



Memorandum

TO: Town Council
FROM: Finance Department
DATE: March 15, 2022
SUBJECT: Short-Term Rental Study

I. SUMMARY

The purpose of this memo is to propose policy change recommendations to the current short-term rental ordinance based on the conclusion of data and analysis from the short-term rental (STR) study presented at the January 17 and February 15, 2022, Vail Town Council Meetings. Based on Council's feedback at the last meeting, staff recommends considering the following changes to the current ordinance.

II. BACKGROUND

Conclusions of the Short-Term Rental Study

Throughout the short-term rental study, a considerable amount of data and analysis was presented on short-term rental activity in the Town of Vail. To summarize, the study reviewed current regulations, real estate market impacts, peer community approaches to regulation, and the granular location densities and inventory composition of the registered STR properties throughout town.

Below is a summary of key findings from the study:

- 31% of residential parcels were registered as STRs (a total of 2,454 units)
- 18% of units in Zone 2 were registered as an STR in 2021 with new registrations in Zone 2 occurring at a higher rate since January 2020 than in prior years
- 138 of the 410 properties sold (one-third) during 2021 were registered as an STR before the sale, after the sale or both
- Vacant homes and those used for seasonal, recreational, or occasional uses represent 69% of the town's housing stock according to census data; this did not change significantly between 2010 and 2019
- Saturation of STRs in business license **Zone 2** is significantly lower than the overall rate of 32%. When adjusted for STRs located in developments with 24/7 onsite management, **the saturation rate is at or below 20% in these areas**

- Data suggests that though the full-time resident population in Vail has increased, **the population of locals aged 18-34 has declined**
- The number of owner-occupied housing units increased from 2010 to 2019, while the number of long-term rentals decreased resulting in a **net loss of 162 local occupied rental housing units**

III. DISCUSSION

Proposed Policy Recommendations

Violations

During the STR study presentation, Council has expressed concern over STR properties impacting neighborhood character and community standards. It was questioned whether our current STR enforcement structure is adequate to mitigate these problems. Currently, the town's STR violation structure has four levels of enforcement, with the fourth being a revocation of the STR registration for two years. Staff recommends changing this policy by reducing the maximum number of violations from four to three, increasing the fine amounts for each level, and increasing the revocation period from two to three years.

Additionally, staff suggests imposing a significant fine of \$2,650, the maximum jurisdictional penalty, for any STR found operating without a valid registration. The purpose of this would be to dissuade non-compliance from unregistered units.

Below is a summary of the recommended violation and fine structure:

Suggested Fines		Vs. Existing Fines
First Violation	\$1,500	\$500
Second Violation	\$2,650	\$1,500
Third Violation	Registration Revoked for 3 Years	\$2,500
Fourth Violation	N/A	Registration Revoked for 2 Years
Fine for operating without an approved STR registration, each day is a separate violation	\$2,650	Follows four-step fine structure

Late Fees for Renewals:

Staff recommends a \$250 late fee for renewals not submitted by the annual deadline of February 28 to increase registration renewal compliance.

Tiered Registration Fees

As shown in the study, our current registration fees are lower than peer communities and are well below the town’s administrative costs for STR enforcement. Additionally, the council has expressed interest in mitigation fees to raise revenues for deed-restricted housing. Staff recommends using a tiered fee structure based on impact levels and usage. **The proposed tiered structure is much less impactful to local residents who rent a portion of their property while present or rent their entire home for 30-days or less per year.**

- **Base Fees to Cover Administrative Costs**

Base Fees (to cover Admin costs)		Annual Estimated Revenue
Fractional Managed by Owner	\$25 Per Owner	\$2,000
Fractional Managed by Front Desk	\$150 Per Unit	\$25,000
Owner Occupied, Primary Residence 30-Day Registration	\$25	\$2,500
Owner Occupied, Primary Residence STR	\$150	\$22,500
Non-Primary Residence STR	\$150	\$300,000
		\$352,000

- **Mitigation Fees to Fund Local Housing Initiatives**

Guests staying in STRs spend money in the local economy. This spending is primarily in the retail, food and beverage, and recreation industries which supports jobs that do not pay enough for employees to afford market rate housing in the town. The basis of this fee is therefore the gap between what employees can afford and the cost to purchase a home in the Town of Vail.

The calculation also accounts for the possibility that a home used as an STR could be occupied by a local resident, and the fee is further based on the difference between the impact of guest spending in the local economy and the baseline impact of local resident spending.

Guest Spending and Job Generation

Guest spending was modeled on the average expenditure across all accommodation types, with data inputs from the Vail Lodging Guest Survey averaged over the 2017 to 2019 time period (RRC Associates). The survey data provides per unit expenditures by type; based on this data, expenditures average \$898 per unit per day, including \$428 on food & beverage, \$300 on retail/shopping, and \$170 on entertainment & recreation.

This spending is run through an economic impact model to determine the job generation associated with guest expenditures. These jobs are then classified by occupation and wage to determine how much these new employees can afford to pay for housing.

Fee Calculation

To calculate the fee, a four-step process is used:

- **Household Need**– The number of households at or below 200 percent of AMI supported by guest spending form the basis of the fee, as these represent employees needed in the community who cannot otherwise afford housing.
- **Occupancy Rate** – An occupancy rate of 40.0 percent is applied to the housing demand, based on the occupancy data for properties in Zone 1 and Zone 2 from 2016 through 2019 as well as 2021 (2020 was excluded, as Covid impacts made the data non-representative of local conditions).
- **Affordability Gap** – The affordability gap per household and AMI range is calculated, and the number of households in each AMI category (after accounting for the occupancy rate) are multiplied by the gap per household to calculate the total affordability gap.
- **Adjustment for Local Households** – To isolate the impact of guest spending above the impact of a local household, the gap associated with jobs generated by local household spending is subtracted from the gap associated with guest spending, resulting in a net gap per accommodation unit.

This fee is then adjusted to reflect a per-bedroom figure (rather than per unit). STRs in the Town of Vail have an average of 2.8 bedrooms per unit. Based on this analysis, the maximum fee per bedroom is \$5,912, which represents the amount per bedroom, per year, that would mitigate the full housing need generated by guest spending. As a policy mechanism, Council can apply a mitigation rate to this fee (for example, mitigating 40% of the need would result in an annual fee of \$5,912 x 0.40 = \$2,400 per bedroom). This is summarized in the table below.

Description	Fee Per Bedroom	Est. Annual Revenue
Maximum Annual Fee	\$5,912	<i>5,700 bedrooms</i>
Mitigation Rate		
15%	\$900	\$5,130,000
20%	\$1,200	\$6,840,000
25%	\$1,500	\$8,550,000
30%	\$1,800	\$10,260,000
35%	\$2,100	\$11,970,000
40%	\$2,400	\$13,680,000
45%	\$2,700	\$15,390,000
50%	\$3,000	\$17,100,000

Source: Economic & Planning Systems

Along with a tiered approach to flat-rate fees, **staff recommends considering a lower per-bedroom fee for owner-occupied primary homes and fractional owner registrations.**

Under this recommendation, potential annual revenue estimates are revised below to reflect the 460 STR units that would be eligible for a discounted rate.

Description	Fee Per Bedroom	Est. Annual Revenue
Maximum Annual Fee	\$5,912	<i>5,700 bedrooms with 460 at reduced rate</i>
Mitigation Rate		
15%	\$900	\$4,852,000
20%	\$1,200	\$6,454,000
25%	\$1,500	\$8,056,000
30%	\$1,800	\$9,658,000
35%	\$2,100	\$11,260,000
40%	\$2,400	\$12,862,000
45%	\$2,700	\$14,464,000
50%	\$3,000	\$16,066,000

The revenue generated by the mitigation fee could be allocated to the town’s Housing Fund for investment in housing initiatives, developments and programs.

Registration Limits (“Caps”)

The town’s current short-term rental ordinance does not limit the number of registrations in any area. Establishing a registration cap would limit new STR properties and mitigate impacts to the long-term housing market. Staff recommends considering two different approaches toward instituting a limit on STR registrations in outlying neighborhoods of the Town. Business license “Zone 2” area includes several residential areas such as West Vail, East Vail, Sandstone, etc. The below approaches consider the unique inventory and character of Vail as a resort community.

Option 1:

In Zone 2, no more than 20% of units in a multi-unit building or complex governed by a common HOA with 6 or more units may obtain an STR registration – unless the unit is a fractional property or in a building with a 24/7 front desk present.

- A. Full-time local residents may obtain an unlimited STR registration for rentals of individual rooms or approved accessory housekeeping units located within their primary residence. The primary resident/owner must be present during all rentals. *This rule preserves the ability of local residents to utilize STR activity to assist with the costs of homeownership.*
- B. Full-time local residents may obtain a limited 30-day STR registration for the rentals of their entire property (host not present) when the unit is their primary residence only.

This rule preserves the ability of local residents to utilize STR activity to assist with the costs of homeownership.

- C. Timeshare or fractional units and properties with 24/7 on-site managers shall be exempt from the 20% limit outlined above. *Staff suggests these properties are purpose-built for STR usage and based on the STR study, do not impact the housing inventory in the same manner as other properties.*
- D. Properties that obtained their registration on or prior to ordinance effective date may renew their registration without limitation. These registrations must be continuously maintained and renewed. If the registration lapses, the owner shall not be eligible to register again unless and until total registrations are under the limit. Registration is non-transferrable.

Option 2:

Rather than limiting registrations by building or development, limit the overall number of registrations in Zone 2 (or in specific neighborhood areas) to their current level. Staff recommends adopting this with the same exemptions listed above and one additional exemption:

- A. Beginning **January 1st, 2025**, units that have been owned continuously by the same person or entity for a period of not less than **5 years** immediately before the registration application date, shall be exempted from the registration cap. *Staff recommends this exemption to reduce the potential undesirable side effect of second homes which may remain vacant if not allowed to rent short-term. This would also curtail buyers only interested in STR properties as a source of revenue. It would also limit new STRs to owners which have been invested in the community and individual neighborhoods for a significant period.*

Health and Life Safety Standards

Staff recommends revisiting the current health and life safety standards required by the STR ordinance. Currently, the town requires a self-compliance affidavit to be completed by the homeowner or property manager attesting that their property or properties adhere to the items listed on the affidavit including fire and building safety standards, community impacts like parking and noise ordinance, and occupancy limits. Staff recommends considering the following requirements to improve safety compliance and create some alignment with requirements for commercial hotels and lodges:

- **Fire Department Inspections**

Town staff recommends requiring a periodic inspection of all short-term rental units not located in buildings with on-site, 24/7 management. Staff recommends requiring **proof of inspection every three years** as a condition of renewal of the STR registration and verification of the fire and life-safety affidavit in intervening years. Any STR that is subject to a complaint of a violation of the life-safety standards would be required to have a full inspection. This “standalone” inspection would be in addition to the periodic three-year inspection required. This program

would require additional staff time and administration costs which could be covered by increased STR registration fees. Staff estimates approximately half of all current STR registrations would require an inspection under this rule.

Staff recommends requiring the following items in the proposed fire safety inspection:

- Address identification posted on the exterior of the building
- Fire Free Five (non-combustible zone around the house)
- Portable outdoor fireplaces are not present
- Inspection of outdoor heating/cooking appliances (location and use)
- Chimneys/flues have adequate clearance to trees. Wood burning fireplaces are provided with a metal ash-can
- Emergency contact provided
- EC Alert information provided
- Address provided in the guest information packet
- Required fire extinguishers present/operable/serviced
- Major egress issues (i.e. bedroom in the basement without emergency escape)
- Required carbon monoxide detection present/operable
- Required smoke alarms present/operable
- Occupancy as per TOV ordinance
- Egress plan is provided and posted
- Clearance to electrical panels
- Readily apparent electrical hazards (e.g. improvised electrical, would not check the operation of GFCI, AFCI, etc.)
- Readily apparent heating hazards (e.g. use of space heaters, would not conduct operational check/inspection of boilers/heaters for hazards)

This policy is recommended to increase the health and life safety standards of these properties and mitigate the risk of property damage.

- **Require Proof of Adequate Insurance for Short-Term Rental Activity**

As identified by the Rocky Mountain Insurance Information Institute and Insurance Information Institute, standard homeowner's insurance policies are generally inadequate on their own to cover claims due to STR activity. This may negatively impact neighboring homes and units which experience claims due to the activity. Some insurers will cover these claims when the STR activity is very limited, generally one rental per year. Staff recommends requiring proof of one of the following with a minimum \$1.0 million coverage for all STRs except primary residences rented for 30-days or less and fractional units:

- Commercial insurance policy coverage for STR activity
- Endorsement to a homeowner's policy for coverage of STR activities
- Proof of other gap insurance policy for STR activities, excluding automatic insurance provided by online STR rental platforms like Airbnb, VRBO, etc... *These policies are far less comprehensive than standard homeowner's or commercial insurance*

- **Update Short-Term Rental Occupancy Limits**

During the presentation of the STR study, the council expressed concerns over the impacts STRs have on neighborhood character, parking, and residents' quiet enjoyment of their homes. One option to address this which has been implemented in other communities is to reduce the overall occupancy limit for STR properties. Current occupancy limits are 2 people per bedroom, plus 2 per unit. Occupancy limits are currently enforced via monitoring of STR advertisements.

Update Current Local Representative Requirements

In the course of administering the current STR ordinance, staff has identified a minor adjustment that will improve compliance rates. Staff recommends exempting fractional units and units with 24/7 onsite management (front desks) from being required to provide a local representative contact. These units generate limited complaints to the town as issues are directed to onsite management. Owners of these units are often second homeowners and finding a local representative becomes an insurmountable hurdle to becoming registered. Removing this requirement will encourage increased compliance rates.

IV. ACTION REQUESTED OF COUNCIL

Please provide feedback and direction to staff regarding these recommendations for policy updates to the short-term rental ordinance.

1. Does the Council wish to increase fines and penalties for violations of the STR code?
Implement late fees for registration renewals?
2. Does the Council wish to increase fees?
 - a. To cover administrative costs and/or
 - b. To mitigate housing impacts
3. Does the Council wish to implement tiered fees and registrations with reduced rates for primary residences occupied by local owners and fractional units?
4. Does the Council wish to implement a limit to the number of registrations in business license Zone 2 or in more specific neighborhood areas? Is there a preference to the method of limiting registrations i.e. Option 1 or 2?
5. Does the Council wish to update health and safety standard requirements for STRs?
 - a. Fire department inspections
 - b. Insurance requirements
 - c. Occupancy limits
6. Does the Council wish to remove local representative requirements for fractional units and units with 24/7 onsite management?