

AGENDA ITEM SUMMARY

WORK SESSION MEETING DATE: October 1, 2024

AGENDA ITEM TITLE: Review of the Pitkin County Short-Term Rental License Code (Title 6, Section 6.50)

STAFF RESPONSIBLE: Jeanette Muzio, Short-Term Rental License Administrator

ISSUE STATEMENT: In June 2022, the Board of County Commissioners (“BOCC”) adopted the Pitkin County Short Term Rental Code (“STR Code”) - Section 6-50, Title 6 of the Pitkin County Code. The STR Code went into effect on September 20, 2022. Staff presents the following findings to assess the function of the ordinance in regulating short-term rentals within unincorporated Pitkin County. This assessment aims to guide future policy decisions and improvements to the existing Short-Term Rental Licensing Program (“STR Program”). The BOCC and staff will discuss key topics and potential Code amendments.

BACKGROUND: The following is a summary of key dates for the STR Program.

- On June 22, 2022, BOCC Ordinance No. 028-2022 adopted the STR Code to regulate all short-term rental activity in unincorporated Pitkin County. The regulations have been effective since September 20, 2022 (Attachment A);
- On June 14, 2023, after the BOCC denied an STR License application in the Rural and Remote zone district, BOCC Ordinance No. 017-2023 approved an amendment to Title 6 of the County Code prohibiting STR Licenses in the Rural and Remote zone district (Attachment B);
- On June 13, 2023, BOCC Ordinance No. 024-2023 approved an amendment to Title 6 of the County Code to revise STR License requirements in the Village Commercial zone district to allow for a minimum of a two-day rental, compared to the previous four-day rental minimum (Attachment C);

A brief STR Program summary is reflected in the information below from the start of the program in 2022 through August 2024:

- The STR Licenses are distributed across the County with concentrations along the State Highways 82 and 133 corridors. Review Attachment D for a County-wide map indicating the locations of the STR Licenses.
- STR License requests have slightly reduced since the program’s launch in 2022, a trend that is reflected in other communities as well.
- The STR Program launched an enforcement process in 2024 to identify properties operating STR activity in violation of County Code. Typical enforcement issues include operating without an STR License or advertising a minimum night stay below the required nights (4 or 2, depending on zone district).

Table 1: STR Program By the Numbers

	2022 ¹	2023	2024 ²
Total number of STR License requests submitted (excluding abandoned applications)	133	93	45
Total number of issued STR Licenses in Pitkin County	93	73	81
Total number of STR-related Code Enforcement cases opened	NA	NA	26
Total number of STR-related Code Enforcement cases resolved	NA	NA	19

Table 2: STR Program Revenue and Expenses

Regarding revenue and expenses, the STR Program has contributed positively to the County’s revenue goals through the imposition of license fees. The program costs are covered by these fees as shown in the following chart:

	2023		2024		
	Budget	Actual	Budget	Actual as of 8/31/24	Projected for end of 2024
Revenue	\$300,000	\$282,662	\$300,000	\$177,860	\$350,000
Expenses	\$383,404	\$125,344	\$183,404	\$89,295	\$196,081

LINK TO STRATEGIC PLAN:

The Pitkin County Short Term Rental Licensing Program supports the County Strategic Plan via the following:

- “Flourishing Natural and Built Environment” via success factor “Conserved natural resources and environment” due to prohibition of STR Licenses in the Rural and Remote Zone District.
- “Livable & Supportive Community” via success factor “A sense of personal and community safety” due to the framework resulting in public education for STR users about surrounding wildlife and wildfires.
- “Prosperous Economy” via success factor “Sustainable economy and employment” due to the STR program regulating existing STR activity and economy within Pitkin County.

DISCUSSION ITEMS: This section focuses on topics that require BOCC discussion. Note that staff is currently pursuing amendments to the Land Use Code to prohibit STRs in the Rural Remote zone district, given concerns with State legislation. The Title 8 Code Amendments are not covered here but will be brought to the BOCC for consideration later in 2024. The following focuses on Title 6 amendments.

¹ Data begins at the launch of the STR Program on September 20, 2022

² Data reflected as of August 31, 2024

Minimum and Maximum Night Stays

In zone districts where STR Licenses are permitted, the minimum and maximum night stay requirements are as follows:

Table 3: STR Program Minimum and Maximum Night Stays

	Minimum Night Stay	Maximum Nights Rented per Licensing Period
Village Commercial zone district	2	180
All other zone districts (except Rural and Remote)	4	120

1. For properties outside the Village Commercial zone district, the minimum night stay is often misrepresented in STR Licensees listings to be less than the required four (4) nights. Anecdotally, the four (4) minimum nights is difficult for STR Licensees to attract guests.

Staff recommendation: this Code is likely to be amended during the County's larger initiative that includes recommendations from the Community Growth Advisory Committee. Staff advises the BOCC to defer a potential code amendment regarding this topic. Additionally, findings from the budgeted STR impact study could provide some insight into this inquiry.

Application Requirements and Process

1. Eligibility Period: One of the application requirements and criteria of approval is that each STR License Applicant must provide evidence that the subject property has engaged in Short-Term Rental Activity between the dates of May 11, 2017 and May 11, 2022. Often this application requirement deters potential applicants or, if the application is submitted, it results in a denial.

Staff recommendation: Removing this requirement or expanding the criteria beyond the current language could result in additional community impacts. Staff recommend that this application requirement could be removed after the conclusion of an impact fee study and the implementation of an impact fee.

2. License Process/Application requirements: Currently, staff do not track compliance with each Code section when issuing licenses leading to the potential of issuing STR Licenses to owners with violations on their property. The current approach is to base approvals on the applicant's representation of compliance.

Staff recommendation: The current approach to the STR Program is to review applications to determine if the Applicant has represented their compliance with Title 6. Some of the requirements are significant health and safety issues like carbon monoxide detectors or wildfire defensible space maintenance. Should the program continue to rely on applicant representation of compliance or should the program bolster the review to ensure compliance? The following table indicates the STR License requirements and potential application requirements if more certainty for compliance is preferred.

Table 4: STR Program Compliance

Title 6 STR License Requirements	Proposed approach to verify
Size of residence	Property Assessor Report
Number of bedrooms and bathrooms in the residence	Certificate of Occupancy
Size of property and zone district	Maps and More Community Development Property Report
Maximum number of renters or guests intended to occupy the rented residence	Application
Identity and contact information for property manager for complaints	Application
All previous code enforcement, warnings or complaints	Title search dated within prior 2 years and wildfire hazard assessment for properties in medium and severe hazard areas
Water source and wastewater infrastructure	Maps and More Community Development Property Report, domestic well permit, OWTS permit or OWTS use permit (as required)
License type requested (number of nights per license period)	Application
Affirmation for the presence of working smoke and carbon monoxide detectors and fire extinguishers	Third-party property inspector report/Health and safety inspection dated within prior 2 years
History of STR activity between May 11, 2017 and May 11, 2022	Application
Compliance with County Codes (building, zoning, environmental, energy)	Referral process
Current registration for sales tax collection	State documentation
Parking plan	Application
License not available for employee, affordable or other managed or covenant restricted housing	Title Search
Private governing documents such as covenants that restrict the use of the property for STR activity	Title Search

3. Licensing Period: Currently the STR Licensing period is for one year and State Statute allows for a two-year licensing period.

Staff recommendation: Staff recommend the BOCC consider offering Applicants either a one or two year licensing period. Two year licensing periods would be available for current STR Licensees with

no violations or complaints. All new Applicants would be required to apply for a one-year license prior to being eligible for a two-year license.

STR Program Fees

1. Fee structure. The STR Licensing program’s expenses are currently budgeted for two (2) FTEs and one County vehicle. The current status is the program has one (1) dedicated FTE with the 2025 budget request abandoning the second FTE and the STR vehicle. Although this seems like savings for the program, the Community Development Department overhead supports the program. For example, the Development Services team supports the STR-related technology and licensing portal while the Administrative team supports the STR program with management and oversight. Currently, the STR License Fee covers the cost of the program, which was the goal for setting the fee. Some feedback from the community includes:

- a. The STR Licensing fee could be reduced for instances where an owner is renting a room in an owner-occupied property.

Staff recommendation: Staff recommends a reduced fee structure for owner-occupied units where a portion of the structure is short-term rented.

- b. The STR Licensing fee would increase significantly for Applicants in the event the fee was calculated based on current assessed home values.

Assessed home values have increased between 2022 and 2024 significantly. The STR Program’s fees are based on the 2022 assessed home values even though the 2024 values are available. Should the STR License fees be based on 2022 assessed values or current values? If the fee structure is based on current assessed home values, should the fee be reduced based on annual home valuation? Staff requests direction from the BOCC.

Staff notes that in the event some of the STR Program’s restrictions are loosened, such as prior STR history approval criteria or minimum night stay, the demands for the STR Licenses could increase and result in increased revenue for the program.

Table 4: Existing STR Program Fee Structure

Seasonal STR Licenses (61-120 Nights)	= (2022 Assessor Home Market Value)*(.07%)
Limited STR Licenses (21-60 Nights)	= (2022 Assessor Home Market Value)*(.06%)
Otherwise Limited (20 Nights or Less)	= (2022 Assessor Home Market Value)*(.05%)

Table 5: Existing STR Program Fee Structure Examples based on Assessor Home Market Values

Assessor Home Market Value	Estimated Nightly Rate		Proposed Partial Resident Fee (.07% of Market Value) Year-Round (60<120 Nights)	Proposed Partial Resident Fee (.06% of Market Value) Seasonally (21 - 60 Nights)	Proposed Partial Resident Fee (.05% of Market Value) Otherwise Limited (20 Nights or Less)
	Low	High			
\$400,000	250	400	\$160	\$120	\$80
\$800,000	600	700	\$320	\$240	\$160
\$1,000,000	650	750	\$400	\$300	\$200
\$3,000,000	1,100	1,700	\$1,200	\$900	\$600
\$5,000,000	1,500	2,600	\$2,000	\$1,500	\$1,000
\$7,000,000	2,000	3,500	\$2,800	\$2,100	\$1,400
\$9,000,000	2,800	4,500	\$3,600	\$2,700	\$1,800
\$11,000,000	3,700	5,500	\$4,400	\$3,300	\$2,200
\$13,000,000	4,500	6,500	\$5,200	\$3,900	\$2,600
\$15,000,000	5,250	7,500	\$6,000	\$4,500	\$3,000

2. Impact Study and Potential Impact Fee. One of the objectives of the STR Program is to create regulations and fees associated with short-term rental activity in order to make unregulated long-term rentals more appealing for property owners in Pitkin County. The STR Program has anecdotally created some long-term rentals in the community. The practicality of those long-term rentals actually providing housing for those in the local workforce is unknown. Besides regulatory means, the County also has the opportunity to fully understand the impacts of short-term rental activity on the community through an impact fee study. BOCC budgeted \$200,000 for an STR impact fee study in 2022, but directed staff to delay the study in 2023 and 2024.

Staff recommendation: Staff recommends commencing the already approved and budgeted STR impact fee study in 2025, especially if reduced restrictions are contemplated by the BOCC.

Public Noticing: The Public Notice elements of Title 6 have an opportunity to invite public participation and align with similar noticing standards found in the Land Use Code.

1. Public notice period is currently two weeks, allowing for a community member to submit comments to the Licensing Authority. If objections are received, staff has the option to elevate the review to the BOCC, but this is not required. The Land Use Code requires that review of an administrative Site Plan application be elevated to the Hearing Officer, if objections are received.

Staff recommendation: the public noticing period could be expanded beyond two weeks, if desired. The Land Use Code requires a 30 day mailed notice in addition to signage at the property. Additionally, the STR Code is recommended to allow for a Hearing Officer to review STR License requests that involve an objecting party.

2. Public notice delivery standards are not identified in the STR Code.

Staff recommendation: the public notice standards are most effective if they align with the standards established in Title 8 the Land Use Code. The public notices would be required to be sent with the Community Development Department as the return address in addition to the public notice affidavit signed by the applicant and notarized.

STR Program Enforcement

1. Enforcement priorities for the STR Program include three areas of violations (1) unlicensed STR activity, (2) properties with an STR License and are either advertising more occupancy than the STR Program allows or not meeting the minimum night stay requirement, and (3) properties renting more than the maximum number of nights per licensing period.

Staff recommendation: Continue prioritizing enforcement action according to the above criteria. For violations related to unlicensed STR activity, violators typically apply for an STR License or remove their STR listing.

2. While most enforcement actions are resolved in a timely manner, some require further action and the STR Code could benefit from additional enforcement language similar to the Land Use Code.

Staff recommendation: The STR Program Enforcement has the opportunity to align with some of the Enforcement actions available in Chapter 10 of the Land Use Code. Staff recommend no consequence for the first violation if a resolution is pursued. However, subsequent violations could benefit from a consequence such as increased licensing fees or double licensing fees. In general, it is helpful to have options in the Code to help staff enforce the STR Program and use the Attorney's Office as a last resort.

ATTACHMENTS:

- A. BOCC Ordinance No. 028-2022
- B. BOCC Ordinance No. 017-2023
- C. BOCC Ordinance No. 024-2023