and have posted a summary of the adopted ordinance in three conspicuous places within the Town of Brian Head, to-wit: Town Hall, Post Office, and the Mall and a complete copy of the adopted ordinance on the Brian Head Town Website.

Nancy Leigh, Town Clerk

Ordinance No. ____

Title 7 - Utilities
Chapter 1
WATER USE AND SERVICE

- 7-1-1: ADMINISTRATION:**
- 7-1-2: DEFINITIONS:**
- 7-1-3: MANDATORY CONNECTION REQUIREMENTS:**
- 7-1-4: CONNECTION TO SYSTEM:**
- 7-1-5: METERS:**
- 7-1-6: ACCESSIBILITY OF METERS:**
- 7-1-7: SERVICE AGREEMENT:**
- 7-1-8: FEES, RATES, CHARGES, BILLINGS:**
- 7-1-9: NONPAYMENT:**
- 7-1-10: REINSTATEMENT FOR PUBLIC HEALTH:**
- 7-1-11: WATER CONNECTION PLAN:**
- 7-1-12: REPAIRS AND MAINTENANCE:**
- 7-1-13: SERVICE CALLS:**
- 7-1-14: WATER CONSERVATION:**
- 7-1-15: WATER EMERGENCIES:**
- 7-1-16: WATER USE DURING PERIODS OF DROUGHT:**
- 7-1-17: FIRE HYDRANTS:**
- 7-1-18: SALE OF WATER OUTSIDE TOWN:**
- 7-1-19: PENALTY:**

7-1-1: ADMINISTRATION:

- A. Water Department Established: There is hereby established a town water department, which shall operate and maintain the town water system. The water system constructed or otherwise acquired by the town to supply town residents with culinary water shall be the property of the town and shall be under the sole and exclusive control and jurisdiction of the town. The Town Council may, from time to time, make such rules and regulations as are necessary for the water system's proper operation, which are not in conflict with other rules and/or ordinances.
- B. Management Of System: The town water system shall be managed by the town Public Works Director pursuant to the provisions of this title and pursuant to consolidated fee schedules, rules and regulations adopted by the Town Council from time to time prescribing his powers and duties.
- C. Authority Of Public Works Director: The Public Works Director, or his/her designee, shall have charge of the town reservoirs, water tanks, water mains, fire hydrants and all equipment and appurtenances of the water system. He shall have direction of the laying of water mains, the putting in of all service lines, and the regulation of the supply of water. He shall be responsible for the proper care and efficient operation of the water system.
- D. Sole Authority To Operate Culinary Water System: There shall be only one operating water system within the town corporate limits. That system shall be solely owned, operated and maintained by the town. It shall be illegal for any person or entity to develop, form, own, maintain or operate any type of water system within the town limits separate and apart from the town water system.
- E. Financially Independent Department: The water department shall operate as a financially independent department of the town. Its budgeted revenues shall come from gross income and revenues of any kind, from any source whatsoever, derived from the operation of the water system, including, without limitation, all fees, rates, impact fees, connection fees, service fees, assessments, and other charges established by the consolidated fee schedule of the Town Council; the gross revenues of all improvements,

additions and extensions of the system hereafter constructed or acquired; and all interest earned by and profits derived from the sale of investments made with the income and revenues. Should other departments of the town provide services to the water department, the water department shall transfer reasonable amounts to reimburse such other departments for the actual cost of such services. Unexpended funds from any budget year shall remain in the water department. (Ord. 09-012, 7-28-2009)

7-1-2: DEFINITIONS:

When used in this chapter, the following words and phrases shall have the meanings given in this section:

ANIMAL FEEDING OPERATION: A lot or facility where the following conditions are met: a) animals have been or will be stabled or confined and fed or maintained for a total of forty five (45) days or more in any twelve (12) month period; b) and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two (2) or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

ANIMAL UNIT: A unit of measurement for any animal feeding operation calculated by adding the following numbers: The number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over fifty five (55) pounds multiplied by 0.04, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

APPROVED BACKFLOW ASSEMBLY: A backflow assembly accepted by the Utah State Department of Environmental Quality, Division of Drinking Water and the Public Works Director, or his/her designee, as meeting the standards of the currently adopted plumbing code for a specific application.

AUXILIARY WATER SUPPLY: Any water supply on or available to the premises other than the purveyor's public water supply will be considered as an "auxiliary water supply". These auxiliary waters may include water from another purveyor's public potable water supply or any natural source, such as well, spring, river, stream, etc., or used waters. These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the Public Works Director, or his/her designee, does not have authority for sanitary control.

BACK PRESSURE: Pressure causing the flow of water or other liquids, mixtures or substances from a region of high pressure to a region of low pressure into the water distribution pipes of a potable water supply system from any source, other than the intended source.

BACK SIPHONAGE: The flow of water or other liquids, mixtures or substances under vacuum conditions into the distribution pipes of a potable water supply system from any source, other than the intended source, caused by the reduction of pressure into the potable water system.

BACKFLOW: The reversal of the normal flow of water caused by either back pressure or back siphonage.

BACKFLOW PREVENTION ASSEMBLY: An assembly or means designated to prevent backflow. Specifications for backflow assemblies are contained within the currently adopted plumbing code and in the cross connection control program for Utah maintained by the Division of Drinking Water.

CONTAMINATION: A degradation of the quality of the potable water supply by sewage, industrial fluids or waste liquids, compounds or other materials that may create a health hazard.

CROSS CONNECTION: Any actual or potential connection between the potable water system and any other source or system through which it is possible to introduce into the public drinking water system any used water, industrial fluid, gas or substance other than the intended potable water. This includes any temporary conditions such as swing connections, removable sections, or other similar plumbing arrangements.

CROSS CONNECTION, CONTAINMENT: The installation of an approved backflow assembly at the water service connection to any customer's premises where it is physically and economically infeasible to find, permanently eliminate or control all actual or potential cross connections within the customer's water distribution system; or, it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross connections which cannot be effectively eliminated or controlled at the point of the cross connection (isolation).

CROSS CONNECTION, CONTROLLED: A connection between a potable water system and a non-potable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

DESIGN STANDARD: A control that is implemented at or by a potential contamination source to prevent discharges to the groundwater. Spill protection is an example of a design standard.

ERC OR EQUIVALENT RESIDENTIAL CONNECTION: A term used to evaluate service connections to consumers other than the typical residential domicile. Public water system management is expected to review annual metered drinking water volumes delivered to nonresidential connections and estimate the equivalent number of residential connections that these represent based upon the average of annual metered drinking water volumes delivered to true single-family residential connections.

EXCESS WATERING: Watering to the extent that water is allowed to accumulate on the surface of the ground and leave the property entering gutters, storm drains, ditches and other conveyances.

EXTREMELY HAZARDOUS SUBSTANCES: Those substances which are identified in the section 302(EHS) column of the "Title III List Of Lists - Consolidated List Of Chemicals Subject To Reporting Under SARA Title III" (EPA 560/4-91-011).

LAND MANAGEMENT STRATEGIES: Zoning and non-zoning controls which include, but are not limited to, the following: zoning and subdivision ordinance, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, groundwater monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

PERSON: Any individual, partnership, firm, corporation, limited liability company, or other legal entity.

POLLUTION SOURCE: Point source discharges of contaminants to groundwater or potential discharges of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and seepage, manure piles, salt piles, pit privies, and animal feeding operations with more than ten (10) animal units.

POTENTIAL CONTAMINATION SOURCE: Any facility or site which employs an activity or procedure which may potentially contaminate groundwater. A pollution source is also a "potential contamination source".

PUBLIC WORKS DIRECTOR, OR HIS/HER DESIGNEE: The Public Works Director of Brian Head Town, or his/her designee, is vested with the authority and responsibility for the implementation of an effective cross connection control program and for the enforcement of the provisions of this chapter.

REGULATORY AGENCY: Any governmental agency with jurisdiction over "hazardous waste", as defined.

REPEATED OR FLAGRANT WASTING OF WATER: Those situations where persons who have received informal notice that they are wasting water continue to use water in the same manner. It does not mean those persons who waste water on solitary or isolated occasions.
SANITARY LANDFILL: A disposal site where solid wastes, including putrescible wastes or hazardous wastes, are disposed of on land by placing earth cover thereon.

TOWN WATER: All water that passes through the town water distribution system, excluding snow making water.

WATERING OR "TO WATER": The act of applying water to the outdoor landscape through means such as moveable sprinklers, installed watering systems, hoses and similar devices.
WELLHEAD: The upper terminal of a well, including adapters, ports, seals, valves and other attachments. (Ord. 09-012, 7-28-2009)

7-1-3: MANDATORY CONNECTION REQUIREMENTS

It shall be mandatory for any property owner constructing, owning or maintaining a building used for human occupancy and/or constructing or installing any water fixture utilizing culinary water as provided under the provisions of this chapter, and other appropriate regulations adopted by consolidated fee schedule by the Town Council, to apply and pay for the appropriate water connection, and connect to the town water system, whenever that system is within three hundred feet (300') of any property line on which the building or water fixture is installed or erected. All connections shall be through an approved water meter. (Ord. 09-12, 7-28-2009)

7-1-4: CONNECTION TO SYSTEM:

- A. Required: Prior to connection, the owner must sign a service agreement, as set forth in section 7-1-7 of this chapter. Applicants for water service shall include in their system a suitable meter box or vault, and all appurtenances to specifications required by the Public Works Department and approved at the time the building permit is issued. It shall be unlawful for unauthorized individuals to tap or connect to the town municipal water distribution system without authorization. The owner of the property with an unauthorized connection shall be liable to the town for all water use resulting from such connection and may be subject to criminal fines and penalties. All connections shall be approved and inspected by the Public Works Director or designee. Upon connection, regular water service fees must be paid.
- B. Master Meters; Additional Meters: All buildings with more than one ERC will be serviced by a master meter capable of registering both high and low flows. Commercial buildings with any residential units will be serviced by two (2) separate master meters capable of registering both high and low flows. The residential portion of the building will be serviced with one meter and the remaining uses will be serviced with one meter. The owner of a building may install at his/her expense separate meters to any portion of his/her building. The owner will be responsible for proper installation, maintenance and reading of such

meters. Information gathered from additional meters will be for owner use only. (Ord. 09-012, 7-28-2009)

7-1-5: METERS:

- A. Metered Service:
1. A base rate will be charged to all water connections according to the size of the meter in use. The base rate for all meter sizes shall be established by the consolidated fee schedule. All water used from the town water system for household, domestic, irrigation, commercial, industrial, or any other use shall be metered and water paid for according to the quantity used. (Ord. 09-12, 7-28-2009)
 2. All water delivered through each meter shall be used on the premises where the meter is located and charged at the rate established by the consolidated fee schedule. Unoccupied structures will be billed the minimum charge set by the consolidated fee schedule for the meter used in the structure unless a service disconnect request has been received by the water department. A service disconnect request will be charged a reconnect fee established by the consolidated fee schedule to reestablish water service.
 3. Except for individual personal use, no water shall be removed from the premises. (Ord. 11-002, 4-26-2011)
- B. Meter Reading: Meters may be read monthly, but shall be read a minimum of five (5) times per year. In the event that one reading covers consumption for more than one month, consumption shall be prorated equally to each month included in the meter reading. By connecting to the water system, property owners and occupants of the property are deemed to have consented to permit meter readers onto their property to read the meters. In the event that meters were installed within any building on the premises, and there is no remote readout device, the property owner or occupant must permit access for the reading of the meter during normal business hours as a condition of continued water service.
- C. Meter Error: In the event that a meter malfunctions so that a reliable reading is not possible, charges shall be estimated based on the average usage of the previous six (6) months.
- D. Meter Test: If a water user contests the accuracy of a meter, which when removed and checked, proves to be accurate or under reading, the actual costs of removing, replacing and testing the meter shall be charged to the water user on the next water bill. If the meter is over reading, no charge will be made for the repair, and an adjustment for the error will be estimated, for not more than three (3) months. Meter errors of three percent (3%) or less shall be deemed accurate readings. If upon the second rereading requested by the customer within six (6) months the meter is found to be accurate, a reread charge as established by the consolidated fee schedule will be included in the next billing. The Public Works Director may waive the reread fee if needed. (Ord. 09-012, 7-28-2009)
- E. Meter Tampering: It shall be a violation of this chapter to tamper with or bypass any water meter, causing it to produce inaccurate meter readings, or for any other purpose, or to willfully cause damage to any water meter. Willful consumption of water through a meter known to be damaged, bypassed or tampered with, constitutes theft of services and may be punishable as a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code. All meters installed throughout the system shall become the property of the town upon installation. Only meters meeting the town specifications may be used. (Ord. 9-012, 7-28-2009; amd. 2010 Code)

7-1-6: ACCESSIBILITY OF METERS

All water meters shall be located in town rights of way or utility easements with direct and reasonable access for town water crews on accessible property lines, unless otherwise authorized by the Public Works Director. The areas surrounding the meter box must be kept clear of obstructions and must be accessible at all times. The meter lid must be kept free of weeds, plants, trees, rocks, planters, grass and anything that would impede access to the meter box. (Ord. 09-012, 7-28-2009)

7-1-7: SERVICE AGREEMENT:

The town shall require all persons desiring water service and the owner of real property to be serviced to sign a service agreement. Said agreement shall be binding upon both the town and the individual in setting forth terms and conditions of water service and methods of collection of past due amounts owed for water service. When more than one dwelling or unit is served by a single water meter or when there are multiple owners or timeshare interval owners of the property, the service agreement will designate a single responsible party to whom all notices and billings shall be sent. Notice to the responsible party shall have the same force and effect as notice to all owners. (Ord. 09-012, 7-28-2009)

7-1-8: FEES, RATES, CHARGES, BILLINGS:

- A. Meter Deposit: All customers requesting new services will be required to pay a deposit as set forth by the consolidated fee schedule. If no outstanding, unpaid balance occurs for twelve (12) consecutive months, the deposit will be applied to the thirteenth month bill. However, if the occupant paying the deposit is a renter, the town shall retain the deposit until the renter vacates the unit, at which time the deposit shall be returned to the renter within thirty (30) days. No interest will be paid on the deposit.
- B. Billing:
 - 1. The town shall send a monthly or bimonthly billing for water used in the previous month as shown by the meter readings or as estimated. Payment is due upon issuance of the bill.
 - 2. Late fees shall be assessed against all accounts which are more than thirty (30) days past due as set forth by the consolidated fee schedule. Interest will be charged only against the unpaid balance, and not against any partial payment, or against the current billing cycle charges. All payments on past due accounts shall first be applied to fees accrued, then to the oldest unpaid balance.
 - 3. Unless separate meters are established for every unit, billing for multiple users at a single address or multiple users organized as a homeowners' association shall be to a single responsible party who shall be responsible for payment of the entire billing. For such users with more than one meter, the usage from all meters shall be accumulated to determine the total amount of water used. In such cases, the allowances for each residential unit shall be combined and any water used in excess of the total allowance shall be billed at the excess water rate established by the consolidated fee schedule.
 - 4. In the case of mixed use, the residential allowance shall be subtracted from the total water used and any excess shall then be billed at the commercial usage rates established by the consolidated fee schedule. When a residential project includes an office located in the common area of the project, and if a business license is required for the activity of such office, then the project shall be billed for one commercial user in addition to the number of residential users and be treated as a mixed use user.
- C. Water Meter Fees: All water meters shall be supplied and installed by the town or by its authorized representative. For all water lines serving residential and commercial uses, an installation fee shall be paid to the building department at the time the building permit is

issued. The meter installation fee shall be established by the consolidated fee schedule.

- D. Returned Checks: Any user paying by check will pay an additional fee established by the consolidated fee schedule if the check is returned by the bank for any reason. (Ord. 09-12, 7-28-2009; amd. Ord. 13-001, 4-9-2013)
- DI. Fee/Rate Relief: Public Works Director shall be authorized to adjust and/or waive excessive use fees if the Public Works Director determines that the excessive use is not due to the actions of the water user (property owner or tenant) but rather due to causes beyond the control of the user and if the water user informs the Town within thirty (30) days of the date of the bill showing the excessive use. (Ord. 15-002, 01-27-2015)

Administrative decisions regarding water fee/rate relief may be appealed by the water user upon written request within thirty (30) days of the administrative decision. The appeal will be heard by a board consisting of the Town Manager and two members of the Town Council. The appeal board will review whether the administrative decision was made consistent with the provisions of this Title. (Ord. 15-002, 01-27-2015)

7-1-9: NONPAYMENT:

- A. Notice Of Termination: In the event of nonpayment of any billing for town service and a sixty (60) day balance exceeding fifty dollars (\$50.00), the town may maintain an action to recover the amount owed, and after giving written notice to the owner of the property and the occupant thereof, may terminate service. Notice of termination of service shall be served upon the occupant of the property in person, or shall be posted on the property, and notice shall be given to the owner of the property by mail to the last known address of the owner. When more than one dwelling or unit is served through a single water meter, or when there are multiple or timeshare owners, notice may be given to the owners' association, management company or representative owner as shown on the town billing records. The multi-unit, single metered structures shall be posted with notice of termination, but it shall not be necessary to post each unit served. Service shall not be terminated for nonpayment without at least ten (10) days' notice.
- B. Reinstatement Of Water Service: Any water customer who has had water shut off for nonpayment of a bill, a request for disconnect from water service, failure to repair leaks, or failure to comply with a requested curtailment during a water emergency, in addition to any other fees, monies owed, deposits or fines, shall pay a reconnection fee as established by the consolidated fee schedule before service is reinstated. (Ord. 09-012, 7-28-2009)

7-1-10: REINSTATEMENT FOR PUBLIC HEALTH:

For reasons of public health, the Town Manager may extend or reinstate water service to indigent individuals regardless of past due amounts owed or ability to pay. A reasonable fee for such services may be established by the Town Manager. (Ord. 09-012, 7-28-2009)

7-1-11: WATER CONNECTION PLAN:

Any applicant for development with a one inch (1") water meter, or larger meter, shall submit to the public works department a water connection plan for approval by the public works department prior to the installation of water service lines and to the issuance of a building permit. The water connection plan shall include the location of meters, service lines and water mains in relation to the property lines, streets, driveways, town mains and the buildings to be served. (Ord. 09-012, 7-28-2009)

7-1-12: REPAIRS AND MAINTENANCE:

- A. Responsibility For Repairs And Maintenance: The town shall be responsible to maintain and repair town owned transmission and distribution water mains lying within town rights

of way and utility easements. The property owner shall be responsible for the repair and maintenance of their water service line from the meter to their building. Water meters and town maintained water service lines shall be maintained and repaired by the town so long as the meter/service line lies within five feet (5') of property line, rights of way, or utility easements and not within or under any building or structure.

B. Leaking Pipes Or Fixtures:

1. If at any time, the Public Works Director or his/her designee shall ascertain that the plumbing fixtures, appliances, sprinkler systems or service lines on any premises are leaking or otherwise wasting water, or intentionally allowing water to run to prevent freezing of pipes, he/she shall immediately give notice to the property owner to repair the same. The Public Works Director or his/her agent may immediately shut off the water from the premises and shall immediately notify the Town Fire Marshal.
2. Notice for the purposes of this subsection shall consist of any of the following:
 - a. Posting notice on the premises;
 - b. Leaving notice with any occupant or employee on the premises over the age of eighteen (18) years; or
 - c. Mailing notice by regular mail, to the owner or responsible party according to the records of the water department. Notice shall be deemed received three (3) days after such mailed notice is sent. (Ord. 09-012, 7-28-2009)

C. **1-13: SERVICE CALLS:**

When a water customer requests a service call by the town, and no problem exists on the town side of the meter, the town, at the discretion of the Public Works Director, may charge a fee as set forth by the consolidated fee schedule for the second such call for the same complaint made within one year by the same water customer. After the second call, every subsequent call shall also be chargeable at the same rate. If a customer requests a check for a leak and the meter is located inside the unit, customers will be instructed on how to check the meter to see if water is flowing through the meter and subsequent information where a leak might be found. (Ord. 09-12, 7-28-2009)

7-1-14: WATER CONSERVATION:

- A. Watering Schedule: In order to conserve water, a limited resource in the state, outside watering of lawns and landscaped areas using town water may be restricted by resolution of the Town Council.
- B. Water Waste Prohibited; Notice Of Prohibited Use:
1. The Public Works Director, or designee, shall identify persons who waste water while watering.
 2. Whenever the Public Works Director finds that any person wastes water while watering, he or she may give such person verbal or written notice of that fact with recommendations as to how the wasting of water can be eliminated. Such recommendations might include, but are not limited to, redirection of sprinkler heads, resetting of system timers, addition of devices to prevent water pressure fluctuations, or changes in location of sprinkler systems.
 3. Whenever the Public Works Director, or designee, finds that any person repeatedly or flagrantly wastes water while watering, he or she may serve upon such person a written violation notice. Such notice shall be served by personal delivery or by mail, shall identify the location at which water is being wasted while watering, shall identify the manner in which the water is being wasted while watering, and shall specify a time within which the wasting of water while watering shall cease. The notice shall also warn that more severe measures, such as imposition of civil penalties or restriction or termination of water service, may be assessed or brought against the person unless the wasting of water while watering ceases within the time provided.

The time given to cease wasting water while watering may range from a requirement for immediate compliance to thirty (30) days, depending upon the facts and circumstances of each case. For instance, if a remedy involves a portable hose or sprinkler, immediate compliance may be appropriate, if a remedy involves repairing or replacing a sprinkler head, several days may be required; or if the remedy involves more extensive or expensive work, up to thirty (30) days may be necessary.

4. Any person who continues to waste water while watering after the period of time specified in the notice for ceasing such activity shall be issued a citation by personal delivery or by mail, and shall be subject to the fees established by the consolidated fee schedule. (Ord. 09-012, 7-28-2009)

7-1-15: WATER EMERGENCIES:

The Mayor may declare by executive order, or the Town Council may declare by resolution, a state of water emergency when it appears to the mayor or the Town Council that the town water sources are incapable of producing sufficient water to meet all the needs of the town water users.

- A. During a declared water emergency, water service may be interrupted in any or all parts of the town in order to affect repairs, provide water for firefighting, or for any other good cause. Upon the expiration of the emergency, water service shall be restored without charge.
- B. Upon such a declaration, and for the duration of the state of water emergency, it shall be unlawful to use the town municipal water supply for outside irrigation, watering, or sprinkling uses, except as provided in subsection C of this section.
- C. The declaration of state of water emergency shall specify outside watering and irrigation schedules and may specify other water conservation measures appropriate to the circumstances of the emergency.
- D. The owner or tenant of property cited for illegal watering or irrigation under this section shall be required to pay a penalty in the amount set forth by the consolidated fee schedule and, if the allegations in the citation are not contested, may forfeit the penalty in lieu of trying the charges.
- E. Unpaid, uncontested bail forfeitures and fines may be debited against the municipal water account of the cited party and will be subject to collection pursuant to town water bill collection policies.
- F. The provisions of this section shall not apply insofar as the watering restrictions established herein are in conflict with any provision of the town land management code. (Ord. 09-012, 7-28-2009)

7-1-16: WATER USE DURING PERIODS OF DROUGHT:

In the event of scarcity of water, whenever it shall, in the judgment of the Town Council, be necessary, the mayor shall, by proclamation, limit the use of water for other than indoor domestic purposes, to such an extent as may be required for the public good. (Ord. 09-012, 7-28-2009)

7-1-17: FIRE HYDRANTS:

No individual may draw water from a fire hydrant without the written permission from the Public Works Director and in compliance with the current adopted fire code. The Fire Department is authorized to draw water from fire hydrants in the case of fire at all times without advance notice. The Fire Department, after notification to the Public Works Director, may utilize the fire hydrants in the course of training or practice exercises. Any unauthorized connection to a fire hydrant is a violation of this chapter. (Ord. 09-012, 7-28-2009)

7-1-18: SALE OF WATER OUTSIDE TOWN:

It is the policy of the town to provide culinary water within the corporate limits of the town. Those individuals or entities outside the town corporate limits desiring connection to the town water system must petition the Town Council for annexation as a condition of water service. Those

individuals and entities outside the corporate limits of the town currently connected to the water system and receiving water shall agree to abide by the terms and conditions of this chapter and shall pay an additional 1.75 percent of the applicable rate charged for water provided inside the corporate limits of the town. Upon annexation, they will receive water service at the normal rate. (Ord. 09-012, 7-28-2009)

7-1-19: PENALTY:

All violations of this chapter shall be a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code. Unauthorized taking of water is theft of services and may be a felony if the taking exceeds a value of one thousand dollars (\$1,000.00). (Ord. 09-012, 7-28-2009)

Chapter 2 – Utilities

SEWER USE AND SERVICE

7-2-1: ADMINISTRATION:

7-2-2: DEFINITIONS:

7-2-3: USE OF PUBLIC SEWER REQUIRED:

7-2-4: SANITARY SEWERS, BUILDING SEWERS AND CONNECTIONS:

7-2-5: RATES FOR USE:

7-2-6: ANNUAL REVIEW OF OPERATIONAL COSTS; REVISION WHERE REQUIRED; DEBT SERVICE:

7-2-7: USE REGULATIONS:

7-2-8: INDUSTRIAL WASTE PROVISIONS:

7-2-9: VANDALISM:

7-2-10: EXTENSION OF SEWER LINES:

7-2-1: ADMINISTRATION:

A. Sewer Department Established:

1. There is hereby established a sewer department, which shall operate and maintain the town sewage collection and disposal system. The department shall administer, operate and maintain the sewer system for the town. The department shall maintain the town sewer system at the standards which are required by the State Department of Environmental Quality (DEQ) and shall recommend such action as it deems necessary to the Town Council for upgrading and expanding the system.
2. The department shall comprise all of the property, equipment and personnel necessary to the maintenance and operation of the town sewage collection and disposal system.

B. Public Works Director: The sewer department shall be headed by the Public Works Director, who shall manage, supervise and otherwise direct the town sewer system pursuant to the direction of the Town Council.

C. Sole Authority To Operate Sewage Disposal System: There shall be only one operating sewage collection and disposal system within the town corporate limits. That system shall be solely owned, operated and maintained by the town. It shall be illegal for any person to develop, form, own, maintain and operate any type of sewage collection and disposal system within the town limits separate and apart from the town system, except as expressly authorized in this chapter. (Ord. 09-013, 7-28-2009)

7-2-2: DEFINITIONS:

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

BIOCHEMICAL OXYGEN DEMAND (BOD): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) centigrade, expressed in milligrams per liter.

BUILDING DRAIN: That part of the lowest horizontal piping of a drainage system, which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER: The sewer extension from the building drain to the public sewer or other place of disposal.

CESSPOOL: An underground reservoir for liquid waste (as household sewage).

DEPARTMENT: The Brian Head Town Department of Public Works.

COMBINED SEWER: A sewer intended to receive both wastewater and stormwater or surface water.

FLOATABLE OIL: Oil, fat or grease in physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE: All waste resulting from residences, commercial trades or businesses and institutions. Commercial and industrial waste shall be distinct from domestic or household sanitary wastes.

GOVERNING BODY: The Brian Head Town Council.

INDUSTRIAL WASTE: The wastewater from industrial processes, trade or business, as distinct from domestic or sanitary wastes.

MAY: Is permissive. See definition of Shall.

NATURAL OUTLET: Any outlet, including storm sewer and combined sewer overflows, into a watercourse, pond, ditch, lake or other body.

PERSON: Any individual, firm, company, association, society, corporation or group.

pH: The logarithm of the reciprocal of the hydrogen concentration. The concentration is the weight of hydrogen, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 10^{-7} .

PRIVY: A small building having a bench with holes through which the user may defecate or urinate.

PROPERLY SHREDDED GARBAGE: The wastes from the preparation, cooking and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than two inches (2") (1.27 centimeters) in any dimension.

PUBLIC SEWER: A sewer controlled by the town or part of the system.

RESIDENTIAL EQUIVALENT: A structure, building or unit discharging effluent into the system placing no more burden or discharge than "residential flows", as defined in this section.

RESIDENTIAL FLOWS: The assumed average and/or standard flow expected from a single-family dwelling based on culinary water usage. A residential flow volume strength is two hundred fifty milligrams per liter (250 mg/l) TSS (total suspended solids, see definition of Suspended Solids) and two hundred milligrams per liter (200 mg/l) BOD₅ (biochemical oxygen demand).

SANITARY SEWER: A sewer that carries liquid and water carried wastes from residences, commercial buildings and industrial plants.

SEPTIC SYSTEM: A septic tank, a leach field, and any necessary pumps, pipes and equipment.

SEPTIC TANK: A tank in which the solid matter of continuous flowing sewage is disintegrated by bacteria.

SEWAGE: The spent water of a community. The preferred term is "wastewater", as defined in this section.

SEWER: A pipe or conduit that carries wastewater or drainage water.

SHALL: Is mandatory. See definition of May.

SLUG: Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty four (24) hour concentration of flows during normal operation and adversely affects the collection system and/or performance of the wastewater treatment works.

STORM DRAIN (Sometimes Termed STORM SEWER): A drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source other than from inside a building, residence or other enclosed structure connected to a building drain.

SUSPENDED SOLIDS: Total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods For The Examination Of Water And Wastewater", and referred to as nonfilterable residue.

SYSTEM: The sanitary sewer, storm sewer, combined sewer, wastewater facilities and wastewater treatment works of the town.

TOWN: Brian Head Town, Iron County, Utah.

UNPOLLUTED WATER: Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

WASTEWATER: The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and storm water that may be present.

WASTEWATER FACILITIES: The structures, equipment, sewers and processes required to collect, carry away and treat wastewater and dispose of the effluent.

WASTEWATER TREATMENT WORKS: An arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant".

WATERCOURSE: A natural or artificial channel for the passage of water either continuously or intermittently. (Ord. 09-013, 7-28-2009)

7-2-3: USE OF PUBLIC SEWER REQUIRED:

A. Prohibited Deposits, Discharges:

1. It shall be unlawful for any person to place, deposit or permit to be deposited on public or private property within the town, or in any area under the jurisdiction of said town, any human excrement, garbage or other objectionable waste.
2. It shall be unlawful to discharge to any natural outlet within the town, or in any area under the jurisdiction of said town, any sewage or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic system, cesspool or other facility intended or used for the disposal of wastewater.

B. Connection Required: Any owner of property located within the town shall connect (hook up) to the town system when a sewer main line is within three hundred feet (300') of any portion of the property boundary as follows:

1. New Construction: Connection to a public sewer is required where a new dwelling unit or facility used for human occupancy is being proposed, built, reconstructed or altered, and where a building permit is required.
2. Existing Dwelling Or Facility:
 - a. Failed System: Connection to a public sewer is required when the existing septic system has failed and needs repairs to the leach field or septic tank (treatment outside the building in the septic tank or absorption system).

- b. Unpermitted System: Connection to a public sewer is required within one year of a notice to comply issued by Southwest Utah public health department, when the owner of property is unable to provide information and materials that a septic system permit has been issued by Southwest Utah public health department.
 - c. Change Of Ownership: Connection to a public sewer is required when the ownership of property changes to another owner.
 - d. New Sewer Service Availability: Connection to a public sewer is required within three (3) years of a new public sewer main line becoming available to an existing dwelling or facility.
- C. Special Funding: The town acknowledges the possibility of utilizing special funding tools (i.e., special improvement districts, special service districts, etc., or other legally recognized methods) when collective connections to the public sewer may be required by this chapter.
- D. Evaluation, Approval Authority: The Southwest Utah Public Health Department and the State Department of Environmental Quality shall be considered the town experts in evaluating and approving and permitting sewage treatment systems.
- E. Waiver Of Sewer Connection Requirement: In the event that a sewer connection is required by this chapter, but is not practically feasible due to unusual circumstances, a letter of waiver may be provided by the Public Works Director stating the nature of the unusual circumstances. Unusual circumstances shall be determined by the Public Works Director, and may include such things as grade, physical barriers, insufficient capacity of system, distance of home from property line, topography, etc. Additionally, the town shall explain its intent to provide, or not to provide, for a future sewer connection, as well as a statement of acknowledgment for the use of an appropriate on site wastewater system.
- F. Connections Outside Distance Requirement: Nothing in this chapter shall prohibit the connection to a public sewer as described in this chapter when a property is beyond the three hundred foot (300') connection requirement, if desired by the property owner and for which provisions are made in an appropriate agreement. The town encourages connection to a public sewer whenever and wherever possible in order to preserve and protect groundwater quality in the county.
- G. Penalty: To evidence compliance with the requirements of this section, the town adopts the penalty and compensatory sanctions, the violation of which shall constitute a class B misdemeanor: The town hereby exercises jurisdiction to protect its culinary water system and sources from exposure to underground percolation from any ecological injury, pollution or contamination of the watershed or exposure to the system and water polluting underground percolation influencing the culinary waterworks sources. The failure of a person to comply with this section shall constitute a public offense and is punishable by law as a class B misdemeanor. Such person shall pay a fine of not less than fifty dollars (\$50.00) for each day of violation and each day of failure to connect shall be deemed a separate offense. (Ord. 09-013, 7-28-2009)

7-2-4: SANITARY SEWERS, BUILDING SEWERS AND CONNECTIONS:

- A. Permit Required: No unauthorized person shall uncover, make any connections into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the town.
- B. Classification; Application: There shall be one class of sewer connection, to be known as "residential" or "residential equivalent". In every case, the owner or agent shall make application on a form obtained from the town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Public Works Director. A fee for sewer connection permits and inspections shall be assessed and collected at the time of application to the town.
- C. Separate Sewer Required; Exception: A separate and independent building sewer shall be provided for every building; except, where one building stands at the rear of another on an interior lot having no street frontage and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole system will be considered as one building sewer. The town does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
- D. Use Of Old Building Sewers: Old building sewers may be used in connection with new buildings only when they are examined and tested by the department, at the owner's sole cost, and found to meet all requirements of this chapter.
- E. Construction Methods: The size, slope, alignment, materials or construction of all sanitary sewers, including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes, or other applicable rules and regulations of the code provisions, or in amplification thereof. The materials and procedures set forth in appropriate specifications of the ASTM and WPCF manual of practice no. 9 shall apply.
- F. Elevation: Whenever possible, the building sewer shall be brought from the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. Where such means are necessary, the owner shall be responsible for all installations, maintenance and operating costs of their operation.
- G. Polluted Surface Drainage: No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer, unless such connection is approved by the Public Works Director and the state department of environmental quality for purposes of disposal of polluted surface drainage.
- H. Grease Interceptors: All new and existing buildings and facilities are required to have in place and operational grease interceptors and/or separators as set forth by the international plumbing code section 1003.
- I. Code Compliance; Standards: The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the town and the state, or the procedures set forth in appropriate

specifications of nationally recognized publications of what are known as the ASTM and the WPCF manual of practice no. 9, and/or the town public works standards. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Public Works Director before installation.

- J. Excavations: All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. A person must first obtain a permit from the Public Works Director prior to doing any excavation in a public right of way. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town. (Ord. 09-013, 7-28-2009)

7-2-5: RATES FOR USE:

- A. Established: The rates for connecting to and use on monthly or any other basis may be fixed and amended by resolution or amending ordinance. The governing body will, to promote equity in distribution of operation and maintenance costs, and for no other purpose, establish rates based entirely upon metered water usage, effluent strength by or solely upon the basis as defined hereinabove, or upon an equitable combination of any of those so that the costs of operation and maintenance reflected in rates will be equitably distributed among those based upon their usage of and benefit received from the system.
- B. Costs And Expenses Borne By Owner: All costs and expenses incidental to the installation, connection and maintenance of each building sewer to the public sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation, connection or maintenance activities of the building sewer.
- C. Liability For Charges: Irrespective of the occupant, user, tenant, cotenant, permissive user, or any other person, firm, partnership, corporation or entity being in possession of the premises to which a connection is supplied or service made available, the owner of the premises according to the records of the county recorder shall be legally responsible for the payment of all charges, fees, assessments and any other obligation or liability of user.
- D. Delinquency: If any delinquent sewer connection, sewer user charge, repairs, maintenance or any other obligation is imposed against any premises, property, buildings or structures, the obligation shall be deemed by the town as an obligation of the owner of the real property on which any use is made from a sewer connection. Water service to delinquent property shall be turned off by the town for failure to pay any and all sewage and wastewater fees, assessments, charges or liability, and will not be turned on again to those premises where a delinquency occurs unless and until all liabilities to the town for sewer service are paid in full. All payments for utilities, whether "water" or "sewer", shall be credited first to sewer assessments, fees or charges.
- E. Interest Charge On Delinquent Or Past Due Connection Fees: The town council may, at their discretion and in circumstances that are equitable, impose interest at the highest legal rate on all past due accounts, either for connection fees, user charges, assessments, maintenance, repair or any other charge which is provided for, imposed or authorized by this chapter.

- F. Notification: Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges, which are attributable to wastewater treatment services (O&M) vs. debt service. (Ord. 09-013, 7-28-2009)
- G. Fee/Rate Relief: Public Works Director shall be authorized to adjust and/or waive sewer fees resulting from excessive use of water if the Public Works Director determines that the excessive use is not due to the actions of the utility user (property owner or tenant) but rather due to causes beyond the control of the user and if the utility user informs the Town within thirty (30) days of the date of the bill showing the excessive use. (Ord. 15-002, 01-27-2015)

Administrative decisions regarding water fee/rate relief may be appealed by the water user upon written request within thirty (30) days of the administrative decision. The appeal will be heard by a board consisting of the Town Manager and two members of the Town Council. The appeal board will review whether the administrative decision was made consistent with the provisions of this Title. (Ord. 15-002, 01-27-2015)

7-2-6: ANNUAL REVIEW OF OPERATIONAL COSTS; REVISION WHERE REQUIRED; DEBT SERVICE:

- A. The town shall review the total annual cost of operation and maintenance, long term debt service relating to the wastewater treatment works, as well as each user's wastewater contribution percentage not less often than every year, and will revise the user charge system as necessary to assure equity of the system established herein, and to assure that sufficient funds are obtained from the town user charge system to:
 - 1. Consistently operate and maintain the wastewater treatment works; and
 - 2. Cover said debt service.
- B. The town will apply excess revenues collected from users to the costs of operation and maintenance for the next year, and adjust this rate accordingly. The addendum attached to ordinance 09-013, entitled "Brian Head Town Consolidated Fee Schedule" shall be used for calculating rates. The addendum shall be used as a formula for calculating rates, fees and charges for connection, use and access to the system. The addendum is adopted and made a part of this chapter. (Ord. 09-013, 7-28-2009)

7-2-7: USE REGULATIONS:

- A. Unpolluted Waters: No person shall discharge or cause to be discharged any unpolluted waters, such as storm water, surface water, groundwater, roof runoff, subsurface drainage or cooling water to any sanitary sewer.
- B. Storm water: Storm water shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the state department of environmental quality and other regulatory agencies.

C. Prohibited Discharges: No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
2. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of the town system, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater treatment works.
4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or the interference with the proper operation of the wastewater facilities, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups and milk containers, etc., either whole or ground by garbage grinders. Each user which discharges any toxic pollutants which cause damage to the town wastewater facilities shall be liable to the town for such damage and for all expenses incurred by the town in repairing or replacing those wastewater facilities.

D. Limited Discharges: The following described substances, materials, waters or waste shall be limited in discharges to the town system to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Public Works Director may set limitations lower than the limitations established in the regulations below if, in his opinion, such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the Public Works Director shall consider such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Public Works Director are as follows:

1. Wastewater having a temperature higher than one hundred fifty degrees Fahrenheit (150°F) (65 degrees centigrade).
2. Wastewater containing more than twenty five (25) milligrams per liter of petroleum oil, non-biodegradable cutting oils or product of mineral oil origin.
3. Wastewater from industrial plants containing floatable oils, fat or grease.

4. Any garbage that has not been properly shredded (see definition of "properly shredded garbage", as defined in section [7-2-2](#) of this chapter). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers. Grinders for commercial establishments may be inspected by town personnel at any reasonable time.
 5. Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the wastewater treatment works exceeds the limits established by DEQ for such materials.
 6. Any waters or wastes containing odor producing substances in an amount exceeding limits established by DEQ for such substances.
 7. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Public Works Director in compliance with the applicable state or federal regulations.
 8. Quantities of flow, concentrations, or both, which constitute a "slug", as defined in section [7-2-2](#) of this chapter.
 9. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
 10. Any waters or wastes which, by interaction with other waters or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- E. Authority Regarding Prohibited Discharges: If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which water contains the substances or possesses the characteristics enumerated in subsection D of this section, and which, in the judgment of the Public Works Director, may have a deleterious effect upon the wastewater facilities, wastewater treatment processing equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Public Works Director may:
1. Reject the wastes;
 2. Require pretreatment to an acceptable condition before discharge to the public sewers;
 3. Require control over the quantities and rates of discharge; and/or
 4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section [7-2-5](#) of

this chapter. When considering the above alternatives, the Public Works Director shall give consideration to the economic impact of each alternative on the discharger. If the Public Works Director permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Public Works Director.

- F. Interceptors: Grease, oil and sand interceptors shall be provided when required by the international plumbing code section 1003. Interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Public Works Director, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captivated material and shall maintain records of the dates and means of disposal, which shall be subject to review by the Public Works Director. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.
- G. Maintenance Of Facilities: Where pretreatment or flow equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- H. Observation Structure: When required by the Public Works Director, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, together with such necessary meters and other appurtenances in the building sewer, to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Public Works Director. The structure shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.
- I. Information Determining Compliance Required: The Public Works Director may require a user of sewer services to provide information needed to determine compliance with these rules. Such information may include:
 - 1. Wastewaters discharge peak rate and volume over a specified time period.
 - 2. Chemical analysis of wastewaters.
 - 3. Information on raw materials, processes and products affecting wastewater volume and quality.
 - 4. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
 - 5. A map or plat of the user's property showing any pretreatment facility location.
 - 6. Details of wastewater pretreatment facilities.
 - 7. Details of systems to prevent and control the losses of materials through spills to the public sewer.

- J. Measurements, Tests And Analyses: All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in these rules shall be determined in accordance with the latest edition of "Standard Methods For The Examination Of Water And Wastewater", published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the Public Works Director.
- K. Special Agreements: No statement contained in this section shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste or unusual strength or character may be accepted by the town for treatment. (Ord. 09-013, 7-28-2009)

7-2-8: INDUSTRIAL WASTE PROVISIONS:

The developers of all commercial/industrial projects shall provide the town with detailed information concerning the projects' expected wastewater quality and quantity. The town will review this information and determine which of the following facilities are required:

- A. Building sewer sampler.
- B. Wastewater flow monitoring station.
- C. Gravity separator.
- D. Industrial waste clarifier.
- E. Pretreatment facilities.
- F. Under certain circumstances, the town may require special pipe installation procedures or types of pipe, including special protective coating for pipe and fittings.
- G. All industrial truck/car washes will be a recirculating non-discharge type. (Ord. 09-013, 07-28-2009)

7-2-9: VANDALISM:

No persons shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenances or equipment that is a part of the wastewater facilities. Any persons violating this provision may be subject to immediate arrest. (Ord. 09-013, 7-28-2009)

7-2-10: EXTENSION OF SEWER LINES:

Any and all line extensions from any town sewer main line, not otherwise a part of a town public

works project, shall be at the owner's expense, subject to the terms of a sewer line extension agreement provided by the town, and required as a condition precedent to any sewer line extension. The property owner shall extend such sewer line to the furthest point on the owner's lot property line which is fronting a town street. The expenses of installing sewer lines shall be at the sole expense of the owner, and in accordance with town specifications and state DEQ; and, under this section, shall be deemed the property of the town upon inspection and acceptance of the sewer line by the town. (Ord. 09-013, 7-28-2009)



STAFF REPORT TO THE TOWN COUNCIL

SUBJECT: Nightly Rental Regulation
AUTHOR: Bret Howser
DEPARTMENT: Administration
DATE: September 8, 2020
TYPE OF ITEM: Discussion

SUMMARY:

Council will review and discuss further research regarding best practices for nightly rentals regulation, specifically as it pertains to application of these practices to condos versus single family residential.

BACKGROUND:

Over the past year and half, Brian Head Town has undertaken a review and revision of the Town's nightly rental (or short-term rental) regulations contained within the business license code. This effort began in response to a relative few (but ardent) complaints from residents in single family residential neighborhoods who were dealing with impacts (such as parking, noise, trespassing, etc) from neighboring single family residences being used as nightly rentals (an allowed use in R1 zones in Brian Head). After considering different revision options presented by staff, the Council settled on a set of revisions which focused on requiring nightly rental licensees to educate guests via a "Good Neighbor Policy" which was subsequently created by a committee consisting of nightly rental owners/operators and permanent residents.

After operating under the revised ordinance for a year, the nightly rental committee was reconvened to make any further recommendations. At that point, the committee recommended that stronger language be included in the ordinance to hold nightly rental owners responsible for nuisances generated by the operation of their business. After holding robust public hearings, the Council decided to approve further revisions to the nightly rental regulations which included the recommended provision to hold licensees responsible for noise/nuisance, but to apply that only to rental units in single-family residential zones.

At the tail end of the public hearing process, a group of residents who reside in condominiums (exclusively from one particular condominium complex, with one exception) voiced their displeasure with the Council's decision to differentiate between single-family zone rental units and multi-family zone rental units. The Council approved the revisions as drafted with a promise to come back and look at potential adjustments to provide protections for residents in multi-family residential zones. Staff was asked to conduct further research.

Prior to this report, staff has not attempted to conduct any sort of exhaustive research on what cities are doing to regulate nightly rentals. We have used portions of some city ordinances as models to deal with specific issues that have been raised, but we have not scoured the nightly rental regulatory landscape for ideas to address concerns that haven't even been brought up yet. What follows is an attempt to be more thorough in our treatment of the topic.

Found some best practice documents we hadn't used in the process

Looked at several resort cities in Utah/CO specifically

- Moab, Garden City, Midway, Breckenridge, Steamboat, Durango, Park City

ANALYSIS:

Staff studied two reports that deal with best practices in nightly rental regulations, one from the Colorado Association of Ski Towns (CAST) and one produced by the Utah Community Development Office (CDO). These were created in 2015 and 2019 respectively. The CAST report studied the regulations of 10 resort communities in CO, UT, and WY, while the CDO report looked at Utah communities in general. There is a fair amount of alignment in the resultant best practices in the reports.

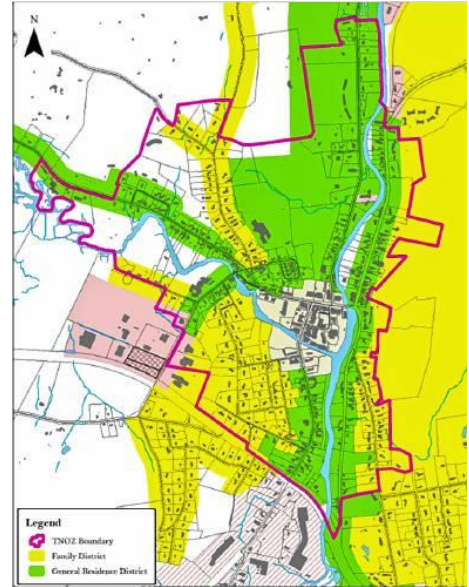
Additionally, staff directly reviewed the ordinances of the following cities: Moab, Garden City, Midway, Park City, Heber, Torrey, Breckenridge, Steamboat Springs, Durango, and Jackson

Regulatory Best Practices

- **LIMITATION/CAPS:** Regulations seeking to prohibit or limit the number of rentals or clumping of rentals in areas
 - Zoning
 - Most cities reviewed do not allow nightly rental as a permitted use in certain zones, typically residential zones
 - The following chart from the CAST report gives a sampling of different zoning restrictions:

	Location Restrictions
Breckenridge	No location restrictions
Crested Butte	Only permitted in Residential Districts (R1, R1A, R1C, R2, R2C, R3C) and B3 Business District. Cannot be rented for less than one month more than twice in any calendar year in the B1 Business district. Not allowed in B2, Commercial and Tourist Districts.
Durango	Limited to certain neighborhoods; cap on total number allowed in each area
Estes Park	No location restrictions
Frisco	No location restrictions
Jackson	Only permitted in Lodging overlay district and Snow King Master Plan
Mt. Crested Butte	No location restrictions
Ouray	Only permitted in High Density Residential (R2) and Commercial Districts
Park City	Limited in Single Family zones
Steamboat	Allowed in all zones except mobile homes and industrial zones.

- Overlay zoning – A geographic boundary drawn on the zoning map that may take in properties from multiple zones but allows for nightly rentals within the boundary
 - Examples: Midway, Rockville
- Varying restrictions by zone
 - Ex: Steamboat restrictions apply to “vacation home rentals” in single-family but not to “nightly rentals” in multi-family zones
- Geographic/Neighborhood capping
 - Some cities cap the number of rentals in a geographic area or neighborhood
 - Examples: La Verkin City [7.5% cap], Durango [Flat cap per neighborhood]
 - **LaVerkin Code**



Generic Overlay Zone Example

6. *With regards to VRs:*
 - a. *The use is subject to the availability of licenses, which licenses and associated right may lapse if not timely used pursuant to subsection D6b of this section (to prevent the speculative acquisition of a VR license in order to preserve the right to use one's residential structure as a VR at some possible future date, and thus negatively impact the right of others to license and use their structures as a VR during such period of nonuse). (Ord. 2018-01, 1-3-2018)*
 - b. *No more than seven and one-half percent (7.5%) of the residential units, eligible under subsection B of this section, in any given area of the City (established pursuant to subsection C of this section and determined by the City Council) may be licensed and used as VRs.*
- Spacing/Buffering Requirement, rentals cannot be located within X ft from each other
 - Listed as best practice in CAST report, no examples found
- **PUBLIC SAFETY REGULATIONS:** Regulations/requirements that seek to ensure safety for guests and neighbors
 - Fire Inspections
 - Commonly required by both Utah and Colorado cities, listed as a best practice in both documents.
 - Maximum Occupancy
 - Several examples of setting maximum occupancies, many of which are below our thresholds
 - Durango – 3 per parking space
 - Steamboat – 1 per 200 max 16 for vacation home rentals
 - Moab max 10
 - Insurance

- Seldom required in the regulations we reviewed, listed in CDO document as a best practice with no examples given.
- Signature required by property owner giving right for Police to enter inspect at any time (addresses issue with seeking warrants to enforce)
 - Only saw this once, in Midway City's ordinance. Not listed in either best practice document.
 - ***Section 7.06-070 Unit License Application Procedure***
The owner must provide the following information on the unit license application:
 ...
F. A statement granting Midway City the right to inspect the rental properties and authorize the entry of police or other emergency personnel in the case of an emergency.
- Staff recommends reviewing the legality of this provision with Town Attorney before attempting to implement anything like it

- **OWNER ACCOUNTABILITY APPROACHES**

- Accountability for Nuisance
 - Some cities we found had
 - Examples: Park City, Durango, Midway, Breckenridge
 - Breckenridge code language:
Special Conditions of License
"The owner of an accommodation unit licensed pursuant to this chapter shall, as a condition of such license, be subject to the following requirements: ... No accommodation unit shall be operated in such a manner as to constitute a nuisance pursuant to Title 5, Chapter 1 of this code."
- Local Property Manager
 - Many had a requirement for a local property manager
 - This was a recommended practice in the CAST report
 - Example: Kanab
 - *"All short-term residential properties shall designate a local property manager that resides within one hour travel time of the property. The local property manager shall be available twenty-four hours per day to respond to questions or concerns."*
- Owner occupancy
 - Some cities have reduced requirements for owner-occupied rental units or restrict rental licenses to units that are owner occupied at least X months of each year.

- **OTHER REGULATORY APPROACHES**

- Neighborhood Approval
 - We found one example of a city requiring approval from neighbors for a nightly rental license. One article stated that Georgetown, CO required approval from neighbors, but when we called to verify they told us they only require notice, not approval. A few cities we looked at required notice to neighbors.
 - Example: Midway requires approval from neighbors for units with shared walls (condos) and single-family units with shared driveways.

However, this hasn't come up very often because most of the condo complexes have CC&R's that disallow nightly rentals and the ones that do allow them were constructed as nightly rentals under a development agreement with the city, so the city doesn't apply the neighbor approval requirement in those cases. They haven't turned many away under this requirement.

- Regulating Advertisements
 - Durango/Steamboat require permit numbers be displayed on advertisements
 - Some examples in Colorado require maximum occupancy and parking on advertisement to match actual maximums
 - [HB 253](#) in Utah, passed in 2017, forbids cities to “enact or enforce an ordinance that prohibits an individual from listing or offering a short-term rental on a short-term rental website,” or from using any ordinance that prohibits operating a short-term rental from being enforced “solely for the act of listing” that rental online.
 - It's unclear how this law might be applied to a regulation of the content of an online listing.
 - Staff doesn't recommend that Brian Head become the test case in Utah
- Use limitation
 - Torrey disallows nightly rentals to be used for commercial gatherings, parties, weddings, etc.
- Required displays
 - Very common in the examples we reviewed.
 - Various items required, such as business license, property mgr contact, trash info, max occupancy/vehicles
- Off-street parking requirements
 - Pretty common, not dissimilar from Brian Head's
- Compliance Incentives
 - Includes special fee waiver periods to allow non-compliant rentals to come into compliance, allowing operators to have a nuisance related complaint (a strike) removed by attending an operator training, property tax abatement programs for good actors, awards programs, etc.
 - Recommended by Utah CDO, no examples found
- Nightly rental online registry/map
 - This is to facilitate compliance, more of a management best practice than a regulatory practice

Differentiating between Single Family and Multi-Family

For the most part, the nightly rental regulations we encountered were applied across the board to all nightly rentals, regardless of cabin or condo. The only real example staff found of differentiating the types were through allowed uses in zones. And generally, these were more restrictive in single family and less restrictive in multi-family. For example, Breckenridge adjusted their code to strengthen nuisance standards specifically for nightly rentals in single-family zones.

We found no special rules dedicated to multi-family nightly rentals other than the neighbor approval requirement in Midway, which we understand does not apply to many rental applicants there (and frankly we question the legality of such a provision).

FINANCIAL IMPLICATIONS:

N/A

BOARD/COMMISSION RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Discussion only

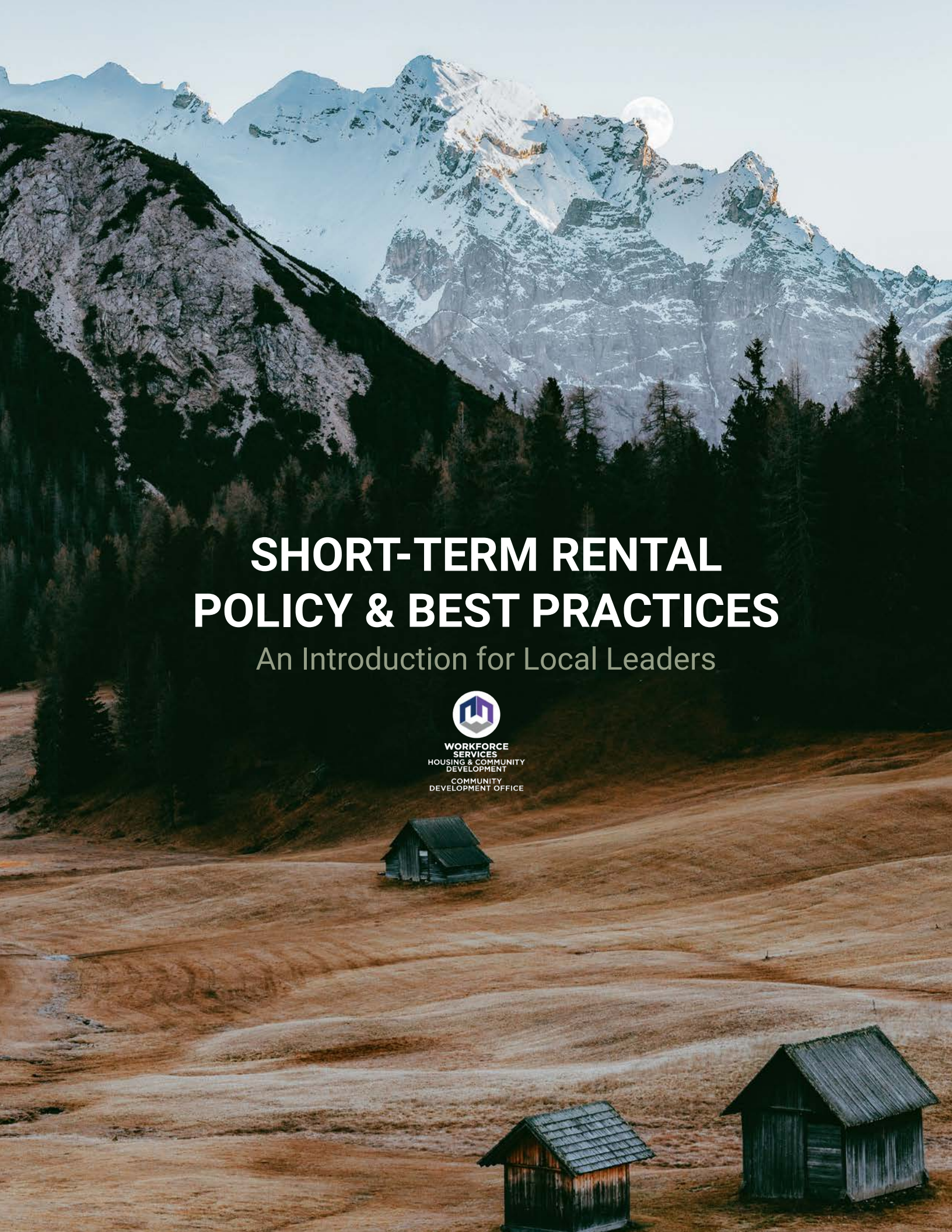
PROPOSED MOTION:

No motion necessary, item is discussion/informational only

ATTACHMENTS:

A – CDO Short Term Rental Policy & Best Practices

B – CAST Vacation Home Rentals: Issues, Emerging Trends and Best Practices



SHORT-TERM RENTAL POLICY & BEST PRACTICES

An Introduction for Local Leaders



WORKFORCE
SERVICES
HOUSING & COMMUNITY
DEVELOPMENT
COMMUNITY
DEVELOPMENT OFFICE

OVERVIEW

This guide is intended to help communities understand and make informed decisions about regulating short-term rentals (STRs). From writing a STR ordinance to incentivizing compliance, this guide serves as a tool for your community as you formulate your own ordinance. This guide also includes ordinance examples from Utah communities in the hopes that you may reach out to these neighboring jurisdictions for guidance in your STR process.

In addition to this guide, the Utah Community Development Office has a toolbox of community development resources, which can be found at ruralplanning.org/toolbox.

SHORT-TERM RENTALS

Renting or leasing rooms and homes on a short-term basis is not a new market activity.¹ Whether renting a room in the city or running a bed and breakfast in a small town, people have long participated in the short-term rental economy. However, while this practice itself may not be new, there is a shift in how many rentals are now available. Online services have made it possible for a drastically increased number of

individuals and businesses to easily facilitate short-term rental management, which has resulted in a rapid increase of home sharing in communities large and small across the country.¹

From Memorial Day to Labor Day in 2019, Utah Airbnb operators garnered roughly \$37.3 million in revenue; stemming from a nearly 30 percent increase in Utah Airbnb guests over the same time period last year.²

The recent increase in STRs has impacted communities differently according to their physical, geographic, social, economic, and political components.³ Some communities have seen the introduction of STRs as an opportunity to reap the benefits of increased tourism, employment opportunities, and economic development; whereas other communities have prioritized efforts to reduce or mitigate unintended consequences.³ Issues of loss of neighborhood character, impacts on housing prices, and a decrease in affordable housing units are just a few of the impacts that some communities are grappling with in this process.



SHORT-TERM RENTAL REGULATION

There are a number of reasons why towns should regulate STRs. Towns may want to:

- Protect local residents' quality of life
- Ensure building safety and fire hazard mitigation
- Preserve neighborhood character
- Safeguard housing availability and affordability
- Resolve community tension
- Avoid noise, parking, and trash problems

While there is no one-size-fits-all approach to regulating STRs, communities have a number of options for regulating how STRs operate within their boundaries. For example, a municipality may choose to:³

- Legally define what a STR is in their ordinances
- Codify basic STR regulations (what is allowed vs. not allowed)
- Levy a transient room tax (TRT)
- Establish a STR registry (either on their own or by contracting with a STR data company) to track compliance

HB 0253 AMENDING SHORT-TERM RENTAL REGULATIONS

In 2017, the Utah State Legislature amended state law governing STRs which prevents a political subdivision from:

- prohibiting an individual from listing or offering a STR on a STR website; or
- prohibiting the act of renting a STR to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a STR on a STR website.⁵

DEFINITIONS

Ordinance - legal regulations that a city* places on what may or may not be done and how it may be done within its boundaries.

Sharing Economy - an economic system based on people sharing possessions and services, either for free or for payment, usually using the internet to organize this. ([Cambridge Dictionary](#))

Short-Term Rental (STR) - a short-term vacation rental (also called a vacation rental or STR) is most often defined as a rental of a residential dwelling unit or accessory building for periods of less than 31 consecutive days; in some communities, short-term rental housing may be referred to as vacation rentals, transient rentals, short-term vacation rentals or resort dwelling units. ([Host Compliance](#))

Transient Room Tax (TRT) - tax paid by a guest who rents an STR for fewer than 30 consecutive days. The tax includes accommodations in hotels, motels, inns, tourist homes, trailers, courts, or campgrounds. Municipalities may impose a TRT on temporary lodging of up to one percent. Counties may also impose a county-wide TRT on temporary lodging of up to 4.25 percent. ([UC 59-12-301](#))

Resort Community Tax (RCT) - a city or town in which the transient room capacity is greater than or equal to 66 percent of the municipality's permanent census population may impose a sales and use tax up to one percent of the transactions described in Subsection 59-12-103 located within the city or town. ([UC 59-12-400](#))

*In this document, "cities," "communities," and "municipalities" refer to towns, cities, and counties. Counties can also create and enforce codes. The recommendations apply to all of these communities in a similar fashion.

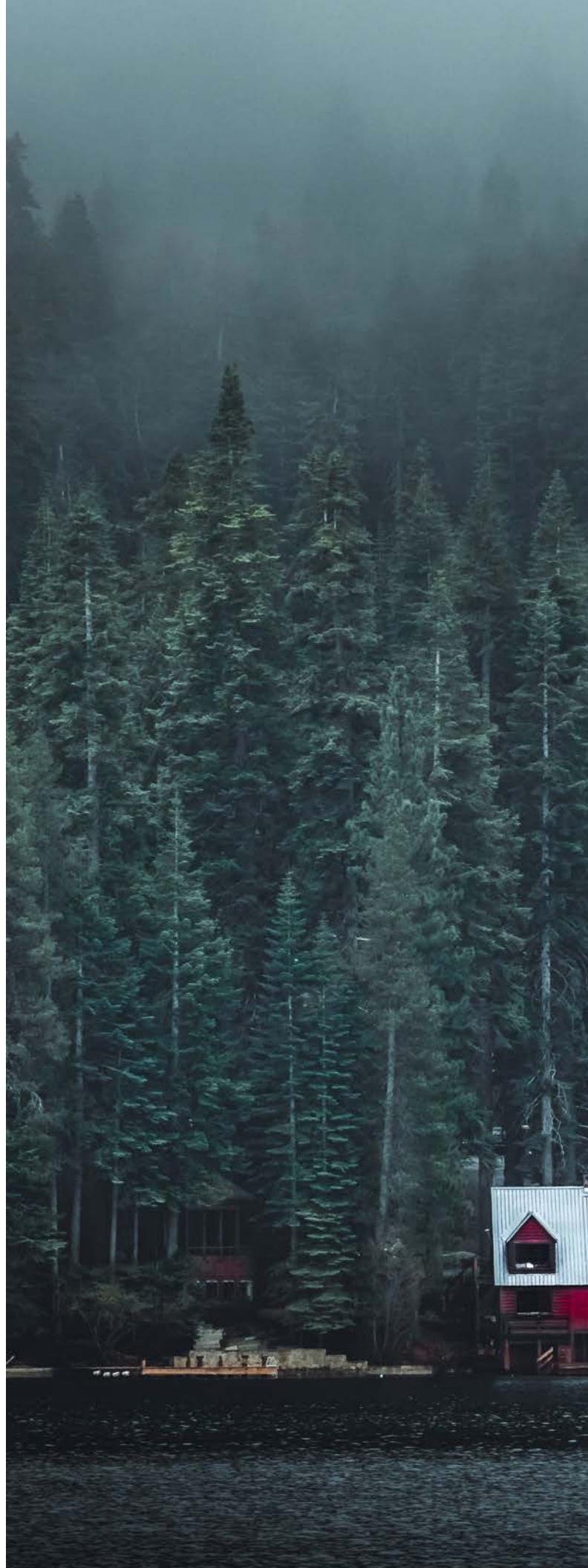
While this legislation prohibits municipalities from mandating that operators remove their online listings (whether or not they're legal), it does not prohibit the municipality from reaching out to operators to educate them on their local ordinances. This means that if a municipality comes across an illegal listing online, they may still send an educational notice that states how that STR operator can become compliant with their listing.

SHARING ECONOMY

Whether a town opposes or supports the recent phenomenon known as the 'sharing economy,' the reality is that it exists and will continue to grow in the coming years. The sharing economy is expanding rapidly, and in addition to short-term vacation rentals (such as Airbnb and HomeAway) includes: ride-sharing (such as Uber and Lyft), online marketplaces (such as Ebay and KSL), crowdfunding (such as Kickstarter and Indiegogo), co-working spaces, freelancing websites and more.

How did the sharing economy come about? This economy stemmed from the idea that sharing particular services, products, and skills reduces costs and increases efficiency. Individuals become their own bosses and supplement their income, and by doing so, are able to exchange the standard nine-to-five workday for increased flexibility and autonomy.

Why is it important to stay up-to-date on the sharing economy? Local leaders can proactively stay informed on new trends and opportunities that benefit their communities by tracking the sharing economy's progress online. What's unique about this economy is that it is ever-expanding, and as such, requires that local leaders reach out to experts in the field, read





research articles, and watch or attend conference sessions to stay informed. By being proactive, rather than reactive, local communities can take advantage of the opportunities of sharing economies, rather than deal with the challenges of mitigating potential impacts down the road.

SHORT-TERM RENTALS

Growth in STRs has been profound. In 2018, just ten years after its inception, Airbnb included almost five million lodging options across 81,000 cities worldwide.⁴ With a market value estimated at \$31 billion in 2017, Airbnb is the most profitable hotel chain in the entire world, yet they don't own a single hotel.⁴

There are three basic varieties of STRs:¹

- **Hosted Sharing** - The primary occupants of a residence remain on-site with guests
- **Unhosted Sharing** - The primary occupants of a residence vacate the unit while it is rented to short-term guests
- **Dedicated Vacation Rental** - There are no primary occupants

Impacts from each type can vary greatly. Permitting home sharing in residential zones may incentivize landlords to take rental properties off the market, thereby reducing the supply of affordable housing. Frequent unhosted sharing may lead to increased complaints related to noise, traffic, or parking.¹ Allowing STRs in residential zones may also increase the value of residentially-zoned property, which benefits property owners, but may also decrease the availability of affordable housing.

While previously only a handful of STR listing sites existed, there is now a plethora of websites for guests to book lodging options. A few examples of common STR websites include:

- Airbnb
- VRBO
- FlipKey
- HomeAway
- Homestay
- VillasDirect
- VacationRentals
- 9flats
- Wimdu
- Tripping.com
- HomeToGo
- HouseTrip
- VayStays
- Luxury Retreats

At times, STRs can be less expensive than traditional hotels. They can also provide unique lodging options, like Airstream trailers, tree houses, tents, and earthships (passive solar earth shelters made of both natural and upcycled materials). The ability for homeowners to share their unique living areas has sparked a trend among travelers looking for memorable experiences outside of the norm. Additionally, some operators with acreage list their open fields for those that want to set up their own tent, which can be beneficial to tourists when campgrounds fill up during the season.

On top of a nightly rental fee, STRs often include several other fees, such as:

- **Cleaning Fees** - A set amount determined by the operator for cleaning after the guest departs. The amount can vary dramatically according to the type of rental and whether or not the owner hires a company to clean their rental for them.
- **Service Fees** - Determined by the STR hosting website to cover the cost of processing payments. Some STR hosting websites charge a percentage for each booking, whereas others allow hosts to pay a yearly fee, which is not reflected during the booking of a rental.
- **Sales Taxes** - Some STR hosting websites collect local taxes as part of the online transaction. However, a number of other websites do not, and

is left to the STR operator to pay state and local taxes. Additionally, the transient room tax allows municipalities and counties to use these funds for a particular purpose, such as promoting tourism through marketing and campaigns.

BENEFITS

When operators comply with local regulations, the potential benefits for local communities can include:

- Increased tax revenue
- Increased income for local STR operators
- Expanded lodging options for tourists
- Increased revenue for local businesses
- Provides flexible space for owners
- Upkeep on home and yard maintenance
- Increased use of STR, opposed to only seasonal use from part-time owners

CHALLENGES

A challenge with STRs is that traditionally separated land uses are often combined. For example, a hotel can only operate in an allowable zone (such as a commercial zone), but what happens when a STR is created within a residential zone? What are the impacts of combining traditionally separated land uses (short-term vacation rentals and permanent housing)? Some of the common challenges with STRs can include:

- Noise, parking, and trash complaints
- Shortage in permanent housing
- Non-compliance with health, building, housing, and safety codes
- Loss in revenues to state and local government from non-compliance
- Reduction in commercial lodging revenues
- Loss of quality of life and community character
- Uneven regulation between traditional lodging establishments and STRs (Building, fire, and health code regulations may be different for a hotel than a STR in a residential zone)

Data addressing the impacts of STRs on housing markets or housing stock is limited, because there is currently no set standard or agreed-upon definition for STRs.³ A study conducted by ECONorthwest analyzed the impact of HomeAway rentals in Seattle. It identified that 1) STRs did not significantly impact home values positively or negatively, 2) properties were generally listed on the STR market for a short period of time during the year, and 3) STRs were located in higher income areas.³ However, another study looking at four small cities in Colorado (populations under 7,000) found that STRs did lead to the reduction of homes and bedrooms previously used by employees.³ The contrasting conclusions suggest that STR's impact on housing will differ between geographic regions and local economic factors.³

UTAH STATE LAW

In 2017, the Utah State Legislature amended state law HB0253 governing STRs which prevents a political subdivision from:

- prohibiting an individual from listing or offering a STR on a STR website; or
- prohibiting the act of renting a STR to fine, charge, prosecute, or otherwise punish an individual solely for the act of listing or offering a STR on a STR website.⁵

While this legislation prohibits municipalities from mandating that STR operators remove their online listings (whether or not they're legal), it does **not prohibit the municipality from reaching out to operators to educate them on their local ordinances.** This means that if a municipality comes across an illegal listing online, they may still send an educational notice that states how that STR operator





can become compliant with their listing. Additionally, if a municipality comes across an illegal listing from a non-online source (such as a neighbor complaint), they're still able to fine operators for violating their local ordinances.

With this new legislation in mind, it's crucial that Utah community leaders effectively communicate with local residents on their STR ordinances and requirements. If local residents are unaware that their local ordinances require they register their listing or pay a yearly fee, then the majority of operators may not comply with local law.

While there is no one-size-fits-all approach to regulating STRs, communities have a number of options for regulating how they operate within their own community. For example, a municipality may choose to:³

- Legally define what a STR is in their ordinances
- Codify basic STR regulations (what is allowed vs. not allowed)
- Levy a transient room tax
- Establish a STR registry (either on their own or by contracting with a STR data company) to track compliance

DID YOU KNOW?

If your community is experiencing acute STR issues, it may be appropriate to pass a [Temporary Zoning Ordinance \(TZO\)](#) not to exceed six months . This can give your community an opportunity to better understand the issues, and gather enough information to either create or update your STR ordinance.

HOW TO WRITE A SHORT-TERM RENTAL ORDINANCE

An ordinance is most effective when it is simple. Often times, lengthy ordinances are difficult to understand, require multiple steps, and ultimately disincentivize full compliance. If your community wants to ensure that STR operators are compliant with your ordinance, then make sure that it's simple, straight-forward, and easy to obey.

So, how do we form a community consensus around STRs? Expert advice suggests that instead of thinking of STRs as an all-or-nothing concept, communities should identify their top two or three concerns, and craft an ordinance that targets those issues. Your community may have an exhaustive list of issues and complaints, but focusing on two or three key issues that your community can agree upon will be a much more manageable approach.

Local leaders can identify those top issues by taking a holistic approach. This means creatively engaging with the public through different mediums and compiling data. Examples include:

- **Surveys** (print and online formats) - Studies show that surveys that only take five minutes or less are much more likely to be filled out than longer surveys; if a survey looks like it will take too long, participants may not take the survey at all.⁷
- **Data** - In addition to anecdotal viewpoints on STRs, communities should compile data including: the number of STRs in their community; the number and nature of nuisance-related cases; and gaps in compliance.

- **Outreach at Community Events** - Local leaders can set up information booths to discuss the benefits and impacts of STRs with residents.
- **Educational STR Workshops** - These dedicated platforms create a space for local officials to hear from residents and for residents to hear from one another. Conducting educational sessions in your community (such as an “Everything You Need to Know About Short-Term Rentals” workshop) sensitizes present and potential hosts to understanding local STR laws. These educational STR workshops could cover:

- | | |
|-----------------------|--------------------------------|
| • code compliance; | • operation of |
| • fire prevention | heating and |
| strategies; | ventilation systems; |
| • emergency | • safe access; |
| response | • occupancy limits; |
| information; | • deciding what to |
| • privacy rights; | tell neighbors; |
| • insurance coverage; | • homeowners |
| • parking | association |
| requirements; | approval; |
| • nuisances; | • tax obligations; and |
| • pets; | • any required |
| • childproofing; | zoning approvals. ⁸ |

By including a neutral facilitator and inviting all affiliated parties to participate (operators, local residents, developers, etc.), workshops can help build a community's understanding of the opportunities and challenges associated with STRs.



REGULATION

There are six steps to effective STR regulation:⁴

- 1. Gathering Data** - Data is crucial for decision-making. Cities should know: the number of STRs in their community; how they are being used; where they are located; how much they cost per night; and how many nights they are booked. By utilizing staff, volunteers, or STR compliance software to gather data, cities can better understand their community's STR market.
- 2. Framing the Issue** - Conduct public forums and surveys to better understand what residents are experiencing, while also focusing on specific issues rather than STRs as a whole. Are there issues around excessive noise, limited parking, or excessive garbage waste? By better understanding the specific issues, city leaders can determine targeted solutions.
- 3. Defining Planning Objectives** - Use community input to **identify two or three focus areas** that really matter to your community, and then draft your ordinance to target those particular issues.
- 4. Drafting the Ordinance** - After understanding your community's objectives, incorporate their shared vision into a workable draft.
- 5. Incorporating Feedback** - Publish a draft of the ordinance for review and incorporate feedback from stakeholders to ensure that your ordinance is clear, understandable, and addresses the issues that matter the most.

- 6. Adopting the Ordinance** - Once feedback is incorporated, adopt the ordinance.

Including community input and targeting two or three specific issues will help cities adopt their ordinance and increase compliance. The hope is that STR ordinance adoption will take three months instead of three years.⁴ Also, keep in mind that as the sharing economy adapts, so may your ordinance. By openly communicating with your community, the hope is that with each ordinance update, the process will become easier and more comprehensive.

TIPS FROM GRAND COUNTY

- *Listen to your community.*
- *Offer your community opportunities to participate with outreach and engagement.*
- *Empower residents to inform your regulations and policies.*
- *Update your zoning regulations regularly. In an emerging tourism destination, STRs can expand rapidly into a lot of areas of your community.*
- *Conduct an inventory of STRs in your community now.*
- *Get monitoring and enforcement partners on board: health, fire, EMS, assessor, clerk, auditor, and attorney.*
- *Enforce building codes for commercial uses. A property used as a STR should meet commercial lodging standards.*

UTAH ORDINANCE EXAMPLES

Crafting a STR ordinance that works for your community is vital for its success. What a neighboring town may legally allow may not match your own community needs. Therefore, it's essential that the right components of your ordinance be crafted by your own community. This section contains components of STR ordinances from rural Utah communities. We hope that by providing these examples, you'll be able to see what other communities are doing, and reach out to them if you have any questions about their STR ordinance process.

GEOGRAPHIC PERCENTAGE

A community may choose to approve STR use in particular areas within their town and establish percentage caps to mitigate an entire neighborhood becoming exclusively used for STRs.

- In *La Verkin, Utah*, their recently amended [10-7-20: Bed and Breakfast Facilities and Vacation Rentals](#) (2019-03 Amendment) ordinance designates that no more than seven and one-half percent of the residential units, eligible under Subsection B, in any given area of the City may be licensed and used as vacation rentals.

HOMEOWNER STATUS

A community may require that a operator either have a local individual that can be reached 24 hours a day for any potential issues, or they may require that the operator reside in the STR.

- In *Kanab, Utah*, their [9-11 Short Term Rental Property](#) ordinance mandates that all short-term residential properties shall designate a local property manager that resides within one hour travel time of the property. The local property manager shall be available twenty-four hours per day to respond to questions or concerns.

BUSINESS LICENSE

To ensure that operators are in compliance with local ordinances, a town may require operators to obtain a business license to operate their rental. They may also require an annual business license renewal.

- In *Garden City, Utah*, their [8-600 Short Term Rental](#) ordinance states that in order for property owners or agents to operate STRs, they shall file an [application](#) with the clerk (8-602). An owner's failure to meet the requirements of Section 8-600 et. al., prior to renting shall be subject to the penalties as referred to in Section 6-614.

- In *Park City, Utah*, their [Nightly / Short Term Rental Licensing Process](#) requires that anyone with the intent to offer lodging for a fee for periods of less than 30 days must obtain a Nightly Rental License from Park City (if allowed by zoning) and a state sales tax ID number from the Utah State Tax Commission.

FINES AND ENFORCEMENT

The town may include provisions that penalize the operator for failure to comply with local laws.

- In *Moab, Utah*, their [5.67 Nightly Rental Licenses](#) ordinance states that any owner and/or property manager of a dwelling within the City of Moab who allows or permits occupation of said dwelling as a nightly rental without having first obtained a business license shall be guilty of a Class A misdemeanor. The fine for a Class A misdemeanor

shall be imposed for each day that the violation continued or continues to be committed.

LAND USE CONTROL

A community may choose to limit which zones allow STRs or create overlay zones to ensure that quality of life is preserved for full-time occupants, or limit the type of use to only lodging or sleeping purposes.

- In *Rockville, Utah*, their [24A Residential Short Term Rental Overlay Zone](#) ordinance establishes an overlay zone allowing STRs within a given area. This eliminates designating which zones may or may not host STRs, and instead, allows STRs in areas that least impact the character of the community.
- In *Torrey, Utah*, their pending [2018-08 Short Term Rental](#) ordinance states that a short-term renter may not use a STR for a purpose not incidental to its use for lodging or sleeping purposes. This restriction includes, but is not limited to, using the rental for a wedding, banquet, reception, bachelor or bachelorette party, concert, fundraiser, sponsored event, or any similar group activity.

PARKING REGULATIONS

To offset the impact of increased vehicles within a neighborhood, a town may require that the STR property operator include only off-street parking.

- In *Daggett County, Utah*, their [8-15-8 Short Term Rentals](#) ordinance requires that parking areas and access to parking areas shall be maintained and available for use at all times. All vehicles belonging to overnight occupants shall be parked on the property and shall not be parked on any adjacent property, street or public rights-of-way. The number of vehicles allowed by the occupants of a STR home shall be restricted to the number of parking spaces provided by the owner.

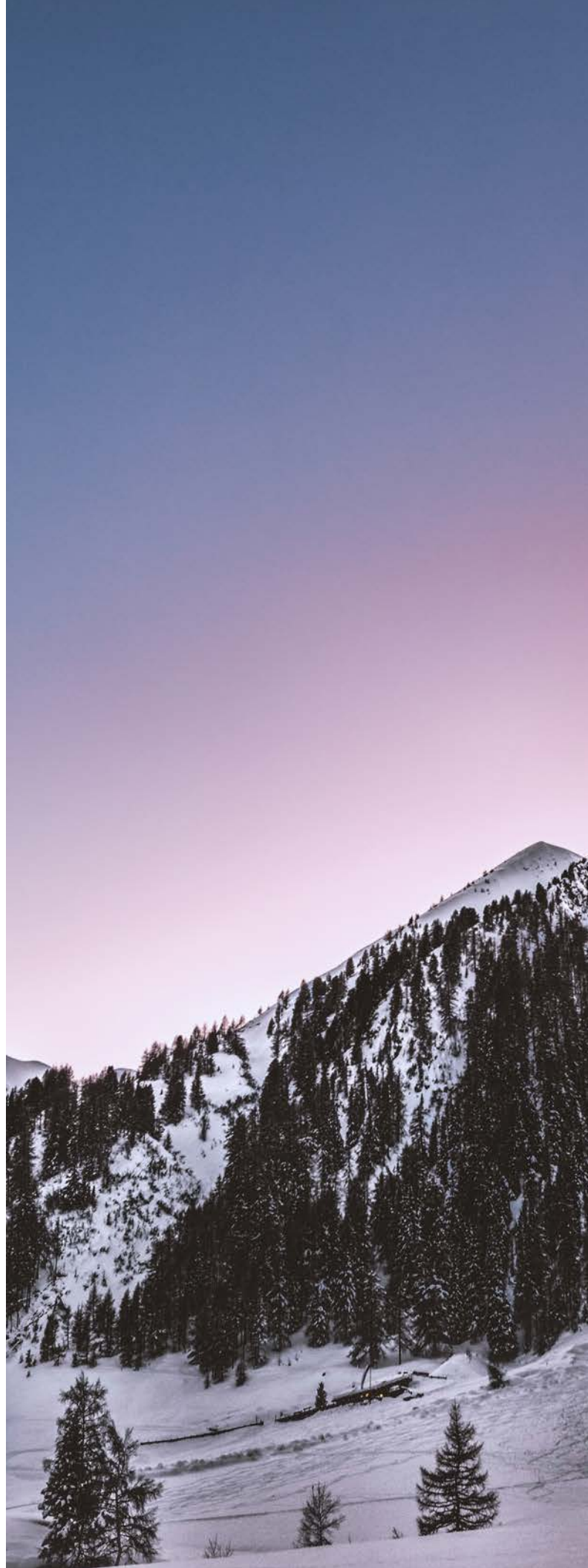
STRUCTURAL AND FIRE SAFETY CODES

To ensure that guests are staying in rental units that meet structural, fire, and line safety code requirements, a community may choose to require an initial and/or annual inspection.

- In *Richfield, Utah*, their 2018-3 - Section 1707 Bed and Breakfast Inn and Short Term Rentals ordinance requires that the City Fire Chief inspect the premises and provide a Fire Clearance that the dwelling and premises comply with all applicable fire codes, as adopted.

REACH OUT

*Interested in some of these ordinances?
Reach out to those communities to hear
more about their STR process.*





In addition to the examples provided, there are also other ways that communities can regulate STRs. Other examples include:

INSURANCE

A community may choose to require that a operator carry insurance to cover any potential damage that could occur from renting out a portion of or the entire unit.

BUFFERING DISTANCE

A community may choose to create a minimum distance between STRs in neighborhoods to ensure that an entire street is not used exclusively for rentals. For example, STRs must be located, at a minimum, 500 feet apart.

NUISANCE COMPLAINT CONSEQUENCE

A community may choose to penalize an operator by revoking their operating license if there are a significant number of nuisance calls made within one year. For example, an operator that receives five or more nuisance complaints within one calendar year will be revoked of their license and unable to operate a STR for the remainder of that year.

CAP ON ANNUAL NIGHTLY RENTAL TOTAL

A community may choose to decide upon an annual nightly rental cap that allows STRs to operate for a given amount of days throughout the year. This could allow housing stock to mitigate increased tourism demands around particular seasons and events. For example, a community may limit a STR operation to no more than 180 days within one calendar year.



EFFECTIVELY COMMUNICATING

Short-term rental policies need to be communicated from the very beginning to encourage compliance. Local leaders should utilize all necessary resources to ensure that current and potential STR operators know how to be compliant. Additionally, communicating the benefits of the transient room tax is crucial. Local residents should understand that this tax is paid by travelers, and promotes the community as a destination while providing funds for infrastructure improvements. If STR operators register their rentals and collect TRT taxes, they are not only compliant with state law, but are actively contributing to the well-being of their local community.

ONE PAGE SUMMARY

Reading through codes and understanding amendments can be difficult. To mitigate confusion, cities can create a one-page summary explaining their local STR ordinance in simple terms and detailing the required steps for compliance. These summaries can be posted on community bulletin boards at town halls, in grocery stores, within visitor centers, and wherever else residents gather in your community.

SOCIAL MEDIA

Cities can post their ordinance summaries on social media platforms, so that local residents can share the information. This is also a great way to reach out to the community with online surveys and information on upcoming STR-related workshops or town meetings.

SHORT-TERM RENTAL POLICIES

CITY WEBSITE

To ensure that operators know how to be compliant, cities should include a section on their website that walks them through the local STR ordinance process. Include a step-by-step summary, including application fees, timelines, restrictions, etc. There should also be a point-of-contact that operators can call or email for further clarification. Additionally, cities can create a one-stop-shop where operators can apply online for a STR rental license and pay fees. Local residents can submit complaints about STRs, too. For an example, check out [Seaside, California's STR website](#).

NEWSLETTER

If your city publishes a periodic newsletter, then that can be a vehicle for inviting the public to attend feedback sessions, and for sharing the completed ordinance at the conclusion of the process. If possible, share these articles in local traditional news media as well.

BE PROACTIVE

Taking a proactive, widespread outreach approach will help you reach all local residents, including both operators and non-operators, with information about how and why STRs are regulated within their community. Community buy-in can greatly increase successful enforcement of STR regulations.

INCENTIVES FOR COMPLIANCE

After an STR inventory is conducted, there may be the risk that STRs in your community are not in compliance. In addition to sending out educational materials informing them of local laws, a community may also utilize incentive programs to encourage operators to come into compliance. A few examples of operator incentives include:

- **Special Fee Waiver:** Designate a period of time when operators can fill out a STR application with no fee.
- **Eliminate Nuisance-related Issues:** Allow operators to have a nuisance-related complaint removed from their record by attending a STR operator training. Use these trainings to inform operators of all the different ways to mitigate nuisances, so they can continue to run their business while ensuring that neighbors aren't negatively impacted.
- **Develop a STR Property Tax Abatement Program:** If a local operator remains in compliance with all mandated requirements, and receives zero nuisance-

related complaints for a period of time, a city may offer a STR Property Tax Abatement, forgiving a percentage of the increase in real estate property tax for a given amount of years (contingent on annual compliance reviews). The city and its residents could work together to determine the percentage to forgive and the required time frame.

- **Ordinance Exemptions:** A city could define exemptions for operators who meet or exceed requirements for compliance on an annual basis. Examples of exemptions could include parking requirements or caps on annual nightly rental totals.
- **Recognition for Best-Managed STR of the Year or Compliant STR Operator Certification:** A city and its residents could devise a scoring matrix for STRs in compliance, and award a Best Managed STR of the Year certificate to the operator. This could be placed within the rental unit and mentioned on their STR listing website. Additionally, a city may choose to annually certify compliant operators to give them greater credibility for local residents and tourists.



CONCLUSION

With public engagement, proactive planning, and a simple ordinance, communities can ensure that private landowner rights and local and state laws are upheld. The time and attention local leaders invest in making sure their ordinances meet their community needs is vital for sustained quality of life. By conducting an inventory of STRs within your community, reaching out to neighboring cities and towns, and working with your community on drafting a STR ordinance, you'll be better prepared for the future of the sharing economy.

ASSISTANCE

Community Development Office

The State of Utah's Community Development Office (CDO) is part of the Division of Housing & Community Development in the Department of Workforce Services. The CDO helps Utah's rural communities build knowledge, skills, and abilities to achieve their goals. CDO assists with planning and management issues through training, consulting, research, and technical support. For more information, visit jobs.utah.gov/housing/community

Regional Planning Program

The Utah Permanent Community Impact Fund Board funds a full-time planner in five association of government (AOG) regions, which include: Bear River, Uintah Basin, Six County, Five County, and Southeastern Utah. These planners provide ongoing assistance with planning processes. For more information, visit jobs.utah.gov/housing/cib/rpp.html

Additionally, the Utah League of Cities and Towns (ulct.org) and the Land Use Academy of Utah (luau.utah.gov) support training and education in land use for local elected and appointed officials.

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Vacation Home Rentals

Issues, Emerging Trends and Best Practices

WIMDU

HOUSE
TRIP



June 2015



Prepared for:

Colorado Association of Ski Towns

With Participation by:

Breckenridge, Crested Butte, Durango, Estes Park, Frisco, Jackson, Mt. Crested Butte, Ouray, Park City and Steamboat Springs

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Introduction

Purpose

The purpose of this report is to assist officials in Rocky Mountain resort communities better understand and oversee the growing number of Vacation Home Rentals (VHR's) rented by visitors through online hosting sites, such as VRBO and Airbnb. It describes regulations and tracking systems, examines impacts to neighborhoods and workforce housing and provides examples of best practices that can be easily referenced.

The focus is on 10 members of the Colorado Association of Ski Towns (CAST) that sponsored this study:

Breckenridge	Jackson
Crested Butte	Mt. Crested Butte
Durango	Ouray
Estes Park	Park City
Frisco	Steamboat Springs

There are wide-ranging benefits to sharing information on the efforts undertaken and lessons learned in these comparable mountain towns. Much insight is also gained from the information provided on leading edge practices and up-to-date efforts by communities across the country to respond to the proliferation of short-term rentals in residential neighborhoods. Research shows that the issues facing the large high-cost cities are much the same as the concerns that have surfaced among CAST towns. Fortunately this expands the best practices from which towns can borrow as they craft responses appropriate for the unique characteristics of their communities.

Organization of the Report

This report begins with the Executive Summary, which includes an introduction to the industry, the size of the market in participating CAST towns, and the extent to which specified issues are of concern in these communities. The subsequent sections in this report are organized around the major themes that emerged across our research:

- I. Tracking
- II. Regulations
- III. Licensing and Permitting
- IV. Taxing
- V. Staffing
- VI. Neighborhood Impacts
- VII. Workforce Housing

Each section consists of four subsections:

- Issues and Emerging Trends – Information primarily on national trends related to the particular Section. Examples from communities throughout the nation are provided. Information on the

evolution of national concerns and methods that have been employed or discussed to address each issue are presented.

- CAST Survey Findings – Findings from a survey of the 10 CAST communities that participated in this study. Information on how different communities have addressed or struggled with VHR issues in each section is presented. Particularly innovative or effective methods to address each issue are highlighted.
- Best Practices – Practices that communities wanting to address particular issues should consider. This includes examples from larger cities, high-cost communities and resort towns. Each practice will likely require tailoring to meet unique community circumstances.
- Potential Practices – Suggestions that communities may consider to address certain issues. This includes practices for which either community examples were not found or that address issues that may selectively affect certain communities or be of peripheral concern to some.

Each section informs the types of issues town officials and staff have raised and that may arise as communities shape policies, continue oversight and consider regulatory options.

How to Use This Report

This report is intended to be used as a manual for communities interested in learning about and addressing particular VHR impacts. Each section may be read independently of the other sections. Each section contains all of the information particular to the section's topic, meaning it should not be necessary to "mine" information from other sections of the report to collect the information needed.

If read from front to cover, readers will encounter some repetition among sections. Several community examples and methods used can be effective at addressing multiple VHR issues and may, therefore, appear in multiple sections. Each section, however, highlights the most important components of each example that helps address the topic issue for that particular section, presenting new or alternative information from that provided in other sections.

Methodology

Sources referenced in this report include:

- A 12-page questionnaire completed by staff in the 10 participating CAST communities;
- A survey on perceptions about community concerns related to short-term Vacation Home Rentals completed by 34 staff and elected officials in the 10 participating towns;
- Articles published in newspapers, trade journals and on-line news services;
- Municipal and county web sites, codes, ordinances, policy memos and relevant studies;
- Hosting sites (VRBO, Airbnb, etc.);

- Colorado State Demography Section of the Department of Local Affairs;
- 2010 Census; and
- The Colorado Constitution, Colorado Revised Statutes and relevant case law.

Terminology

Vacation Home Rental (VHR): The term used in this report for the residential units that are listed for rent on a short-term basis through one or more online hosting sites. There is no consistency in the terms used by municipalities or the industry for these units. “Vacation” was included since this report focuses on mountain resort towns where most rentals are used for vacations. “Home” indicates these are residential units rather than commercial lodging.

Hosting Site(s): VRBO, Airbnb and an increasing number of other for-profit internet-based businesses that provide online listing services for various types of short-term residential rentals including Vacation Home Rentals.

Owner/Manager: The contact entity for the Vacation Home Rental. Often referred to as the “host,” particularly in reference to renting of bedrooms within a private residence and accessory units where the primary occupant (owner or long-term renter) lives on site.

Executive Summary

Overview of the VHR Industry

Vacation Home Rentals are BIG Business. The industry is large and rapidly growing, capturing an increasing share of the travel/lodging market. New hosting sites like Vacasa are continually popping up, trying to capture a share of the large profits being generated. In 2014 there were over 2.1 million rentals listed on the top three hosting sites:

- HomeAway, which includes VRBO and roughly 60 other hosting sites, has more than 1 million listings in 190 countries.
- Airbnb offers over 800,000 listings in more than 34,000 cities worldwide.
- FlipKey offers 300,000 properties in 179 countries.

In comparison, the Marriot family of hotels, which has 19 different brands (from Ritz Carlton to the Courtyard), are located in 4,000 destinations in 78 countries – only 40% of the countries served by HomeAway and 12% of the cities serviced by Airbnb.

Part of this fast rise in VHR activity has been assisted by the unequal taxing structure in its early years when compared to traditional lodging businesses. “When you tax one thing and don't tax another, it's not shocking that one grows faster,” as stated by William F. Fox, University of Tennessee economics professor, in an interview with Bloomberg BNA. This is also part of the reason electronic commerce developed as rapidly as it did 15 years ago.

VHR's in the “Sharing Economy”

The industry, for which no single term has emerged, is considered part of the “sharing economy”, which is described on Wikipedia as:

*A **sharing economy** takes a variety of forms, often leveraging information technology to empower individuals, corporations, non-profits and government with information that enables distribution, sharing and reuse of excess capacity in goods and services. A common premise is that when information about goods is shared (typically via an online marketplace), the value of those goods may increase, for the business, for individuals, and for the community.*

The industry has grown far beyond its original status within the “sharing economy.” It is no longer just using “excess capacity” -- a spare bedroom or two, the home a family would otherwise leave empty while on vacation, or the second home that owners visit only a few times a year. Many units now listed on these hosting sites previously housed members of the workforce. They were once homes for families, but are now tourist accommodations. They were occupied by their owners or rented long term but are now investor owned and rented for the highest rates achievable as frequently as possible for maximum profits.

The business model is very distinct from the traditional lodging industry, which also uses online advertising and booking systems. The difference is that most online hosting sites function as brokers, taking a percentage of rent charged but leaving compliance with local laws to the individual

owner/manager and guest. Unlike hotels and other commercial lodging accommodations, online hosting sites do not ensure that residences meet quality or minimum safety standards, generally do not collect sales and lodging taxes, and are not limited to locations within commercial zones where the use may be more compatible or expected.

VHR's Presence in Mountain Towns

VHR's are a significant resource in Rocky Mountain towns, providing visitors an alternative to traditional lodging offered in these tourism-based economies. The growth in the number of residential units listed on hosting sites in these communities is outpacing much of the rest of the country and growth in visitor utilization of these sites is also up. HomeAway reported in 2014 that Park City and Winter Park made their list of top 10 destinations for the largest increase in new vacation rental listings. Crested Butte was one of the top 10 in terms of destinations, showing the largest increase in traveler demand.

VHR's now equal between 1% and 52% of total residential units among the participating CAST communities. In most towns, VHR numbers have been growing during a time when the recession brought construction to a halt and new housing starts have just started to recover.

VHR's Compared to Housing Units

	Total Housing Units 2014 Estimates	VHR Listings 2014	Percent of Units Listed
Breckenridge	7,187	2,911	41%
Crested Butte	1,098	170	15%
Durango	7,234	73	1%
Estes Park	4,176	301	7%
Frisco	3,167*	184	6%
Jackson	4,736	N/A	N/A
Mt. Crested Butte	1,575	819	52%
Ouray	802	97	12%
Park City	9,471*	2,547	27%
Steamboat Springs	9,991	696	7%

*2000 Census figures; 2014 estimates for other towns from Colorado State Demographer.

Community Concerns

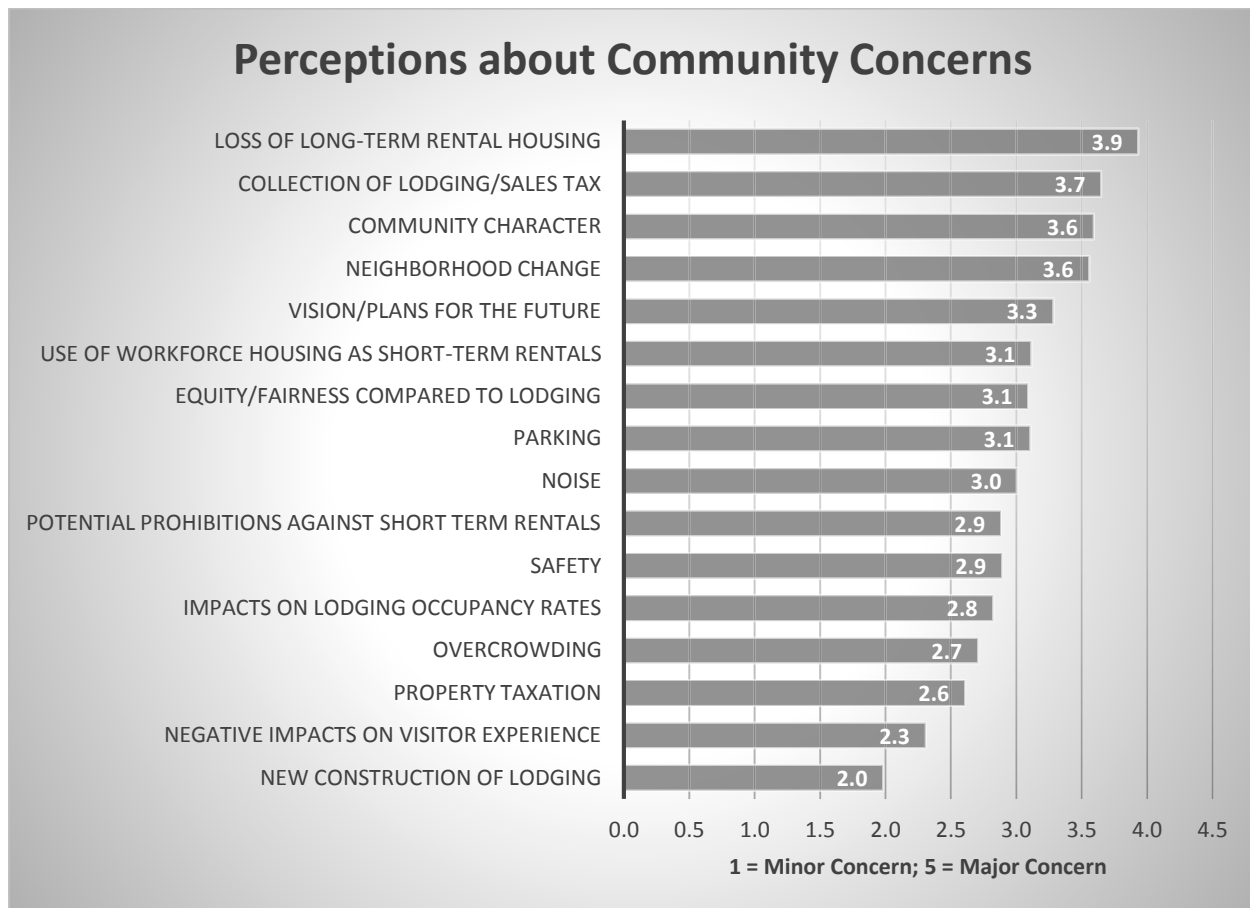
From large cities to small resort towns, the proliferation of VHR's is raising concerns. The National League of Cities reported that common elements among communities of all sizes are the issues of ensuring that safety, regulation and licensing systems are up to par, along with proper taxing procedures given the revenue development potential.

Issues related to the tight and expensive housing markets, preservation of resident neighborhoods and character, and ensuring a fair playing field with other lodging businesses in terms of tax payment and regulations are the top concerns among participating CAST communities. The top five issues of concern, in order, are:

- Loss of free-market rental housing previously rented to the workforce on a long-term basis;

- Collection of lodging/sales tax;
- Community character;
- Neighborhood change; and
- Vision/plans for the future.

The use of housing restricted for occupancy only by members of the workforce as a VHR was of less concern than the loss of market rentals; this report will show it happens infrequently. Safety is a moderate concern but one that might increase over time if accidents and injuries occur.



Source: Survey of elected officials and staff in 10 participating CAST communities; 34 responses received.

Several other concerns that were not as prominent deserve mention given their unique ties to these communities.

Visitor Experience – The potential negative impacts of VHR's on visitor experience, through low quality or unsafe accommodations for example, received a relatively low rating overall. Park City, however, rated this issue significantly higher (3.7 average). The resort prides itself on its reputation for offering a paramount visitor experience and is concerned that a largely unregulated industry could adversely impact this experience.

Over time, concerns about negative visitor experiences may increase from:

- Publicized incidents of visitors who are endangered, hurt or even killed by unsafe VHR's that are not up to lodging codes;
- Dissatisfaction among visitors who want to "live like locals" and experience the "real" community they are visiting, yet discover that the increased number of VHR's have displaced locals and turned neighborhoods into lodging districts.

In many resort communities, surveys sponsored by Chambers of Commerce, the ski resort companies, the municipalities or other entities could be a source for better understanding visitor experience and determining if steps should be taken to help experiences be positive. Questions about how lodging reservations are made are standard in these surveys. In some towns including Breckenridge, analysis of existing surveys could be very insightful about visitor experience.

New Lodging Construction – Most communities do not appear to be concerned that the increased availability of VHR's through online hosting sites may be a factor in reduced hotel and lodging development. Of the 10 CAST participants, the only one with major lodging projects under construction is Breckenridge.

Equity/Fairness With Lodging – Communities are concerned about VHR's being treated equitably with existing commercial lodging. The term "level playing field" was used by many of the town officials interviewed.

Potential Prohibitions Against Short-Term Rentals – This is a concern of many community members, including but not limited to:

- Local residents who want to occasionally rent their homes or spare bedrooms short term to help pay mortgages.
- Realtors with listings they want to be allowed to sell to investors or second homeowners who want to rent their units short term.
- Public officials who recognize the contributions that VHR's make to their bed base and tax revenue.

Contrary to community concerns about potential prohibitions, most communities have been moving to legalize VHR's where they were previously prohibited.

Matrix of Best Practices

The following matrix summarizes the Best Practices described in this report. The Best and Potential Practices are listed in the column on the left. The report section within which each practice is discussed and recommended appears across the top row. An "X" indicates each section within which the recommended practice is discussed. This serves both as a summary of practice recommendations that was derived from this research, as well as a map for the report so that communities interested in a particular practice can easily locate each section of the report with relevant information. Some practices are applicable to multiple issues as indicated by an "X" under more than one category.

CAST could have a significant role in the implementation of Best Practices, taking on responsibilities for state initiatives in revisions to state statutes on property and sales taxes, negotiating agreements with hosting sites and developing efficient tracking systems.

Best and Potential Practices	Tracking	Regulations	Licensing Permits	Taxing	Staffing	Neighborhood Impacts	Workforce Housing
Post information within the VHR		X	X			X	
Require local manager/emergency contact		X	X			X	
Coordinate with jurisdictions in region	X			X	X		
Create website on VHR's		X	X			X	
Require property inspections		X	X				
Negotiate Airbnb agreement	X			X			
Require license numbers to be on all listings	X		X				
Give neighbors notice			X		X		
Map licensed/permitted VHR's	X					X	
Establish fee to cover management costs			X		X		
Coordinate tracking across departments	X				X		
Publish VHR requirements in newspapers			X		X		
Work with code enforcement on complaints	X						
Post local VHR regulations on Airbnb	X						
Restrict VHR concentration		X					
Implement more restrictive regulations where impacts are higher		X					
Give owners unique rights to short-term their homes		X					
Permit bedroom rentals w/owners present		X					
Create separate categories for VHR's depending on time rented		X					
Dedicate/hire staff for license compliance			X				
Educate realtors about requirements			X				
Link complaints to legal vs illegal VHR's			X				
Establish enforcement procedures and use them			X				
Revoke licenses/permits for violations			X				
Increase license fees to mitigate workforce housing impacts			X				
Collect VHR details on license or permit applications			X				
Educate visitors that listings must have license numbers			X				
Initiate state action to address 30-day limit on sale taxation				X			
Initiate state action to address how properties are classified for property taxes							
Assign community development lead responsibility for VHR's					X		
Coordinate VHR's w/ economic development					X		
Add staff specialist					X		
Hold stakeholder roundtables						X	
Impose occupancy limits						X	
Impose visitor limits						X	

Best and Potential Practices continued	Tracking	Regulations	Licensing Permits	Taxing	Staffing	Neighborhood Impacts	Workforce Housing
Limit outdoor parties						X	
Manage trash						X	
Address parking						X	
Have general nuisance provision						X	
Use real estate database to track conversion of housing into VHR's							X
Create housing census							X
Prohibit use of workforce housing for VHR's							X
Require check for workforce compliance when licensing VHR's							X
Allocate VHR revenue to housing							X
Replace lost housing units							X

I. Tracking

Issues and Emerging Trends

The ability to track and collect information on Vacation Home Rentals advertised on hosting sites is in turmoil. Local governments have been struggling with finding and identifying VHR owners and property managers since this issue arose in the mid-2000's. CAST communities are not the only communities struggling with collecting the information that they need to ensure VHR's are operating as legal licensed and tax paying entities. The general consensus is that more cooperation from the hosting sites is needed to improve tracking and VHR compliance. Current litigation and legislative efforts are largely aimed at this purpose.

Progress Made on Hosting Site Compliance

Both Airbnb and HomeAway (and its subsidiaries), the two primary hosting sites, provide information on their websites and in their user agreements that alert VHR owners that they may be subject to and must comply with permitting, licensing and tax laws in their jurisdiction.

Airbnb has a "Responsible Hosting" webpage, which includes notifying owners to check their community's regulations with respect to taxing, permits and other regulations, with links provided to several city websites explaining these requirements.

Airbnb has negotiated agreements with several cities to collect taxes on behalf of VHR's that are hosted on their website. San Francisco was also able to collect back-taxes owed. These agreements may contain additional provisions, such as requiring permit numbers to be posted on advertisements. Part of Portland's agreement will allow VHR hosts to receive free smoke and carbon monoxide detectors upon request and Airbnb will assist Portland's tourism board to promote the city and its attractions.

Tracking Units Has Become Harder

Despite these advances, collecting information on VHR's advertised on these sites has gotten more difficult. The experience of CAST community participants has not been unlike that of cities and counties throughout the nation. CAST communities noted that:

- Exact address and owner contact information is not available on Airbnb and limited on other sites;
- Listings are inconsistent, with some providing street addresses and unit numbers and others not; and
- VRBO no longer lists properties in the same order, meaning that new listings are harder to find.

Communities Use Subpoenas to Obtain Information

Several communities facing the same frustrations have issued subpoenas with some success to procure ownership and rental information from Airbnb and other hosting sites. VHR owners have sued Airbnb to preserve the privacy of their information. Pursuant to Airbnb's user agreement, subpoenas protect them

against legal action from VHR owners/managers. Subpoenas are, therefore, one method through which detail on owners and bookings may be received from some hosting sites.

Data Mining Barriers

Adding complication, HomeAway's user agreement for visitors to its website prohibits data mining of information on VRBO and its other sites without its written permission. Governments seeking information to ensure VHR license and tax compliance have not been issued such permission. Program scripts to collect data from Airbnb are available online, but are of limited utility for tracking units given the impreciseness of property location and lack of address and owner information provided.

Cities Requiring Hosting Sites to Provide VHR Data

The lack of accessible data has resulted in some communities instituting or considering ordinances requiring names and addresses to be provided by hosting sites. For example, Portland has struggled to increase its license participation rate above 10 percent. The City's inability to identify violators or receive cooperation from Airbnb in ensuring compliance or providing needed information led the City to pass a new ordinance effective this year. As of February 20, 2015, VHR hosting websites are required to provide the VHR location and names and addresses of VHR owners/managers so the City can verify that properties are operating pursuant to city requirements. This information has yet to be released by the hosting sites.

San Francisco began licensing short-term rentals in February of this year. In March, only a few dozen residents had registered, while about 5,000 rooms and units are listed on short-term rental sites. A city board member has proposed revisions to require Airbnb to share data about rentals, including length of time rented and unit information.

State Initiatives Surfacing

Dueling state initiatives have also been making their way into the legislature. For example, in California, SB 593 would require online vacation rental companies to disclose VHR information to cities and counties. A competing bill, AB 1220, sought to prohibit local governments from collecting Transient Occupancy Tax (T.O.T.) for short-term residential rentals, but has since been withdrawn by its author.

CAST Survey Findings

When Communities Began Tracking

Most participating CAST communities began tracking VHR's advertised on various hosting sites between five and ten years ago. Tax collection was the primary motivation. Durango is the exception, having started tracking in 2014 in response to neighborhood impacts and citizen concerns.

Hosting Sites Tracked

All track VRBO and Airbnb and most also track HomeAway and Craigslist. Local property manager sites and the local newspaper are alternative sources that some communities scour. Only three communities track rooms for rent in addition to complete units.

Frequency of Tracking

Communities may pull data monthly, quarterly, yearly, or a few times each year. Durango, Breckenridge and Steamboat are a few communities that track VHR's on a regular basis. Several other communities track properties "as time allows."

Information Collected

All communities face challenges collecting VHR data. The information available varies by hosting site. Airbnb does not provide addresses, owner contact information, nor exact locations of units and other sites have varying pieces of information available. While condo complex names, bedrooms available for rent, and rental terms (daily, weekly, monthly) may be pulled from various sites, this information is inconsistent in its availability.

Understanding Owner Occupancy of VHR's

Only Frisco noted that they are able to identify the time that owners occupy their units. This is typically checked only when units are listed by both a property manager and the owner. They have found that owner occupancy may be reported on the listings calendar on some hosting sites. For units managed by a management company for part of the year, some may be able to report the number of weeks for which the owner occupies the unit or is responsible for bookings.

Approach/Methodology

Each community pulls data manually and conducts a record-by-record search. While VHR addresses can eventually be identified, the process is time-consuming and can be frustrating.

VHR information is stored in MS Excel or Access and new listings are manually compared to existing files. In communities with licensing and permitting requirements, listed VHR's are cross-checked with licensing/permitting records to check compliance.

If addresses are not found through the hosting sites, communities use a combination of photos, online maps, condominium complex names, owner names and/or property management names to locate a property. If an owner or property manager is known, they can be contacted for an address. Maps may provide the general location, and photos make it possible to identify the property upon driving to the area or comparing to ArcGIS and Google map street views. Some conducting property searches are very familiar with the communities and can recognize most properties from the photos while sitting at their desks.

Durango and Steamboat Springs both tried creating accounts on Airbnb to notify owners of their need to comply with regulations. Both accounts were promptly canceled for violation of user agreements. Frisco has had some success contacting owners through the hosting sites without incident – the small number of properties in this community (under 30) may not have drawn the attention of the hosting sites.

Duplication of Effort

In most CAST communities, different entities parse the same data to identify only those properties within their respective jurisdictions. Better communication and coordination of resources could improve the tracking process and investment for all entities.

Estes Park is unique because it also manages legal VHR's in unincorporated areas of the county defined as the "Estes Valley" (this is discussed in more detail in the Permitting section of this report). Therefore, the role of monitoring units located both within and outside town limits within the Estes Valley is conducted by only one jurisdictional office.

Assistance From Complaints

Ouray and Estes Park reported that neighbor complaints regarding noise, parking, parties or other nuisance issues can call their attention to units that are VHR's.

Durango provides an online map of all permitted VHR's with the ability for visitors to submit complaints directly to the community development department, which can be useful for tracking VHR activity. It also informs neighbors of the existence (or not) of VHR's in their area.

Best Practices

Optimally, hosting sites would be required to provide needed information to communities upon request to track VHR's. Communities can monitor the progress of Portland's new ordinance and state legislation, such as California's SB 593, in achieving local and statewide compliance. Communities could also lobby for similar initiatives on a statewide basis. Since taxation is largely controlled by state statutes, cooperative initiatives are needed.

Until hosting sites start providing this information, communities should consider several options:

Negotiate Airbnb agreement – Portland, Malibu

- Can go beyond tax collection and require permit numbers to be on ads and VHR information to be provided upon request.
- Most individual communities may be too small, but cooperative agreements encompassing multiple communities, entire counties, or the CAST organization may have some success.

Post local VHR regulations on Airbnb – Truckee, Snowmass

- Have your community added to the list of cities for which Airbnb provides direct links to your VHR requirements at <https://www.airbnb.com/support/responsible-hosting>

Require license numbers to be displayed on all advertising – Durango, Steamboat

- Greatly assists with identifying non-compliant properties and new listings.

Coordinate VHR tracking across departments – Steamboat

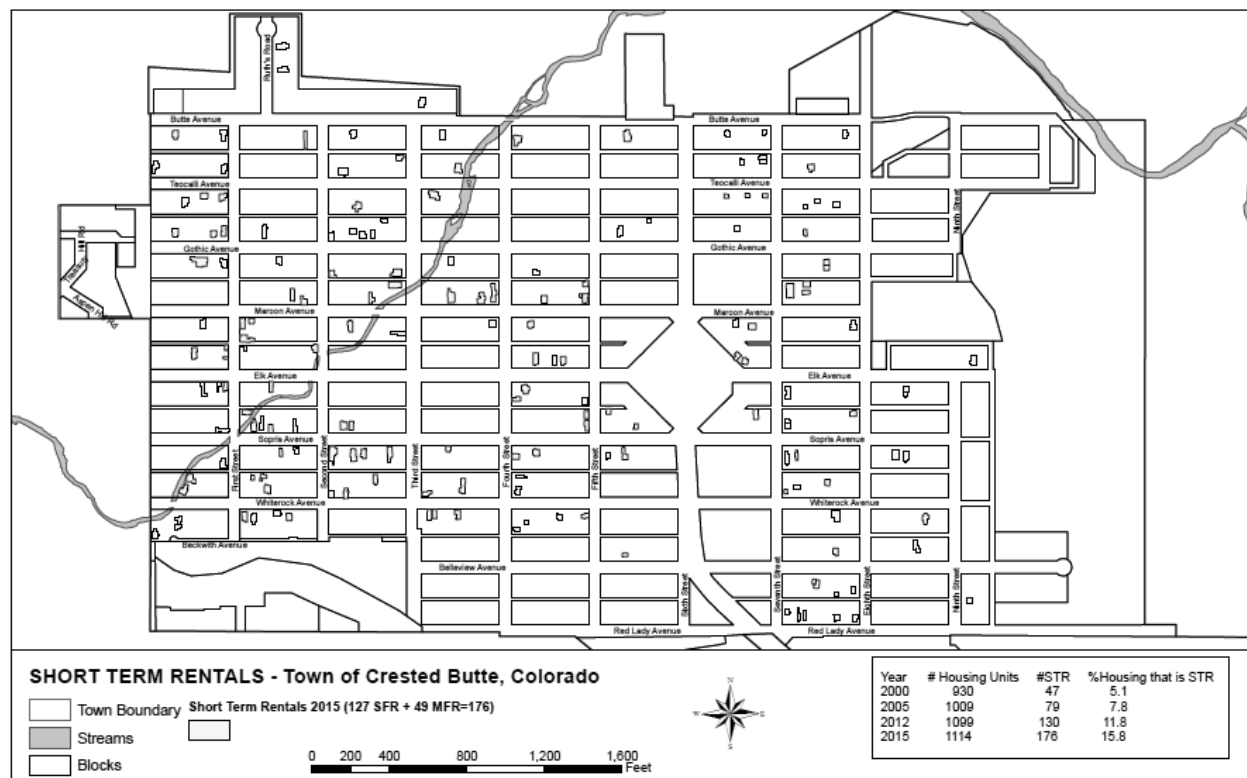
- When collecting information on the CAST survey for this study, several communities needed to pass the survey to various departments to collect the needed information, with inconsistent results. Steamboat has a system where planning staff provides VHR data to finance, who then provides legal VHR listings to police/compliance – the departments were in communication. Various city departments with an interest in tracking VHR's need to coordinate to share information and avoid duplication of effort.

Work with Code Enforcement on Complaints – Ouray, Estes Park

- Communication with code compliance, planning, police or other departments that enforce VHR's and nuisance regulations can call attention to properties that may be illegal VHR's.

Map VHR's – Durango and Crested Butte

- This educates the public regarding VHR's in the community and can provide a resource through which complaints can be logged, helping to locate illegal VHR's.
- It provides elected officials and staff the information needed to quickly understand changes in their communities and to revise policies and codes as appropriate. The following maps of VHR's in Crested Butte illustrate how powerful mapping can be.



Coordinate VHR tracking with other jurisdictions in the region – Estes Park

- When searching on the hosting sites for VHR's in a specified location, rentals located both within and outside of city or town limits are shown. Rather than have both city/town staff and county staff parse the same properties to identify those that are within and outside of the jurisdiction, sharing the responsibility could be much more efficient.

Potential Practice

CAST Initiative – Development of Tracking System and Database

- Develop a system that captures data on units for sharing by multiple departments and that could be replicated by towns and counties.

II. Regulations

Issues and Emerging Trends

The VHR market has hit many communities by storm and is growing. Since their founding in the mid- and late-2000's, Airbnb, Flipkey and HomeAway combined now advertise over 2,000,000 properties. Largely driven by concerns over public safety, fair business practices with lodging establishments, and lost tax revenue, many communities have moved toward developing regulations to address the growing issue. Even communities in which VHR's are illegal have needed to either increase enforcement of existing prohibitions or implement regulations to address the rising number of VHR's. Although regulatory approaches vary, one apparent constant is that enforcement of adopted regulations has been a significant challenge and needs to be an important consideration in any regulatory program.

VHR's Proliferate Where Prohibited

Simply prohibiting VHR's will not make them go away. Units are still advertised and rented where they are prohibited.

- In April of 2014, the City of Napa, California, had about 40 licensed VHR's in the city. In Napa County, where VHR's are banned, there were 285 listings on Airbnb and HomeAway.
- Most all VHR's are illegal in Philadelphia, yet over 1,000 properties were advertised on Airbnb in April of this year. The City admittedly takes a lax stance on enforcing their prohibition absent a complaint being received.
- VHR's are not formally legal in Washington D.C., yet Airbnb negotiated an agreement to begin collecting taxes from these properties. Over 1,000 rentals were advertised on Airbnb in the city in April of this year.
- For states with strong protections for private property rights, banning VHR's can also backfire. The City of Sedona, Arizona had to pay diminution in property values to private property owners when, in 2008, it strengthened the enforcement provisions of its ordinance banning short-term rentals.

Moving From Prohibition to Regulation

Finding that VHR's existed despite prohibitions, many communities have been moving toward regulating them. Preserving neighborhood character has been a common concern in addition to tax collection, fair business practices and safety, mentioned above. In higher-cost communities with limited housing stock for residents, the loss of long-term rentals and discouraging VHR speculative buyers have been factors in shaping regulations.

- Portland legalized limited VHR's in July 2014 for single-family homes, at which time 1,500 properties were listed on Airbnb's website. As stated by the mayor, "We're trying to legalize what's already going on, in a way that is sensible." The program was expanded in February 2015 to also include multi-unit buildings. Owners may rent out up to 5 bedrooms in their homes upon acquiring a \$180

permit, receiving an inspection to make sure there are adequate smoke alarms and carbon monoxide detectors and legal bedrooms are being rented, and providing notice to neighbors. Owners must occupy their homes at least 9 months out of each year – a regulation intended to prevent the speculative purchase of homes for conversion into short-term rentals.

- VHR's were legalized in San Francisco, effective February of this year. Under the law, residents in San Francisco are allowed to rent their properties an unlimited amount of days if the owner or manager is present. There is a 90-day cap on rentals in which the owner or manager is not present. The different limits were aimed at allowing residents to use Airbnb for needed income, while making it impossible for landlords to lease their units short term on a permanent basis. Before the law passed, all short-term rentals (rentals less than 30 days) were banned.
- Austin legalized VHR's in certain areas in 2012. The City broadened the rules six months later to allow partial rental of homes, which was previously illegal. Owners must apply for a \$285 permit, receive an inspection, have adequate insurance and notify neighbors. VHR's that are not an owner's primary residence cannot comprise more than 3% of any given census tract.
- Prior to 2010, Estes Park allowed VHR's in the town as an accessory use to single-family homes; VHR's were prohibited in the county. In 2010, the Town Board and County Commissioners approved allowing VHR's as a primary use throughout the Estes Valley, which includes part of the unincorporated county. Recognizing that growth in this market would continue, a goal was to take steps to preserve residential neighborhood character through operational restrictions.

Enforcement is the Weak Link

Communities with good intentions in adopting regulations have found that enforcing them is the weak link. Cities have been unable to procure cooperation from hosting sites to not list illegal VHR's nor to provide them the information needed to locate VHR's that are in violation of local or state regulations. Regulations that restrict the number of days VHR's may be rented or that require owner occupancy of homes have been a particular challenge.

- A VHR owner in Portland must occupy the rented home at least 9 months out of the year, yet the City has been seeing a rise in the number of multiple rentals being advertised by a single owner or manager. Even for VHR's with a single owner, knowing that units are owner-occupied 270 days has proved largely unenforceable. Airbnb can provide the rental period information needed, but it and other hosting sites have, in the words of a Portland City Commissioner, "made it clear they do not intend to play ball with us on the enforcement side." Portland does require that owners maintain a guest log book with guest names, information and dates of stay that can be inspected by the City upon request, but this has not deterred owners from advertising multiple units.
- In San Francisco, of about 5,000 listings on Airbnb last May, two-thirds were entire houses or apartments. Also, owners or managers controlled more than one unit in nearly one-third of listings. Without exact data about who is renting, for how long, and whether the owner is present at the time, enforcement of even a strong regulatory framework like San Francisco's can be frustrating. The Planning Department is asking for additional funding to administer the law, and officials are proposing ways to strengthen its effectiveness. One proposal is to require Airbnb to share its booking data with the City. Whether Airbnb can do this legally absent a subpoena is in question.

Portland and New York Get Aggressive

The lack of cooperation in enforcement from hosting sites has caused some communities to take a stronger stance.

- Portland initially took the cooperative track by negotiating a tax collection agreement with Airbnb and instituting VHR regulations, but has since changed its stance. A new ordinance, effective February 20, 2015 (and referenced in the Tracking section), requires hosting sites to provide VHR location and owner information to the city. Hosting sites and VHR owners are also required to “prominently display” permit numbers on their advertising. Further, hosting sites cannot advertise VHR’s that do not have permits. The City can fine VHR owners and hosting companies up to \$500 for each property that is not in compliance. Letters seeking voluntary compliance are being issued. Time will tell how enforcement of the regulation is received.
- New York found that 72% of VHR reservations made on Airbnb between 2010 and 2014 violated state laws regarding VHR’s. The Attorney General recently announced a joint enforcement initiative with city regulators to shut down illegal hotels, which will reduce Airbnb’s presence in New York. The process uses 311 complaints to help NYC Office of Special Enforcement find and eventually shut down illegal hotels. In 2014, there were 1,150 illegal hotel complaints filed.

VHR’s Fight Back

With all of the negative publicity from communities regarding the adverse impacts of VHR’s and enforcement problems, local VHR advocacy groups have been forming in some communities. Hosting sites have also started pouring some money into lobbying groups to sponsor VHR-friendly legislation to support their current business practices, if not undo some regulatory gains. Airbnb is credited with helping to push AB 1220 this year in California, which sought to prohibit local governments from collecting Transient Occupancy Tax on VHR’s.

- In Virginia, the Short Term Lodging Association was established by owners who support renting their homes. Their hope is that regulations strike a balance between letting them continue to rent, yet operate in a responsible manner. Similar groups have formed in New York (Short Term Rental Advocacy) and San Diego (the Short-Term Rental Alliance of San Diego).
- The Short Term Rental Advocacy Center is a new group that was formed by and lobbies on behalf of Airbnb, HomeAway, TripAdvisor and FlipKey. It provides data and resources regarding an alternative view of VHR impacts – benefits to the tourism economy and income to owners to help pay mortgages. It provides a platform that allows individuals to access and use the information in support of short-term rentals.
- Fair to Share is an online resource and action center for San Franciscans who believe that you should be allowed to share your home. The Fair to Share lobbying platform is owned by Airbnb, and it is being used to push the City’s legislation to be more favorable towards the company.

CAST Survey Findings

Restrictions on the Number and Location of VHR's

Seven of the ten CAST participating communities limit VHR's in certain zones. Breckenridge, Frisco and Mt. Crested Butte have no location restrictions.

Durango is the only participating community that limits the number of VHR's within a given geographic area in some of the zones within which VHR's may be located. A combined total of 39 permits may be issued on a first-come, first-serve basis in two of their "Established Neighborhood" zones. The goal is to prevent clustering of VHR's and maintain neighborhood integrity. This equates to a 3% cap of the total number of lots in any neighborhood and a limit of one unit per block/street segment. A second vacation rental could be located on the street segment if it meets specific criteria and obtains a Conditional Use Permit.

	Location Restrictions
Breckenridge	No location restrictions
Crested Butte	Only permitted in Residential Districts (R1, R1A, R1C, R2, R2C, R3C) and B3 Business District. Cannot be rented for less than one month more than twice in any calendar year in the B1 Business district. Not allowed in B2, Commercial and Tourist Districts.
Durango	Limited to certain neighborhoods; cap on total number allowed in each area
Estes Park	No location restrictions
Frisco	No location restrictions
Jackson	Only permitted in Lodging overlay district and Snow King Master Plan
Mt. Crested Butte	No location restrictions
Ouray	Only permitted in High Density Residential (R2) and Commercial Districts
Park City	Limited in Single Family zones
Steamboat	Allowed in all zones except mobile homes and industrial zones.

Variations in Regulations Based on Unit Type or Location

Communities do not apply all VHR requirements to all properties within all zones on an equal basis. This is typically because VHR use in some areas is either less desirable or has a larger impact on neighborhood character than in others.

- In Breckenridge, VHR's are permitted in all zones. VHR of condominiums, however, are less restrictive than for single-family homes. A single-family residence is permitted as a VHR once the property owner purchases an accommodation unit license. These homes are subject to additional conditions to help maintain the residential character of the neighborhood. These special conditions focus around parking, trash, noise and nuisance standards.
- In Steamboat Springs, only duplexes and single-family homes outside of the Resort Residential districts are required to get VHR licenses through the community development department. This is

where the impacts to neighborhoods are of most concern. VHR permits are not required for condominiums regardless of their location. Condominiums and rentals in the Resort Residential districts are still required to get a sales tax license and pay applicable taxes, though they are not subject to parking, number of people, and other limitations that apply to VHR licensed properties.

Restrictions on Length of Time VHR's Can Be Rented and the 30-Day Loophole

VHR's are generally defined as being rented for either less than 30 days or 30 days or less by all CAST participating communities. This definition does not place an upper limit on the number of consecutive days that a unit may be rented, which creates a 30-day loophole. If VHR's are rented for 30 or more consecutive days (as may often occur in the summer months in mountain resort towns), they are treated as a long-term rental and not required to pay sales and lodging taxes. The 30-day requirement is discussed in more detail in the Taxing section of this report.

Distinguishing between Year-Round and Occasional VHR's

Steamboat Springs allows two categories of short-term residential rentals, one of which is appropriate for residents who occupy their homes most of the year, but rent it out on occasion.

- "Vacation Home Rentals" may be rented any number of days during the year, but not for more than 29 consecutive days. It must meet city licensing and VHR operational requirements.
- "Short-Term Rentals" are single family homes and duplexes that may only be rented by visitors *up to twice per year, not to exceed 30 days annually*. Owners only need a business/tax license to operate. The small number of "short-term rentals" makes it fairly easy to locate units that are violating their license by monitoring advertising. Licensed units found to be in violation receive a Notice of Violation letter, with a possible citation into municipal court.

Rental of Bedrooms

Only Breckenridge, Estes Park and Steamboat do not allow owners to rent individual bedrooms while they are occupying the home. Many communities that allow bedrooms rentals do not track, license or collect taxes from these rentals. In Estes Park, owners that occupy their homes and rent out one or more bedrooms are defined as a bed-and-breakfast and must be licensed as such.

Communities that allow bedroom rentals provide owners the ability to supplement their income, use rooms vacated by grown children and, as hosts, assist visitors in getting to know their community. Enforcement can be a challenge, however, depending upon the complexity of bedroom rental regulations.

Changes to Regulations

Four of the ten CAST participating communities have implemented regulation changes to address the rise in VHR's.

- Breckenridge strengthened sections of its nuisance ordinance to address VHR concerns, such as parking, trash and noise. As part of receiving a VHR license, the town requires that a local contact person be designated to receive communications from the town regarding the VHR. This person must maintain a residence or permanent place of business within the town.
- Durango has allowed Tourist Homes since 1989. The increase in vacation rental interest as well as an increase in the number of VHR complaints led to amendments in 2007, 2008, 2009 and 2014. These amendments established separation of VHR's to prevent clusters, transferability of permits, parking, HOA approval of VHR's, safety standards (fire extinguishers required) and required a locally available property manager, among others.
- Park City altered its business license and approval process with a specific VHR category.
- Jackson clarified its definition and interpretation of VHR's, continuing its prohibition of VHR's in residential zones.

Local Property Manager

Most of CAST participating communities require a local property manager/emergency contact. Most are required to be available 24/7. This includes Breckenridge, Crested Butte, Durango, Estes Park, Frisco, Mt. Crested Butte, Park City and Steamboat.

- Park City has the most specific requirements. The property manager or contact person must reside or have offices within Summit County. The contact person must be able to respond to telephone inquiries within twenty (20) minutes. The contact person is stated to be "personally liable for the failure to properly manage the rental." If the contact person is someone other than the owner, the person "must comply with applicable state law, including U.C.A. Section 61-2-2, as amended, which requires those who receive valuable consideration to lease property to have a state license."
- Estes Park requires the name of a local property manager that can be available around the clock, but local is not specified to mean "within the Estes Valley." There have been problems with unresponsive managers and penalties to hold managers accountable are not in place.
- Breckenridge requires the contact person/property manager to reside or have a permanent place of business within town. Owners are liable for strict compliance with all VHR regulations and they cannot delegate this liability.

Safety Requirements/Inspections

Four CAST participating communities have safety standards for VHR's. In Durango, safety standards are tied to an inspection of the property before permits or licenses are issued.

Park City and Steamboat Springs indicated that they do not have specific safety standards, but they do require inspections of units prior to issuing permits or licenses. Park City requires safety inspections of all new, previously unlicensed VHR's "to ensure compliance with building, fire, municipal and health codes." Licenses must be renewed each year, but a new inspection will not occur unless there is a

change of ownership. Inspections may occur at other times and failure to meet standards can result in license revocation.

VHR permitting or licensing inspections may check for fire extinguishers and alarms, carbon-monoxide detectors, structural integrity of the building and emergency escape and rescue availability. Some also make sure the number of bedrooms match the application and are suitable to rent.

Guest Experience

The Tourism Office in Breckenridge's Chamber of Commerce conducts ongoing surveys of visitors and residents and has added a question to identify VHR visitors and their satisfaction with their accommodations.

Some communities will look at online reviews of properties when tracking units, although it is recognized that this is not a good measure of general visitor satisfaction since not all visitors provide reviews, nor are negative reviews necessarily posted.

Best Practices

When considering adding or changing regulations, the pros and cons of VHR's must be weighed for each community. The existing unit mix, lodging base, community character and neighborhood composition will affect the type and extent of regulations that may be needed. Some communities have allowed VHR's to occur relatively unrestricted in areas where they are appropriate – e.g. in existing high-tourism accommodation areas – while protecting residential neighborhoods with more restrictive requirements. The following recommendations are regulations that communities can consider for various issues of concern, but will need to be tailored to meet the unique needs of each community.

Safety

Require VHR safety inspections – Park City, Breckenridge, Durango

- Inspections should ensure compliance with building, fire, municipal and health codes and VHR permit specifications (number of bedrooms, parking, etc.). Units should be inspected upon initial license or permit issuance. Change in ownership, unit status, receipt of complaints or notification of a potential inconsistency or problem may trigger another inspection. Absent other re-inspection triggers, Portland requires an inspection at least every six years.

Post safety and emergency contact information in the VHR - Breckenridge

Property Management

Require local manager/emergency contact – Grand Lake, Park City, Breckenridge

- This requirement is viewed as critical to the success of short-term vacation rentals in residential neighborhoods to address guest or neighborhood questions and resolve conflicts quickly.
- Be specific. E.g., manager/emergency contact with residence or place of business within the community/county, available 24/7, able to respond onsite within 45 minutes of complaints.

Consider penalty for failure to respond – violation of VHR regulations, fine, potential VHR license revocation.

Neighborhood and Community Character

Restrict number/concentration of VHR's – Durango

- Durango allows no more than 3% of homes to be VHR's in certain neighborhoods. No more than one VHR permitted per block. Permits are issued on a first-come, first-serve basis. This may allow too few VHR's in communities that do not have the lodging bed base of Durango.

More restrictive regulations where VHR less desirable/has higher negative impact – Breckenridge, Grand Lake, Durango, Steamboat Springs

- CUP in Grand Lake and some neighborhoods in Durango.
- Higher “nuisance” standards imposed on single-family VHR's in Breckenridge.
- Single-family and duplex VHR's in Steamboat Springs must receive licenses through the community development department in all but the Resort Residential zone, making them subject to parking, number of people, and other regulations. All condominiums are exempt from this requirement.

Provide VHR Options for Owners and Help Protect Local Housing Supply

Create Separate Categories for VHR's Depending on Time Rented – Steamboat Springs

- Year-round VHR's, typically investor owned or second home. No limit on the total number of days that the home may be rented per year. In Steamboat, this category is subject to a community development license process and extensive VHR regulations.
- Limited VHR's, rented only occasionally by resident owner. Provides an option for local resident occupants (could be an owner or long-term renter) to supplement their income. In Steamboat, this category can be rented no more than twice, nor more than 30 days total in any given year and it only needs a business/tax license to operate.
- Large cities have had trouble enforcing limited rent term restrictions. Steamboat reports few limited VHR rentals and can enforce by monitoring VHR hosting sites. Smaller communities can manage rental term regulations on a per-unit basis more effectively than large cities.

Discourage speculative VHR purchases – San Francisco, Portland

- Owner-occupancy requirements. Portland – VHR owner must occupy the home nine months of each year, which preserves community and discourages speculative VHR purchases.
- Limited rental days during the year. San Francisco – a 90-day cap on rental nights per year for un-hosted VHR's (i.e., the owner is not present while renting the home).

Permit Bedroom Rentals With Owner Present – Petaluma (proposed)

- This allows owners to supplement their income/mortgage by providing them the option of hosting guests in their home. Some CAST communities have restrictive bed-and-breakfast requirements that may prevent this practice.
- Petaluma defines a bed-and-breakfast as three-or-more bedrooms being hosted; if less than three bedrooms then it is a VHR.
- Require permits, inspect units and consider taxes/license fees.

III. Licensing and Permitting

Issues and Emerging Trends

License requirements evolved along with regulations to ensure responsible maintenance and leasing of VHR's. License and permit applications typically require safety inspections and the background information necessary to ensure VHR's are operated in accordance with local regulations. This may include insurance requirements, designating a 24/7 emergency contact to handle problems and complaints, requiring license and permit numbers to be displayed on all advertising, providing "good neighbor" information to renters, and notifying neighbors of units being rented and VHR manager contact information. Yearly renewal ensures communities remain up-to-date on VHR changes and permit revocation procedures help ensure continuous VHR owner compliance.

A challenge for some communities has been getting VHR owners to acquire necessary permits and licenses. While education of owners and property managers regarding the licensing process has been instituted by most communities, this has been more effective when paired with good enforcement.

Licenses and Permits Often Have Safety, Advertising, Notice and Renewal Requirements

Permits and licenses typically record necessary information regarding the VHR, such as number of bedrooms, owner information, property manager or emergency contact information, use or occupancy restrictions, among other requirements. In addition, to receive a permit or license, many communities require the following:

- Safety inspection: Austin, Portland, San Francisco, Chicago, Santa Fe;
- Proof of adequate property insurance coverage: Austin, San Francisco, Santa Fe; and
- Permit or license number to be displayed on all advertising: Austin, Portland, San Francisco, Santa Fe, Sonoma County, Bend, Oregon.

Neighbors may also need to be notified as part of the permit process. For example:

- Austin requires notice be given to neighbors for public comment as part of the permit approval process, similar to other land use applications.
- Many communities require notice to be sent to neighbors upon permit issuance. Notice may provide neighbors with the address; terms of rental use or permit; contact information for a property manager, owner or emergency contact in the event of problems; and the process for reporting violations or complaints to the community's enforcement office. This can be an effective tool to help neighbors know about and police VHR activity in their area. Portland, Oregon, and Petaluma, Santa Cruz, and Sonoma County in California require neighbor notice.

Most of the above communities also require annual renewal of permits or licenses. Yearly renewal maintains a current list of active vacation rentals and contact information. Renewals may also be withheld if VHR regulations have been violated, too many complaints have been received, applicable

taxes have not been paid, or if there are health and safety issues on the property. As an exception, Portland requires renewal every two years, with a new inspection required every six years, barring a change in owner, bedrooms rented, or cause for safety or violation concern.

License and Permit Fees

Most communities have modest license and permit fees for VHR's – in some cases insufficient to cover paperwork processing, tax collection, property inspections and monitoring.

- Portland charges \$178 for the initial license and \$62 for each renewal year in which an inspection is not required. For inspection years, \$178 is charged.
- Austin charges \$285 for an initial permit and \$235 for renewals. A budget of \$350,000 has been established to cover the hiring of three staff members to register and inspect VHR's. Fees for an estimated 1,500 VHR's are intended to fund this budget.
- In Napa, fees were initially set to cover all application processing, inspections and monitoring of VHR permits such that no costs were borne by the general public. In 2009, owners paid \$1,075 per year; the permit fee has since decreased to \$197 per year. Fewer complaints than expected were received from neighbors. As a result, the City reduced their allocation of code enforcement staff to VHR's and, with it, permit fees.

Enforcement of Licensing and Permitting Requirements

Getting properties to receive required permits and licenses can be a challenge. Generally, communities with active tracking and identification of illegal rental properties, paired with resident, property manager and visitor education and strong enforcement ability have been the most successful. In larger cities in particular, this means dedicating staff or hiring new positions to address illegal VHR's, taking a proactive approach in notifying owners of permit and licensing requirements, and following up with non-responsive owners.

Portland has a license compliance rate of less than 10%. At the other end of the spectrum, Austin has a compliance rate of about 72%. While other factors are involved, enforcement has played a role in this difference.

- In Portland, permit issuance was initially centered in the Bureau of Development Services office, which admittedly is reactive. The office only acts to enforce city rules when a complaint is received; they do not take an active role in locating or citing illegal VHR's. A new city ordinance adopted this year places enforcement with the Revenue Bureau, which takes a more proactive approach. The Bureau is issuing letters to hosting sites to advise them of the requirement that permit numbers must be posted on all VHR advertising. Companies can be fined up to \$500 per non-compliant property. Responses are pending.
- In Austin, permit fees are higher than Portland, yet compliance rates are much higher. The City's Code Compliance Department hired additional staff specifically to investigate illegal short-term rental activity and advertised such to the public. The city can also fine VHR operators up to \$2,000 per day of non-compliance. When 1,089 properties were notified that they needed licenses, 72

percent came into compliance by either delisting or getting licenses. Code Compliance and the City's criminal prosecution are working together to follow up with the other 300 properties to ensure everyone is playing by the same rules.

Education can also play an important role. Public information campaigns through newspaper articles and website postings have been widely used education tools. Less prominent are visitor education campaigns regarding the importance of renting units that display permit numbers in their advertisements. Units displaying valid permit numbers let visitors know that they are renting a legal unit (as opposed to a scam) and that units meet safety and VHR operational requirements. Visitor education can work from the demand side of the equation.

Revocation of Licenses or Permits

Most communities have the ability to revoke licenses or permits in the event that VHR regulations are violated or taxes are not paid. Some have a purely discretionary process, whereas others may establish mandatory thresholds for revocation. For example:

- The City of Santa Fe documents all alleged regulation violations for VHR's and pursues enforcement through the municipal court if warranted. Upon conviction of a third violation by the municipal court, the city *shall* revoke the permit.
- Portland has a more discretionary revocation procedure, but once a permit is revoked, it may not be renewed for two years.

CAST Survey Findings

Who Requires Licenses and Permits

- All participating communities except Ouray require a *business license* for VHR's. All communities require a sales tax license number.
- Five communities also require a permit to ensure compliance with land use regulations.
- All require licenses to be renewed once per year. Breckenridge assumes that owners are renewing their licenses unless the town is informed otherwise. The town will issue an automatic renewal and charge yearly fees.

License and Permit Requirements

	Business License	Permit	Yearly Renewal
Breckenridge	X		X
Crested Butte	X		X
Durango	X	X	X
Estes Park	X	X	X
Frisco	X		X
Jackson	X	X	X
Mt. Crested Butte	X		X
Ouray			
Park City	X	X	X
Steamboat Springs	X	X	X

For communities requiring permits:

- Estes Park is unique because it also manages legal VHR's in unincorporated areas of the county, defined as the "Estes Valley." Business licenses are required for VHR's within city limits only. VHR's in the county must get an operating permit.
- Jackson permits VHR's only in the Lodging Overlay District and the Snow King Master Plan. A one-time basic land use permit must be received for VHR's in these zones.
- Steamboat requires single-family homes and duplexes outside of the Resort Residential districts to apply for a VHR license through the community development department. This application is reviewed the same as an application for approval of a Use with Criteria. Condominiums are not required to have this license.
- Durango requires a Limited Use Permit be received for VHR uses. A Conditional Use Permit may be applied for if general land use permit criteria are not met.
- Park City requires that the VHR's be located within a zone and subzone allowing VHR's. A Conditional Use Permit may be required in some zones.

Permit and License Fees

Fees are applied either on a flat-rate basis each year or scaled based on the number of bedrooms, sleeping rooms (which includes rooms with a pullout couch bed), or pillows. Fees overall are relatively modest.

- Breckenridge charges a base fee of \$75 for a studio unit, plus \$25 per additional bedroom, not to exceed \$175.
- Estes Park charges \$150 for renewal of a VHR business license for town properties; renewal of the county operating permit has no fee.

- Park City charges a \$17 administrative fee, plus \$28.74 per bedroom.

Fees for permits range between \$500 and \$750, imposed as a one-time application fee. Durango also has a one-time lodgers tax fee (\$25) in addition to the below.

Cost of Permits

	Permit Application	Yearly Renewal
Breckenridge	-	\$75 studio, \$25 additional bedrooms, \$175 max
Crested Butte	-	\$10/pillow
Durango	\$750	\$50 (license)
Estes Park	\$0	\$150 (license)
Frisco	-	\$75
Jackson	\$500	N/A
Mt. Crested Butte	-	\$10/pillow
Ouray	-	N/A
Park City	\$1,100 (if CUP needed)	\$17 admin plus \$28.74/bedroom
Steamboat Springs	\$500	\$50 per sleeping room (permit)

License and Permit Requirements

License applications collect varying information within the CAST participating communities.

- The most common items are VHR addresses and property manager or emergency contact information.
- None of the CAST participating communities requires evidence of insurance suitable for short-term rental use. Nor are times or dates on which the unit will be rented obtained.
- Only two communities require license or permit numbers to be on VHR advertising. Requiring these numbers has been reported to greatly assist with compliance verification when tracking units.

In Durango all advertisements for an approved vacation rental unit must clearly display the permit number issued for the stated purpose of enhancing enforcement of illegal VHR. Failure to display the permit number is grounds for revocation of the permit.

- Fire and safety inspections are required by three communities upon license or permit application. Inspections are not required as part of the license or permit renewal process.

Information Required on Licenses/Permits

	Unit Address	Unit Type	Manager Contact Information	Inspection	License Number on Advertising
Breckenridge	X	X	X		
Crested Butte	X		X		
Durango	X	X	X	X	X
Estes Park	X		X		
Frisco	X		X		
Jackson					
Mt. Crested Butte	X		X		
Ouray					
Park City	X		X	X	
Steamboat Springs	X		X	X	X

Notice to neighbors of rental activity in the neighborhood is required by only one community.

- Durango requires notice to be sent to neighbors when a permit is pending to solicit public comment prior to approval. After approval, notice indicating the terms of the VHR and contact information in case of complaints or problems, is not required as is the case in many California communities.

Has a map on its website of all permitted VHR's. This allows the public to see VHR activity in their neighborhood and know whether a permitted VHR is next door.

Posting of license and permit numbers, along with terms of responsible VHR's and contact information, within the unit can be beneficial to visitors.

- Breckenridge requires single-family VHR's to post "Special Conditions of License" in a "conspicuous location" in the VHR for the benefit of visitors. It outlines parking requirements; trash, noise and nuisance information; emergency contact requirements; and town contact information.

Enforcement of Licensing and Permitting Requirements

CAST participating communities tend to have higher compliance with license and tax requirements than larger cities. Of listed properties, those with a valid license range from 99% in Breckenridge down to about 50% in Estes Park. This is in part due to the smaller VHR pool and local knowledge of properties by those tracking listings – photos are often easy to recognize.

The most successful communities combine dedicated staff time to locate illegal VHR's, education of the public and owners of VHR requirements, and enforcement procedures backed by a willingness to enforce.

- Breckenridge:
 - Has one of the more proactive owner outreach programs. Education begins when the Town Clerk sends all new owners an introductory letter and application form for VHR's, explaining the licensing program. A reminder letter on VHR requirements is sent every four years.
 - Has an estimated 99% compliance rate from existing owners, in part due to a dedicated investigative search for illegal rentals several years ago. Listed units were compared with the license database and "nice" letters were sent to owners regarding requirements. Non-respondents received a "mean" letter letting them know they needed to respond or they would be sent to court. For the few that still did not respond, the town's lawyer sent a certified letter to the owner, at which time everyone complied.
 - Publicized licensing requirements in a newspaper article which made a "big deal" over unlicensed VHR's and notified owners that the Town was *ramping up enforcement*.
 - Achieved on-going compliance. About 2,750 units were in compliance in 2011. Only 15 units listed in 2012 were found not licensed and roughly about five non-compliant units since that time have been identified each year.
- Steamboat Springs:
 - Has an estimated 75% compliance rate with existing VHR license requirements. The City did a similar push as Breckenridge in 2009 to get existing owners to license VHR properties. A total of 440 letters were sent to owners without required tax licenses, resulting in 110 new licenses within a couple of months.
 - Sends notice of violation letters to owners if they are advertising without proper licenses. Violators have 15 days from receipt of the notice of violation letter to submit an application or remove their advertising. Should they fail to do this they are issued a citation into municipal court with fines of up to \$999 per day, jail time of up to 180 days, or both.
 - Relies on complaints from neighbors to locate violators. The finance department keeps a list of licensed properties, including VHR permitted properties from the community development department. Monthly updates to this list are provided to the police department, who responds to complaints. The police department can then notify the respective departments if a call involves either a legal (or illegal) VHR.
- Mt. Crested Butte has also noticed a difference with consistent tracking of VHR listings. When research was done every quarter, compliance was near 95%; when research was done "when available," compliance dropped to near 85%. When non-compliant properties are found, two letters may be sent. The first threatens a lien on their property if they do not respond. The second is a certified letter which includes the intent to lien. If that is ignored, then a lien is filed with the county based on estimated sales tax.
- Ouray often finds properties through the neighbor complaint process. Owners are educated about VHR requirements in an attachment sent out periodically with customer utility bills.

- Some communities have also instituted property manager and realtor seminars regarding VHR requirements. New owners have approached some communities seeking to short-term rent their new home in zone where they may not be permitted based on erroneous realtor information. Education of the real estate community can help with misconceptions.

Revocation of Licenses or Permits

Licenses or permits may be revoked in several CAST participating communities.

- In Park City, violation of the noise ordinance, occupancy loads, failure to use designated off-street parking, illegal conduct, or any other abuse, which violates any law regarding use or occupancy of the premises is grounds for revocation. Failure to collect and deposit sales tax is also a violation of the license and grounds for revocation.
- In Estes Park, the Town Code Compliance Officer manages enforcement efforts of vacation home regulations. Once a violation is verified, the officer generally attempts to work with the property owner to address the issues without formal enforcement action. Formal enforcement efforts can eventually lead to town properties having their license revoked and/or a hearing at the Estes Park Municipal Court. Violations may occur due to parking, illegal renting of an ADU, occupancy limit violations, among other violations. The town has only had one revocation, which was in part due to the unit operating as an illegal bed-and-breakfast as opposed to a VHR.
- Steamboat has a three-strikes policy. If a VHR receives three violations in one year, then the VHR permit can be revoked for up to two years.

Best Practices

License requirements

Establish License Safety/Inspection, Property Manager/Contact, Advertising, Notice Requirements

- Require property inspection – Breckenridge, Durango, Park City
- Require local Property Manager/Emergency contact – Breckenridge, Park City
- Require permit/license numbers on all advertising – Durango
- Require notice to neighbors of permitted VHR's – Sonoma County, Petaluma (proposed)
Written notice to neighbors after VHR approval. Provide the terms of the VHR and owner/manager contact information in case of complaints or problems.
- Post VHR contact information and requirements in VHR unit – Breckenridge
Educates visitors on any parking requirements; trash, noise and nuisance information; emergency contact requirements; and town contact information.

Fees

Establish fees to cover costs of VHR management – Austin, Napa

- Communities need to develop a targeted system for managing VHR's and take firm inventory of staff time and costs required for VHR monitoring, processing and management. This will allow

communities to develop a budget for VHR oversight and establish fees sufficient to cover the program.

Explore Variation in Fees Based on Use and/or Unit Type – Santa Fe

- While additional analysis of Colorado statutes is recommended, fee systems similar to Santa Fe's could provide for variation in fees for year-round VHR's compared with residences that are normally occupied by their owners and only rented short term for two periods per year. There are no fees for the latter, whereas fees for year-round VHR's range from \$175 for an accessory dwelling to \$350 for a single-family home.

Compliance: Investigation, Education, Enforcement

Dedicate or hire staff to track and manage license compliance – Park City, Austin

Mail new homeowners VHR regulations and license application – Breckenridge, Mt. Crested Butte

- Breckenridge also follows up with a reminder letter every four years.

Publish VHR requirements in newspaper, websites – Breckenridge, Durango

Seminars and education outreach to real estate professionals – Estes Park, Park City

- Can help educate realtors and property managers regarding VHR's so they can properly inform their clients as to VHR legality and regulations.

Link complaints to legal and illegal VHR's - Steamboat

- Have Code Enforcement communicate with VHR tracking departments (planning, finance). Can help find illegal VHR's and monitor permitted VHR's for regulation compliance.

Establish license/permitting enforcement procedures and threaten or use them when necessary – Breckenridge, Mt. Crested Butte, Austin

Revocation

Make permits/licenses revocable if non-compliant – Steamboat, Estes Park, Santa Fe

- Steamboat has a three-strikes permit policy – three violations in one year and the permit may be revoked for up to 2 years. Three-strikes gives some certainty to owners and clarity to the city for enforcement.
- Santa Fe makes revocation *mandatory* after three-strikes.
- Estes Park has a discretionary revocation policy in the event of a violation.

Potential practices

Increase license fees to mitigate workforce housing impacts.

- No quantification has been done to date to determine the specific impacts VHR's have on workforce housing. A nexus study may be required to quantify the link between the impacts on housing and the fees charged.

Collect VHR unit operating detail on permit/license application

- Depending upon the complexity of regulations and VHR rental term requirements, license/permit applications can capture number of bedrooms rented, unit type, times of the year rented, when owner occupied, etc. to assist with monitoring and evaluate the appropriateness of potential revisions to regulations.

Educate visitors that VHR's not showing permit numbers are illegal

- As more communities require permit and license numbers to be shown on all advertising, a visitor education campaign could help spur compliance from the demand side. Inform visitors that units not showing a permit number may not meet safety standards and/or may be a scam.

IV. Taxing

Issues and Emerging Trends

The significant revenue-generating potential from VHR's prompted many communities to begin collecting taxes from this market. Concerns over equity and fairness with existing lodging establishments were also a significant factor for some. CAST participating resort communities rate these issues among their top ten concerns about VHR's.

Difficulty tracking and locating illegal VHR's have frustrated some community efforts to collect taxes. Although some progress has been made with hosting sites, many communities are pushing for more cooperation. The process has been likened to the ongoing litigation over getting taxes from hotel rooms booked through online travel companies, some of which are reaching resolution, but it has taken a decade.

Taxes Help Pay for VHR Services and Impacts

VHR taxes support a variety of general fund purposes for which taxes are allocated. The taxes help cover services that assist and benefit VHR operations, including fire and police departments and municipal infrastructure. In San Francisco, the taxes also help feed the City's Affordable Housing Trust Fund.

The Ability to Tax VHR's as Commercial Property is Limited

In Colorado, the Constitution and State Statutes limits the ability for jurisdictions to classify properties as commercial and residential. The distinction between residential and commercial classifications is significant because residential real property is valued for property tax assessment at a lower rate than commercial. See Colo. Const. Art. X, § 3(1)(b). It is possible that some VHR's may be able to be classified as "commercial" rather than "residential" for property tax purposes, but this will depend upon whether the use and ownership of the particular property meets the legal reclassification requirements. Some of these requirements include:

- Residential real property includes residential land and residential improvements, excluding hotels and motels. Colo. Rev. Stat. § 39-1-102(14.5).
- Hotels and motels include lodging that is predominantly used on an "overnight or weekly basis." Hotels and motels exclude properties that are rented on a long-term basis (i.e., for 30 days or more). Colo. Rev. Stat. § 39-1-102(5.5); E.R. Southtech, Ltd. v. Arapahoe County Board of Equalization, 972 P.2d 1057, 1060 (Colo.App. 1998).
- Hotel units include four or more units in a project that are owned by the same entity. If one entity owns and operates four or more VHR's, their properties may be a candidate for commercial reclassification if other requirements are met. See Colo. Rev. Stat. § 39-1-102(5.5), et seq.
- Bed-and-breakfasts are overnight establishments where the innkeeper resides in or near the establishment, providing accommodations for a fee, at least one meal per day, with no more than 13 sleeping rooms. Colo. Rev. Stat. § 39-1-102(2.5).

None of the CAST participating communities classify VHR's as commercial. Looking to other states, Palm Beach, Florida, classifies VHR's as commercial property. In Palm Beach, if a VHR is rented for less than three months over three times per year, then the property is classified as a commercial, rather than residential, property for taxation purposes. An owner can also lose their County homestead exemption, which provides a substantial property tax break to resident homeowners, if homes are rented for more than thirty days in one year.

Hosting Sites Have Shown Some Signs of Cooperation

After initial battles in which HomeAway and Airbnb denied any liability or necessity to perpetuate tax collection for VHR's, these hosting sites have been showing some signs of cooperation, albeit on different levels and capacities.

- HomeAway has invested in HotSpot Tax, Inc., to allow VHR owners an efficient interface through which they can pay their taxes, although HomeAway does not facilitate collection of those taxes.
- Airbnb has negotiated agreements with several cities to collect taxes on behalf of VHR's that are hosted on their website. Airbnb also paid an estimated \$25 million in back taxes to San Francisco.
- Airbnb volunteered to begin collecting taxes for properties in Washington D.C., even though VHR's are not explicitly recognized by D.C. law. Airbnb has learned this can be a way to open the door to invite VHR's into more communities by at least removing the tax barrier.

Locating VHR Tax Evaders Remains a Challenge

With Transient Occupancy Taxes (TOTs) and Airbnb, it is primarily an issue of how to collect the tax, not whether it applies in the first place. Particularly in larger cities, taxing authorities cannot spend time to go after each VHR, but they can spend the resources to go after the hosting companies that are advertising and, in some cases, managing them.

Tax Collection Agreements Do Not Extend to All Hosting Companies

In cities where Airbnb has agreed or been required to collect taxes, it automatically collects the local hotel or occupancy taxes on every transaction. Airbnb pays in a lump sum, omitting details about individual hosts or guests. The company began collecting taxes in Portland and San Francisco last year and has since reached agreements with many other communities, including with Chicago and Washington, D.C. These cities are among the company's largest markets; however, a recent agreement with Malibu indicates smaller cities are also having some success.

Airbnb would like a level playing field with HomeAway and other hosting sites now that it has started collecting taxes in some cities. Airbnb, however, operates on a different platform than HomeAway. Airbnb manages all transactions for its users and acts as a merchant for VHR bookings, whereas VHR owners/managers merely advertise on HomeAway. HomeAway never touches the monetary exchange between owners and renters. Based on this model, San Francisco agreed that HomeAway is not an operator that is required to collect taxes under their tax regulations.

CAST Survey Findings

VHR Lodge and Sales Tax Collections – the 30-Day Rental Rule

The ability to collect sales and lodging taxes are limited by the Colorado Constitution and Statutes. Sales taxes are collected for any unit rented for less than 30 consecutive days; units rented for 30 consecutive days or more are considered long term and exempt from the sales tax.¹ Any county lodging tax adopted pursuant to Colo. Rev. Stat. § 30-11-107.5 also does not apply to homes rented for 30 or more consecutive days.

VHR's are defined as being rented for either less than 30 days or 30 days or less by all CAST participating communities for tax collection purposes. These definitions do not provide an upward cap on the number of consecutive days a VHR may be rented. This would allow, for example, a VHR to be rented for a consecutive period of 6-weeks in July, which would be exempt from paying taxes.

Of all participating CAST communities, only Steamboat Springs provided a category of VHR's that would prevent the unit from being rented for a period of more than 30 days. In Steamboat Springs, "Short-Term Rentals" are single-family homes and duplexes that may only be rented by visitors *up to twice per year, not to exceed 30 days annually*.

Tax Rates on VHR's

All CAST participating communities collect taxes on VHR's, excluding the town of Jackson. A mix of sales tax, lodging tax, local marketing district tax and personal property tax (for furnishings) on VHR's are applied. Some communities have multiple tax collection entities, each of which collect taxes on their own.

- Sale tax rates range from 0.25% in Steamboat Springs, up to 7.95% in Park City.
- Lodging tax rates range from \$3 per night in Ouray, up to 3.4% in Breckenridge.
- Total sales and lodging tax rates range from 1.25% in Steamboat Springs, up to 10.95% in Park City.
- Local Marketing District (LMD) taxes also apply in Steamboat Springs, Estes Park, Mt. Crested Butte and Crested Butte. Steamboat Springs has one tax collection entity that collects all taxes; in the other towns, the LMD taxes are collected independently of the Town Clerk.
- Some communities have additional entities that collect taxes, which are not listed in the below table. For example, the Breckenridge Mountain Master Association also collects a 2% assessment on VHR's and the Summit County Housing Authority collects a 0.125% tax.

¹ See E.R. Southtech, Ltd. v. Arapahoe County Board of Equalization, 972 P.2d 1057, 1060 (Colo.App. 1998); 1 Code Colo. Reg. 201-4 Department of Revenue Regulations.

- Summit County collects “personal property tax” for furnishings within VHR.² The value of the furnishings constitutes the property to which the property tax is applied. This provides another source of potential revenue for communities.

Local Tax Collections by Type

	Sales Tax	Lodging Tax	Other (LMD)
Breckenridge	2.5%	3.4%	-
Crested Butte	4%	n/a	-
Durango	N/A	2%	-
Estes Park	5%	2% (LMD)	-
Frisco	2%	2.35%	-
Jackson	N/A	N/A	-
Mt. Crested Butte	5%	N/A	4% (County)
Ouray	3%	\$3/night	-
Park City	7.95%	3%	-
Steamboat	0.25%	1%	2%

VHR Tax Revenues

Not all participating CAST communities were able to report VHR tax collections separate from tax collections on other lodging properties. This increases the difficulty of tracking the financial impact that VHR has on local revenues. Understanding the financial impact of VHR's can help communities identify the extent to which VHR tax collections should be a priority (or not) based on lost revenue potential. Improved record-keeping systems and coordination with licensing and permitting offices would help communities track this information.

For those communities that provided separate tax information, VHR tax collections range between 1% and 73% of tax collections on all lodging properties. The percentage of sales tax collections from VHR's in a community is related to the volume of alternative lodging properties available.

- In Mt. Crested Butte and Crested Butte, VHR tax collections comprise a respective 73% and 60% of tax collections on all lodging. Of Mt. Crested Butte's lodging establishments, only two are hotels. Condotels including the Grand Lodge and Mountaineer Square are included in these figures and account for the high percentage. In Crested Butte, there are relatively few lodging establishments, all of which are small, making VHR's a very significant share of guest accommodations and sales tax on lodging.
- In Estes Park and Ouray, hotel and motel rooms are much more prevalent. Estes Park has about 4,000 hotel/motel rooms and cabins and just over 4,000 residential housing units. VHR's comprise a lower 13% and 1% of total taxes collected on lodging in these communities.

² See Colo. Const. art. X, § 3(c); Colo. Rev. Stat. § 39-1-102(11).

VHR and Total Lodge Tax Collections Compared: 2014 Collections

	Crested Butte	Estes Park	Frisco	Mt. Crested Butte	Ouray
Sales tax (VHR only)	\$150,368	\$382,748	\$105,690	\$597,885	\$2,922
Sales tax (all lodging properties)	\$251,182	\$2,871,340	\$340,586	\$819,361	\$279,098
% from VHR	60%	13%	31%	73%	1%
	-	-	-	-	-
Lodging tax (VHR only)	Not collected	Not reported	\$123,484	County only	\$2,396
Lodging tax (all lodging properties)	Not collected	\$1,596,347	\$388,198	County only	\$228,071
% from VHR	-	-	32%	-	1%

CAST participating communities were asked to report comparative tax collection information for each year beginning in 2010. For those able to respond, between 2010 and 2014:

- In Crested Butte, VHR sales tax collections increased from about 47% to 60% of all lodging sales tax collections;
- In Frisco, VHR sales tax collections increased from about 28% to 31% of all lodging sales tax collections;
- In Estes Park, VHR sales tax collections consistently comprised between 12% and 13% of all lodging sales tax collections; and
- In Ouray, VHR sales tax collections increased from about 0.5% to 1%.

Best Practices

Coordinated Tax Collection

Negotiate tax collection agreement with Airbnb – Portland, Malibu, numerous others

- Most individual communities may be too small, but cooperative agreements encompassing multiple communities, entire counties, or the CAST organization may have some success.

Coordinate tax collection among collection entities within a geographic area – Steamboat Springs

- The City of Steamboat Springs collects taxes on behalf of the city and its LMD.

Improved Tracking of VHR Tax Revenues

- Coordinate information with the VHR licensing/permitting staff and tax collection to enable easier identification of tax revenues received from VHR's.

Potential Practices

Initiate state-level action to address the under 30-day rental restriction for collecting short-term rental taxes that now limits the ability of local communities to collect taxes on VHR's that are consecutively rented for longer than a 30-day period.

V. Staffing

Issues and Emerging Trends

As with most aspects of the VHR industry, staffing has evolved over time and continues to be an area where needs are not clearly known.

Staff Responsibilities Shift as Issues Grow

Responsibility for tracking VHR's and ensuring that they are in compliance with local tax and licensing requirements has evolved over time. Since collection of tax revenues was the first concern of most mountain municipalities, finance departments were typically assigned research and compliance duties. As neighborhood impacts, land use, zoning and workforce housing issues emerged, staff in planning and community development departments became involved. Law enforcement has also had the responsibility for responding to complaints about noise, parking and other neighborhood disruptions but has typically not documented the source as a VHR.

Existing Staff Take On Increase in Duties

While there are exceptions to this trend, in most mountain communities existing staff have absorbed the increase in work load. Responsibilities are decentralized with staff in multiple departments performing tasks. VRCompliance LLC, a business that contracted with several CAST members to track VHR's, has ceased operations.

Allocating Time/Staff Resources is Low/Moderate Priority

Tracking of VHR units is done in many communities as time permits, typically only a few times per year. This creates the possibility that units rented on a short-term basis through online hosting sites only part of the time are not well tracked.

Administrative Costs are Unclear

The cost associated with the tracking and compliance has not been well documented. For the most part, mountain towns have not been conducting cost/benefit analyses to determine if hiring additional staff or redirecting existing assignments in order to conduct more frequent monitoring of VHR's listed on line would be worth the investment.

Staffing Not Shared - Regional Inefficiencies

In most mountain towns, more than one jurisdiction levies taxes on short-term rentals but these entities generally do not share responsibilities and information. In areas where municipalities are in close proximity (i.e. Crested Butte and Mt. Crested Butte, Telluride and Mountain Village, Summit County, CO) or are often considered a single-market area, searches on hosting sites list all of the VHR's available in the area, not within the borders of a single town. Yet the towns covered each spend time separately researching the units to identify the ones within their boundaries.

Large Cities Get Aggressive

Metropolitan areas are greatly expanding their staffing efforts to respond to the proliferation of units, concerns, complaints and tax compliance. Applicable taxes add up to significant sums in major cities. For example, the New York Attorney General has estimated that New York City is owed at least \$33.4 million in unpaid hotel occupancy taxes over the past five years, as a result of short-term rentals through Airbnb. With such large amounts at stake, New York's search for illegal short-term rentals now combines a variety of sources - building/fire inspectors, police, lawyers and tax specialists using multiple techniques ranging from door-knocking to digital sleuthing and video surveillance.

CAST Survey Findings

Responsible Departments

Finance department staff is involved in almost all of the 10 CAST participating towns. When this is not the case, administrative staff, under the direction of the town manager, handles VHR's. Responsibility is shared with planning/community development/building staff in half of the communities.

Town Departments Responsible for VHR Management

	Tracking	Licensing/ Tax Collection	Regulations	Complaints
Breckenridge	Finance	Finance	Finance	Finance
Crested Butte	Finance	Finance	Building	Marshals
Durango	Comm Dev/Code Enforce. & City Clerk	Finance & Comm Dev	Comm Dev	Comm Dev/ Code Enforce.
Estes Park	Comm Dev/Town Clerk	Town Clerk	Comm Dev	Comm Dev/Police
Frisco	Finance	Finance	Finance	CDD
Jackson	Planning & Building			Planning & Building
Mt. Crested Butte	Admin	Admin		
Ouray	Admin	Admin	Admin/PD	
Park City	Building	Finance	Building/Planning	Building
Steamboat Springs	Planning	Planning/Tax	Planning	Planning

Number of Staff Involved and Hours Spent

Among most towns, either one or two staff members per department are involved in the four main areas of responsibility – tracking, licensing/tax collection, regulations and complaints. On average, 3.7 staff members have some type of responsibility. Durango has the most staff involved – 12 staff in three departments followed by Crested Butte and Park City with four each.

Staffing and Time Spent on VHR Management

	Tracking	Licensing/ Tax Collection	Regulations	Complaints	Total
Average # of Staff Involved	1.6	1.4	1.8	1.3	3.6
Avg. Hours Spent Monthly	19	34	6	6	54

It takes an average of 54 hours per month to manage the systems now in place. Nearly two-thirds of the time is spent on licensing and tax collection. Tracking of VHR listings takes up about one-third of the hours devoted.

Costs

Staff frequently expressed uncertainty when questioned about the cost of their work on overseeing Vacation Home Rentals. The average cost totaled \$1,567/ month or \$18,800/year among the seven CAST towns who provided rough estimates.

On an hourly basis, costs range from \$22 to \$32, which likely is not a fully loaded figure including benefits.

Best Practices

Staffing Alternatives

Community Development Department Takes the Lead – Durango

- As issues continue to expand and concerns shift from a focus on tax collection to workforce housing and neighborhood issues, lead responsibility is placed within the purview of community development/planning/building staff in Durango. Community development coordinates quarterly with finance and administrative services.

VHR Oversight Coordinated by Economic Development Staff – Park City

- In recognition of the importance of VHR's to the resort town's economy, economic development staff coordinate oversight tasks, coordinating with finance, building and planning staff.

Staff Specialist Added – Park City

- A staff person was hired to implement an inspection program, insuring that VHR units are safe and of sufficient quality for a positive visitor experience, which is considered tantamount to the community's sustainability as a high-end destination resort. Park City is the only one of the 10 CAST towns that has hired staff specifically for its VHR oversight.

Potential Practices

Share Staff/Contract Services through Regional Cooperation

Whatever system is used to track, license, tax and oversee VHR's, sharing the responsibility with neighboring jurisdictions should be more efficient. Summit County shared the VRCompliance LLC contract when they used the company's services to track VHR's.

Compare Costs/Benefits

The staff cost to oversee VHR's should be documented. This will enable cost/benefit analysis, potentially support increases in license fees and inform consideration of other administrative options, such as contract services.

VI. Neighborhood Impacts

Issues and Emerging Trends

The impacts of VHR's are widespread. Communities have become alarmed about changes in the character of their residential neighborhoods as they transition into lodging districts. Familiar faces are being replaced by transient populations. In many cities, neighbors are outraged and leading the fight against the proliferation of the industry. In mountain towns where visitors are the mainstay of the economy, residents and community officials are also concerned about changes in community character as well as specific disruptions including noise, parking violations, overcrowding and garbage.

Metro Areas React to Neighborhood Concerns

In urban areas, concerns about neighborhood impacts were generally first to get significant attention. Short-term rentals were often prohibited in residential zones and were thus illegal uses that could not be licensed and taxed. Boulder is a prime example. When the issue of taxing short-term rentals was raised several years ago, the City chose not to take action at that time. When complaints lodged by neighbors in 2014 increased in number and volume, the City's initial response was to issue 20 cease and desist letters to known violators of zoning prohibitions. The letters were quickly rescinded when the magnitude of the violations became better understood. Comprehensive solutions responsive to neighborhood concerns are now under investigation.

Neighborhoods Organize Across the Country

Neighborhoods are consolidating into organizations with a voice, establishing unified positions on issues that primarily impact neighborhoods. Citizen-initiated referendums that might prohibit or severely limiting VHR's are starting to appear in communities of all sizes. Examples of neighbor groups include:

- Asheville: Coalition of Asheville Neighborhoods
- Los Angeles: Keep Neighborhoods
- New York, San Francisco: ShareBetter
- New York: Westside Neighborhood Alliance

National Group(s) Form to Deal with Issues

At the national level, *Neighbors for Overnight Oversight* is an online coalition of residents, community leaders and businesses seeking to protect neighborhoods by supporting regulations and oversight for the short-term rental market. They work on measures to ensure that VHR's comply with basic safety measures to protect consumers and neighbors. They offer an advocacy tool kit and spread the word about situations when things go wrong. Similar groups may form; change happens quickly in this industry.

Hosting Sites Cooperatively Defend Rights

As referenced in the Regulations section of this report, hosting sites have reacted quickly to initiatives by citizen groups to place limits on their operations and demand accountability. They are doing so in a well-funded, cooperative manner. Each of the top hosting sites is a powerhouse in its own right; together they are formidable and will make initiatives at the metropolitan, state and federal level a hard fight. The extent to which they may attempt to influence neighborhood protection efforts in smaller towns is uncertain.

Code Enforcement and Local Property Managers Effective Tools in Mountain Towns

Local governments that permit VHR's have found a code enforcement approach effective at dealing with nuisance conditions, such as excessive noise, parking and trash. In some towns like Breckenridge, nuisance control regulations that have been part of the municipal code for years are being dusted off and used increasingly to mitigate adverse impacts on neighborhoods resulting from VHR's. In other towns like Durango, new codes have been created to specifically address VHR's in neighborhoods.

A tool adopted by many towns already and under consideration in others is requiring that VHR's have a local property manager/contact on call to respond to neighborhood complaints (see Regulations section for details).

CAST Survey Findings

Concerns About Neighborhoods

While most mountain towns first directed their VHR efforts on tax collection and licensing, neighborhood impacts have come to the forefront of policy and operational considerations. Among the 10 CAST study participants, Durango was the exception to this trend, focusing first on neighborhood impacts then designing regulations and licensing requirements aimed at preserving their residential areas.

Concern is higher for impacts on community character and neighborhood change than on specific nuisances although parking and noise are not far behind.

Neighborhood Concern Ratings

1 = minor concern; 5 = major concern

Concern	Avg. Rating
Community character	3.6
Neighborhood change	3.6
Parking	3.1
Noise	3.0
Safety	2.9
Overcrowding	2.7

Complaints

On average, 8.5 complaints were received last year by the six CAST participants that reported on complaints. Four of the 10 did not report any complaints in the past year, due at least in part to the lack of a standard complaint processing system.

Parking is the chief complaint followed by noise. Parking is particularly problematic in towns like Mt. Crested Butte where on street parking is not allowed. Complaints about VHR's where they are not allowed topped the list in Durango. Exterior lights being left on overnight and for long periods were also mentioned.

VHR-Related Complaints Received

Nature of Complaints	
Parking	22%
Noise	19%
Too many occupants	15%
Garbage	12%
Other: Illegal rentals, exterior lights left on	47%
Total*	115%

*Total exceeds 100% since multiple reasons sometimes cited.

How complaints are received and handled varies widely. In terms of receiving complaints:

- Town staff receives all or most complaints in Jackson, Mt. Crested Butte, Ouray and Park City;
- Elected officials have been contacted most often in Durango;
- Law enforcement usually gets the calls in Steamboat.

Towns learn of zoning/ordinance violations and other causes for complaint through:

- Neighbors -- the main source of complaints;
- Patrolling/observation is done by three of the 10 towns;
- Websites: "Overnight Oversight" or similar neighborhood watch has been a source in a couple of the communities;
- Facebook – While not noted as a source for complaints about VHR's in CAST towns, Facebook has been a forum for community interaction on related issues. In the small community of Pitkin, Colorado (about 70 residents) Facebook is the place where heated debates have occurred.
- Property managers who handle legal short-term rentals are a source of complaints about VHR's where they are not allowed.

Best Practices

Practices related to neighborhood impacts are grouped into two categories: Outreach/Education and Nuisance Mitigation.

Outreach and Education

Website – Durango

- Page on City's website covers regulations, history, recent news and opportunities for input with a link to map showing permitted VHR's.

Mapping of Permitted VHR's – Durango

- A map of all the permitted VHR's in the City that can be viewed by citizens with complaints submitted directly to community development staff via the website.

Neighbor Notices – Sonoma County and Petaluma (proposed)

- Letters notifying that a permit has been issued and containing contact information on mandatory property manager located within a 1-hour drive and on call 24/7 given to all neighbors within 100 feet of a VHR.

Stakeholder Roundtables – Durango

- Two discussions supported by informative PowerPoint presentations with realtors, property owners, vacation rental managers, neighborhood advocates, code enforcement staff, downtown HOA representatives, and lodging industry representatives.

Chamber Outreach – Breckenridge

- Meetings held for education about rules and procedures.

Newspaper Notices and Articles – Breckenridge

- Published notices in the newspaper to educate public/property owners about what is allowed.

Community Engagement – Durango

- A community meeting held on neighborhood issues publicized through multiple outlets including traditional media, social media, the City website and City e-mail listservs. Comments became extensive; Durango's staff recommends developing a system for organizing comments from the outset of any public education process.

Complaint Handling Process – Durango

- Website and other forms of public outreach channel comments/inquiries/complaints through to a designated planner; one person handles/routes complaints other than those needing immediate police response.

Educate Visitors – Breckenridge

- Create a brochure on the Town's noise, parking, occupant, visitor and garbage regulations associated with VHR's and require that it be posted in all VHR units.

Nuisance Mitigation

Occupancy Limits

- Estes Park: A maximum of two persons per bedroom plus two persons with an 8-person maximum. Children under 3 exempted.
- Sonoma County: Two persons per bedroom plus two up to a 12-person maximum subject to design load of septic system or as allowed through granting of a Use Permit.
- Steamboat Springs: 1 person per 200 SF.

Visitor Limits – Sonoma County

- A maximum of 6 visitors are allowed in addition to the maximum permitted, which equals up to 18 persons in homes with 5 or more bedrooms. Exceptions are allowed on the national holidays of Easter, Memorial Day, 4th of July, Labor Day, Thanksgiving, Christmas Eve and Christmas.

Outdoor Party Limits

- Steamboat Springs: Outdoor activities are prohibited at which more than twice the number of allowed occupants are in attendance, which equates to a maximum of 16 guests staying in the unit and no more than 32 persons at an outdoor party.
- Sonoma County: Special events, outdoor events, lawn parties, weddings and similar activities are not allowed at any time at VHR's in Rural Residential and Urban Residential zones.

Trash Management – Grand Lake

- The Pay as You Throw (PAYT) program involves the Town offering plastic bags for \$3.00 (25 Gal.) and \$4.00 (40 Gal.) that can be thrown in 5 animal-resistant dumpsters located by the Public Works Department shop in town.

Parking

- Sonoma County: 1 space minimum for up to 2 bedrooms; 2 spaces for 3 or 4 bedrooms and at least 3 spaces for larger units, which must demonstrate adequate parking.
- Breckenridge and Grand Lake: No motor vehicles can be parked on the lawn or landscaped areas or in the public street or right-of-way adjacent to the accommodation unit, and no person can stay overnight in any motor vehicle which is parked at an accommodation unit.
- Santa Fe: No recreational vehicles can be parked on the site or on the street.
- Steamboat Springs: Maximum of 4 cars outside of a garage.

Noise Limits

- Palm Springs: No outdoor amplified sound is permitted at any time when short-term rented.
- Sonoma County: Outdoor amplified sound is not permitted at any time unless through a Cultural or Special Event Permit or Use Permit.

General Nuisance

- Lake Tahoe Basin: All-encompassing but vague "Occupants cannot create unreasonable noise or disturbances, engage in disorderly conduct or violate provisions of state law regarding noise, overcrowding, alcohol or drugs."

VII. Workforce Housing

Issues and Emerging Trends

Concerns have increased within the last year over the impacts that VHR's are having on workforce housing, particularly its availability and cost. Communities have not done much to date to quantify the impacts but seem to be increasingly interested in options they might pursue to preserve and provide affordable housing for their workforce.

Loss of Long-Term Rentals

The conversion of rental units that have historically housed employees has become a major concern in mountain towns. Availability of workforce rental housing in all inter-mountain resort communities became very scarce in 2014. In 2014, apartment vacancy rates were extremely low -- less than 1% in many areas. In some towns like Jackson, the lack of rental housing has been called a crisis. Conversion of long-term rentals occupied by locals into VHR's has often been anecdotally cited as the reason for such a dramatic shift in rental availability.

Rent Increases

The economic principles of supply and demand have been functioning well in mountain towns. With the decrease in the rental supply, due at least in part to conversion into VHR's, rents have been rising. At one apartment complex near Vail, rents increased by over \$500/month in 2014. In response to the steep jump in rents in many Colorado mountain communities efforts are underway to develop additional apartments in Buena Vista, Breckenridge, Crested Butte, Edwards, Eagle, Mountain Village, Telluride, Salida and Steamboat Springs.

Large Cities Also Concerned

The concern about loss of long-term rentals is not isolated to mountain resort communities. A March 2015 report titled *Airbnb, Rising Rents and the Housing Shortage in Los Angeles* by LAANE, a group that supports "a new economy for all" cited the loss of over 7,300 long-term rental units. This estimate has been widely quoted in publications throughout the country, reflecting the growing concern over this issue.

Using Workforce Housing as Vacation Home Rentals

Some residents of deed-restricted workforce housing have rented their homes or spare bedrooms through online hosting sites. These scattered incidents have typically been reported by neighbors who also live in nearby homes with deed restrictions prohibiting the practice.

In Aspen, some community officials are in favor of allowing residents of restricted workforce housing to use their homes as vacation rentals, advertising through hosting sites and producing much needed extra income. The housing authority's guidelines and deed restrictions explicitly prohibit such use because, as the housing authority director explained, "it undermines the spirit and intent of the workforce housing program." The housing authority's outside legal counsel has strongly advised against permitting this

activity. Aspen is the only mountain town identified to date in which changes to regulations prohibiting the use of workforce housing as vacation home rentals may be considered.

Quantifying the Situation

While concerns over the impacts that the proliferation of VHR's has had on housing for the workforce, few attempts have been made to quantify the impacts. Evidence is anecdotal but many communities feel loss of units is significant since, as the town manager of Estes Park indicated, "It is so easy to have vacation rentals and the profits are substantial, that many people are choosing to utilize their properties as vacation rentals, thereby taking at least a portion of these off of the long term rental market." (sic)

Impacts on Accessory Units

One impact that is particularly hard to track is the use of accessory units at VHR's. Construction of deed restricted accessory dwelling units are often encouraged by municipalities though incentives such as density bonuses and fee waivers/reductions. The units can provide housing for the workforce, retirees and family members as their needs change. Petaluma is one community concerned about their ADU's or "granny flats" becoming VHR's.

CAST Survey Findings

Loss of Long-Term Rentals

The loss of housing previously rented by members of the local workforce on a long-term basis has become the top concern in participating CAST communities, edging out tax collection. Communities rated this an average of 3.9 (on a scale of 1 to 5 with 5 being "major concern"). Concern about conversion of long-term rentals that housed employees into short-term vacation home rentals is particularly high in Breckenridge, Crested Butte, Frisco, Jackson and Park City. Steamboat Springs is the only town surveyed where concern about this issue is low.

Tracking Conversion from Long-Term to Short-Term Rentals

While the concern is widespread, only two of the 10 CAST towns surveyed have tracked or attempted to identify residential units that were occupied by local residents but are now short-termed.

- Breckenridge maintains a property database used primarily for its RETT that classifies each residential unit according to its primary use. Long-term rentals have held steady at 9% to 10% of the inventory, despite fluctuations due to new construction and conversion into VHR's.
- Durango gains knowledge about the past use of units through its VHR permitting system. While the system has been in place for less than a year, staff estimates roughly half are out-of-town owners or professional property managers. The other half are local homeowners who travel and want the option to rent the house while gone, have a 2nd unit on their property that they want to rent, or want to short-term rent a room in the house. This system does not track change in use.

Using Deed Restricted Workforce Housing as VHR's

Incidents where illegal use of deed restricted workforce housing as VHR's has been very limited. Only Jackson and Frisco reported known incidents. None of the 10 towns reported requests by residents of restricted workforce housing for permission to rent their homes or spare bedrooms short term.

Despite few reported incidents, concern about the potential use of workforce housing as VHR's is relatively high, ranking 6th out of 16 issues tested in the CAST survey. While staff are aware of the concern, most feel compliance with prohibitions will not be problematic because neighbors will report violations and annual compliance monitoring will detect unauthorized rental of units.

Best Practices

Tracking Conversion of Employee Housing Into VHR's

Real Estate Database – Breckenridge

- The finance department maintains a database developed for tracking real estate transfer tax (RETT). New owners are contacted when units are sold to determine change in use.

Housing Census – Crested Butte

- The Town Planner has historically conducted a census on the use/occupancy of every residential unit in the community. This tool has been helpful on many tasks related to workforce housing and could be used to track loss of employee housing. It has documented that short-term rentals have increased from 5.1% of total housing units in 2000 to 15.8% in 2015, with a growth rate – times faster than the growth in housing.

Prohibiting Use of Workforce Housing as VHR's

Deed Restriction Provisions – Breckenridge

- Only “qualified occupants” who are employed in Summit County can reside in units, which prohibits renting the unit or individual bedrooms to visitors. Non-paying guests are allowed. Renting to roommates who are employed in Summit County is also allowed.

Web Site Notice - Aspen

- The Aspen/Pitkin County Housing Authority web site has in bold, red typeface, “Under NO circumstances are you allowed to rent your deed restricted home or room out through VRBO, Airbnb or equivalent.”

Potential Practices

License Check for Housing Compliance

- Require sign off by housing agency/department in charge of administering workforce housing on VHR's license/permit applications.

Tracking System Crosscheck

- Provide addresses and photos of restricted workforce housing to staff who license and track VHR's.

Allocate VHR Revenue to Housing

- To fund replacement housing and units needed by growing workforce, allocate tax revenues into an affordable housing fund. A proposal to do this is under consideration in Nashville.

Replace Lost Housing Units

- Develop goals and plans for workforce housing development that take into account loss of housing through conversion into VHR's.