



Weber County Planning Division

Date: 11/12/2020
To: Ogden Valley Planning Commission
From: Scott Perkes – Planner | Weber County Planning Division

Subject: Short-term rental regulation scenarios and updated draft ordinance

Commissioners,

During the commission's 10/27/2020 public hearing of the short-term rental regulation scenarios and draft ordinance, the Commission requested that staff develop a clarified regulation scenario to be known as the "Proof of Concept Scenario". The enclosed ordinance (see **Attachment "A"**) has added this scenario and clarified its differences with the "Business as Usual Scenario" that was reviewed during the meeting. Please see Page 1 of the updated ordinance to read through the 5 clarified scenarios, including the requested "Proof of Concept" Scenario.

Proposed Edits to the Draft Ordinance

Following the 10/27/2020 public hearing, staff has followed-up on various commission and public comments in the form of modifications to the draft ordinance language. These modifications are shown in the ordinance with redlined edits. These edits include the following:

1. Under the Prohibitions section, item (c) *Private Covenants* has been rewritten with proposed language from Clark Duellman, who is a member of the public and an attorney specializing in HOA law. Please see Attachment "B" below for an explanation of the proposed language revision.
2. Mr. Clark Duellman has also provided some proposed language for item (2)f. under the *Licensing Procedure* section. This language has been proposed to better match the language being updated in item (c) *Private Covenants* and to better explain the required documentation required for applicants to submit to staff at the time of licensure to verify STRs are allowed based on their neighborhood and any potential covenants that may be associated. Again, see Attachment "B" for Mr. Duellman's explanation for this proposed language.
3. Lastly, under the occupancy section, subsection (2) has been updated to clarify multi-contract STR use within lock-off units that may be associated with approved developments within the DRR-1 zone or approved PRUD developments.

Western Weber Planning Commission Action 11/10/2020

The Western Weber Planning Commission held a public hearing to discuss the five potential regulation scenarios and associated draft ordinance during their 11/10/2020 meeting. Following public comment, the commission moved to table the item to allow the Ogden Valley Planning Commission to review the requested "Proof of Concept" scenario prior to them making a formal recommendation to the County Commission.

I look forward to wrapping-up our discussion on this topic during the upcoming 11/17/2020 meeting. Please feel free to reach out should you have any questions.

Scott Perkes
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Attachments:

Attachment A – Draft STR Ordinance Including 5 Potential Regulation Scenarios
Attachment B – Written Comments Regarding Private Covenants and Propose Alternative Language– Clark Duellman

Attachment A

Sec 108-23 Short-Term Rentals

The four regulation scenarios listed below represent a few options for potential short-term rental regulation. These scenarios have been created to facilitate discussion. Any future adopted regulation may or may not follow one or none of these scenarios.

Open Scenario:

Any residential property within the unincorporated Weber County may obtain a short-term rental license to rent a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than 30 days.

- 3rd Party Enforcement **is utilized** to augment county enforcement efforts
- This scenario would be subject to the requirements and operational standards of this chapter.

Open/Limited Scenario:

With exception to properties in the FR-1 zone, any residential property within the unincorporated Weber County may obtain a short-term rental license to rent a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than 30 days subject to the requirements and standards of this chapter.

- This scenario also employs a geographic separation requirement that would prevent STR properties from being located adjacent to, or within a specified distance of another STR property.
- 3rd Party Enforcement **is utilized** to augment county enforcement efforts
- This scenario would be subject to the requirements and operational standards of this chapter.

Business as Usual Scenario:

The rental of a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than 30 days is considered a short-term rental. Short-term rentals are allowed only when listed as either a permitted or conditional use in a specific zone or when approved as part of a planned residential unit development (PRUD).

- This language is unchanged from existing regulation found in Sec. 108-7-25 "Nightly Rentals"
- 3rd Party Enforcement **is NOT utilized** to augment county enforcement efforts
- This scenario would **NOT be Subject** to the requirements and standards of this chapter.

Proof of Concept Scenario:

The rental of a sleeping room, apartment, dwelling unit, or dwelling for a time period of less than 30 days is considered a short-term rental. Short-term rentals are allowed only when listed as either a permitted or conditional use in a specific zone or when approved as part of a planned residential unit development (PRUD).

- This language is unchanged from existing regulation found in Sec. 108-7-25 "Nightly Rentals"
- 3rd Party Enforcement **is utilized** to augment county enforcement efforts
- This scenario would be subject to the requirements and operational standards of this chapter.

Closed Scenario:

The county will continue to allow STR licenses to be issued in the DRR-1 zone going forward. Except for existing owners with a valid conditional use permit and business license, STRs will no longer be allowed as a conditional use in the FR-3 zone. Owners within existing PRUD developments (with approved STR use) will be allowed to obtain an STR license, or continue renting if already licensed. New PRUD developments will no longer be approved with the STR use.

- 3rd Party Enforcement **is NOT utilized** to augment county enforcement efforts
- This scenario would **NOT be Subject** to the requirements and standards of this chapter.

Commented [PS1]: This language is unchanged from the existing Sec. 108-7-25 "Nightly Rentals"

Commented [PS2]: This language is unchanged from the existing Sec. 108-7-25 "Nightly Rentals"

Attachment A

44 **Sec 108-23-X Purpose And Intent**

45 There are benefits to allowing owners of residential units within the County to rent their dwelling units for short
46 periods of time. Short-term rental of dwelling units also brings capacity and diversification to the visitor-
47 accommodation market. However due to the potential for adverse impacts, short-term rentals must be
48 regulated by the County to protect the health, safety, and welfare of owners, neighbors, and visitors.

49 The intent of this Chapter is to establish procedures and standards by which residential short-term rentals can
50 be provided to visitors and tourists in a manner that protects both the quality of their experience, and the
51 communities in which they are located.

52 **Sec 108-23-X Applicability**

53 Four applicability scenarios for consideration: "Open", "Open/Limited", "Business as Usual", "Proof of Concept",
54 and "Closed".

55 **Sec 108-23-X Prohibitions**

56 A short-term rental license will not be issued for any of the following:

- 57 (a) *Accessory Buildings and Accessory Dwelling Units.* Short-term rentals are not allowed in any accessory
58 building, including licensed accessory dwelling units (ADUs), unless specifically provided for in other
59 areas of this land use code. A property that contains a licensed ADU is not eligible to obtain a short-term
60 rental license for the primary residence.
- 61 (b) *Deed Restricted Housing.* Short-term rentals are not allowed in properties that have been deed
62 restricted for affordable or workforce housing.

63 ~~(c) *Private Covenants.* A short-term rental license will not be issued for any property that is subject to any~~
64 ~~recorded private covenants that restrict the property's use for short-term rentals, regardless of whether~~
65 ~~or not such private covenants are enforced by a homeowners association or committee. Private~~
66 ~~covenants may be identified as covenants, conditions and restrictions (CC&Rs), protective covenants,~~
67 ~~restrictive covenants or neighborhood covenants. A short-term rental license will not be issued for any~~
68 ~~property that is subject to a private covenant that restricts the property's use for short-term rentals.~~

69 ~~(d)~~(c) **Sec 108-23-X Short-Term Rental License Required**

70 (a) *Licensing.* It is unlawful for an owner to rent any property for a time period of less than 30 days within
71 the unincorporated area of Weber County without a valid short-term rental license pursuant to this
72 Chapter. An issued short-term rental license shall also be considered a land use permit for the purpose
73 of operating a short-term rental unit.

74
75 (b) *Geographic Separation of Licenses.* With exception to the DRR-1 zone, PRUD developments with short-
76 term rental approvals, and properties in the FR-3 zone with valid short-term rental licenses at the time
77 of the adoption of this chapter (XX/XX/20XX), all licensed short-term rental units shall be located a
78 minimum of 500 feet from other licensed short-term rental units.

79
80 (c) *Initial Licensing Period.* Following the adoption of this chapter, County staff will process short-term
81 rental license applications by the order in which they are received. License applications that are found to

Commented [PS3]: This section is only applicable to the "Open/Limited" applicability scenario.

Commented [PS4]: This section is only applicable to the "Open/Limited" applicability scenario.

Attachment A

82 have a proposed short-term rental unit within an existing 500-foot separation buffer will be denied until
83 such a time in which a nearby license/s creating the encumbrance become expired or revoked.

(d) Licensing Procedure

85 (1) The owner or authorized representative shall submit a notarized short-term rental license
86 application on a form provided by the Planning Division, and shall pay the application fee set by
87 County Commission resolution.

88 (2) Applications shall be accompanied by the following materials:

- 89 a. Detailed floor plan and site plan of rental property indicating all areas allowed to be
90 occupied by short-term occupants
- 91 b. Parking plan demonstrating compliance with the parking standards established in Sec
92 XXX-XX-X
- 93 c. Trash disposal and collection plan demonstrating compliance with the trash disposal and
94 collection standards established in Sec XXX-XX-X
- 95 d. Proof of homeowners' and liability insurance
- 96 e. Preliminary title report dated within 30 calendar days prior to the submittal of an
97 application.

98 ~~f. For properties that are subject to any recorded private covenants, applicants must
99 submit a letter from the community's homeowners association or committee, or submit
100 a copy of the private covenants including any amendments to such private covenants, to
101 verify the short-term rental of dwellings is not restricted. For properties located within
102 an HOA, applicants must submit either a letter from the HOA board, a copy of the
103 community's Covenants, Conditions, & Restrictions (CC&Rs), or other acceptable
104 documentation verifying the community does not have a regulation prohibiting the
105 short term rental of dwellings.~~

106 ~~g.f.~~ Outdoor lighting plan showing compliance with Section 108-16.

107 ~~h.g.~~ Submission of the name and contact information associated with the individual or
108 management company being designated as the Responsible Agent.

109 ~~i.h.~~ Signed acknowledgement by the owner and responsible agent that they have read this
110 short-term rentals ordinance and understand the licensing, operational standards, and
111 violation structure.

112 (e) *Application Review Procedure.* Upon submission of a complete application for a short-term rental
113 license, staff shall circulate the application to the Planning Division, Building Department, Fire District,
114 Health Department, and any other reviewing agency deemed appropriate for adequate review and
115 approval of the license. Reviewing agencies shall have 30 days to review the submitted plans and return
116 any requests for additional information or conditions of approval to the applicant. Applicants shall have
117 60 days to comply with review agency requests or the application will be removed from consideration.

118 (f) *Issuance of License.* All licenses shall be issued to property owners. Licenses are tied to the owner for a
119 specific property and are non-transferable to other properties or other owners, except to individuals
120 who are next of kin. Licenses shall be issued for a period of one year and shall expire at the end of each
121 calendar year.
122
123
124

Commented [P55]: This highlighted language is only applicable to the "Open/Limited" applicability scenario.

Attachment A

125 (g) *License Renewal*. Existing licenses must submit for renewal and pay the required fee by no later than
126 **December 1st** of each year to remain valid through the next calendar year. Licenses issued anytime mid-
127 year will be required to renew their license by **December 1st** of the same year in order to become
128 concurrent with the sequential annual licensing cycle. Owners wishing to renew a license must provide:

- 129 (1) License renewal application
- 130 (2) Inspection report (if required by **Sec. XXX-XX-X**)

131 **Sec 108-23-X Property Inspection**

133 (a) *Initial property inspection*. Properties applying for their first short-term rental license shall be inspected
134 for compliance with the provisions of this chapter and other applicable sections of this Land Use Code.
135 The Planning Division shall have the option of designating a county inspector or a 3rd party building
136 inspector. Any deficiencies found during this initial inspection shall be resolved to the satisfaction of the
137 inspector prior to the release of a short-term rental license. Should the deficiencies not be resolved
138 within **90 days** from the time of initial inspection, the application shall be removed from consideration
139 and a short-term rental license will not be issued.

140
141 (b) *License renewal property inspection*. The County, at its discretion, may require that a property be
142 inspected prior to the renewal of an existing license. The Planning Division shall have the option of
143 designating a county inspector or a 3rd party building inspector. Should the property fail the inspection,
144 the owner shall have **90 days** to bring their property into compliance or the license will be suspended. A
145 license may be immediately suspended should life/safety concerns arise during the inspection. If a
146 license is suspended due to life/safety concerns, the property owner must rectify the concerns prior to
147 the license suspension being lifted.

148 **Sec 108-23-X Applicable Taxes And Remittance**

149 Owners of short-term rentals are responsible to collect and remit all applicable state and local taxes. Owners
150 who fail to collect and remit applicable taxes during the license period shall have their short-term rental license
151 suspended and shall not be eligible to renew their license for the next year. To have their license reinstated and
152 renewed, owners may submit payment for all unpaid back taxes in addition to payment of an administrative
153 penalty as established in **Sec XXX-XX-X** for a major violation.

154 **Sec 108-23-X Responsible Agent**

155 The owner of a short-term rental shall appoint a Responsible Agent for the rental property. This appointed agent
156 may be the owner, independent property manager, or a professional property management company. The
157 appointed responsible agent shall be on-call to manage the property during any period within which the
158 property is occupied. This agent must be able to respond, in person if needed, within **60 minutes** to address any
159 complaints, to the best of their ability, which may arise from the operation of the short-term rental. A
160 responsible agent is not required to, and should not, place themselves in a situation that could cause them
161 physical harm in order to attempt to address a complaint. The owner shall notify the Planning Division within
162 three days of a modification to the appointed responsible agent and shall provide name, address, and telephone
163 number of any newly appointed agent. It is the owner's responsibility to update this information throughout the
164 term of the license.

165 **Sec 108-23-X Operational Standards**

Attachment A

166 (a) *Information Dissemination Requirements.* The owner shall post the following information in a prominent
167 and visible location:

- 168 (1) *Internal posting.* Each licensed short-term rental property shall have the following information
169 posted in a conspicuous location where it can be easily viewed by tenants:
- 170 a. Short-Term Rental License number;
 - 171 b. Contact information for the owner and responsible agent, including a phone number for
172 24-hour response to emergencies;
 - 173 c. The property's maximum occupancy;
 - 174 d. The property-specific parking plan including the maximum number of vehicles allowed
175 to be parked on the property and applicable parking rules;
 - 176 e. Description of the location/s of fire extinguishers and emergency egress routes;
 - 177 f. Good neighbor requirements regarding noise, parking, trash pickup, and fire
178 restrictions;
 - 179 g. Current fire restriction information as disseminated through the Weber County Fire
180 District website; and
 - 181 h. Any other information deemed necessary by the reviewing agencies to ensure the
182 public's health and safety.
- 183 (2) *Street Addressing.* Each licensed short-term rental property shall have its assigned street
184 address posted externally in a conspicuous location where it can be easily viewed day or night
185 from the adjacent access way.

186 (b) *Advertising Requirements.* As provided in UCA 17-50-338, the following advertising requirements are not
187 intended to prohibit an individual from listing a property for short-term rental on any short-term rental
188 website. All advertising for a short-term rental property shall include:

- 189 (1) The property's short-term rental license number
190 (2) The property's maximum permitted occupancy
191 (3) Maximum parking capacity
192 (4) A digital link to the County's short-term rental regulations
193 (5) The following language shall be included verbatim in a prominent location of the advertisement:
194 "Any advertisement for a short-term rental property in unincorporated Weber County, Utah,
195 that does not provide a unique license number is unlikely to be a lawfully licensed short-term
196 rental."
197

198 (c) *Occupancy*

- 199 (1) *Occupancy Limits.* The maximum occupancy for a short-term rental property shall be no more
200 than **two** people per bedroom, plus **four** people up to a maximum of **10** people.
201
- 202 a. A property's maximum occupancy may be reduced due to a property's unique
203 characteristics, including but not limited to, limited parking, septic/sewer system
204 capacity, culinary water rights, etc.
 - 205 b. A greater maximum occupancy may be approved following additional review and
206 approval of applicable reviewing agencies and the provision of additional components
207 that would otherwise limit capacity including, but not limited to, fire suppression
208 systems, parking, septic/sewer capacity, culinary water rights, sleeping rooms, etc.

Attachment A

209 (2) *Single Contract.* With exception to condominiums with approved lock-off units in the DRR-1
210 zone or PRUD developments with approved short-term rental use, owners shall not concurrently
211 rent individual rooms or areas to unrelated parties for the same night or nights.

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212 (3) *External sleeping accommodations prohibited.* All sleeping accommodations must be maintained
213 internal to the licensed dwelling unit as indicated by the floorplan that was submitted and
214 approved during the licensing process. External accommodations such as yurts, teepees, tents,
215 or other temporary structures may not be used for sleeping accommodations or as a means to
216 increase the maximum permitted occupancy.

217 (4) *Duration.* , No licensed short-term rental unit may be rented for less than **three** consecutive
218 days, with exception to the following areas:

- 219 a. Licensed properties within the DRR-1 zone
- 220 b. Properties located within PRUD developments with short-term rental approval.
- 221 c. Properties located within the FR-3 zone that have obtained a valid conditional use
222 permit and short-term rental license prior to **XX-XX-XXXX**.

223 (d) *Parking.* In addition to the parking requirements for dwellings, as outlined by Sec. 108-8-2 of this Land
224 Use Code, the following parking regulations are also required for all licensed short-term rental
225 properties.

- 226 (1) All vehicles of occupants and visitors of a short-term rental property shall be parked only within
227 the property's boundary lines. Additionally, no more than **25%** of the property's front or side
228 yard setbacks shall be dedicated to parking.
- 229 (2) No parking is allowed within the property's adjacent rights-of-way.
- 230 (3) No more than one parking space per sleeping room may be provided.
- 231 (4) No vehicles shall be parked on the lawn or landscaped areas of the property.
- 232 (5) No person shall be permitted to stay overnight in any vehicle which is parked at the property.
- 233 (6) No vehicles with a passenger capacity of greater than sixteen **(16) persons** may be parked at the
234 property.

235 (e) *Noise.* At no time shall the noise emanating from the property exceed **65 dB** as measured from the
237 property line. Between the hours of **10:00 pm and 8:00 am**, no sound exceeding **55 dB**, and no amplified
238 or reproduced sound, shall be allowed as measured from the property line.

239 (f) *Trash disposal and collection.* All short-term rental properties shall provide a trash disposal and
241 collection plan at the time of license application to ensure that trash containers are not left outdoors
242 where they can cause issues for wildlife, snow removal operations, or cause unsightliness. With
243 exception to the property's assigned trash pick-up day, trash containers must be stored behind the
244 property's front setback line and must be shielded from the view of adjacent public rights-of-way. The
245 designated responsible agent shall ensure that any trash generated that exceeds the typical pick-up
246 schedule is collected and removed from the property as needed on a case by case basis. Properties with
247 larger maximum permitted occupancies may require the procurement of additional trash cans to
248 accommodate the volume of anticipated trash being generated.

249 (g) *Outdoor lighting.* Incorporated herein for all properties located in unincorporated Weber County
251 desiring a short-term rental license, all outdoor lighting associated with a short-term rental shall at all
252 times comply with the exterior lighting requirements set forth in Sec 108-16 of the Land Use Code.

Attachment A

253
254 (h) *Signage.* On-site signage intended to advertise the property as a short-term rental is not permitted
255 anywhere on the property or adjacent right-of-way.
256

257 (i) *Fire safety.*

- 258 (1) The property must have primary access along a public right-of-way or access easement that
259 meets the fire marshal's requirements for a fire access road.
- 260 (2) The property must have a fire prevention system as approved by the fire marshal.
- 261 (3) Outdoor fire pits must be permanently affixed natural gas or propane gas fixtures.
- 262 (4) Smoke and carbon monoxide detectors must be installed and maintained per current building
263 and fire codes.
- 264 (5) Fire extinguishers must be placed in an approved location on each level of the property and
265 adjacent to outdoor fire pits.
- 266 (6) An emergency egress plan must be posted in a conspicuous location on each level of the
267 property.
- 268 (7) Properties located within the Wildland-Urban Interface (WUI) area shall comply with the current
269 Wildland-Urban Interface code requirements.

270 **Sec 108-23-X Complaints And Violations**

271 (a) *Complaints.* The Planning Division requires all complaints regarding the operation of any short-term
272 rental unit to be made through the County's short-term rental hotline or website.

- 273 (1) Complaints concerning the use or occupancy of a licensed short-term rental unit may be made
274 to the County through the County's short-term rental hotline or website. The subject of the
275 complaint may include, without limitation, such things as parking, trash, noise, or other
276 concerns related to the short-term rental unit. The complaining party will then be provided with
277 a reference number associated with their complaint; however, anonymous complaints made
278 through the website or call center will not be processed.
- 279 (2) When a complaint concerning a short-term rental unit has been received, contact to the
280 responsible agent for the unit will be attempted by a County designee using the telephone
281 number on file with the County. If the responsible agent can be reached by phone, the agent will
282 be notified of the details of the complaint as filed by the complaining party. The time that the
283 responsible agent was notified shall be recorded.
- 284 (3) The responsible agent is required to make an attempt to resolve the issue that was subject to
285 the complaint as outlined in **Sec 108-23-XX**. The responsible agent shall promptly notify the
286 County's hotline if the agent believes a complaint has been successfully resolved. If the County's
287 hotline does not receive notification from the responsible agent that a complaint has been
288 successfully resolved within the timeframes outlined in **Sec 108-23-XX**, it shall be presumed that
289 the complaint has not been successfully resolved, and the complaining party may follow up with
290 the County's hotline or website with the reference number issued for the original complaint.
- 291 (4) If a complaint involves the immediate health and safety of any person or property, or if, despite
292 good faith efforts, the problem that was the subject of a complaint cannot be resolved, the
293 responsible agent shall immediately contact the police, and follow any direction(s) given by the
294 police.

Attachment A

- 295 a. If a complaint is not resolved to the satisfaction of the complaining party, a formal
296 complaint may be filed with the Planning Division. The formal complaint shall describe in
297 detail the violation(s) of this chapter alleged to have occurred on the short-term rental
298 property. Within three (3) days of receipt of such a complaint, the County shall provide a
299 copy of the formal complaint to the owner and responsible agent if applicable. Formal
300 complaints shall be signed by an individual and are subject to public inspection; no
301 anonymous formal complaints shall be accepted.
- 302 b. The County shall investigate any formal complaint received, in order to determine if it is
303 a substantiated complaint that represents a documented violation of any provision(s) of
304 this Chapter.

305 (b) *Violations.* For the purposes of this chapter violations for licensed short-term rental properties shall be
306 classified as either a Minor Violation or a Major Violation. Violations for unlicensed rental properties
307 shall be classified as an Unlicensed Violation.

308 (1) *Minor violations.* A minor violation shall be any violation of the short-term rental standards as
309 provided in **Sec XXX-XX-X** and **XXX-XX-X**.

310 a. Owners will be given one warning following their first minor violation within each
311 calendar year. If this warning is subject to a static and prevailing concern, owners shall
312 be given three calendar days to correct the issue or the warning will become a
313 documented minor violation.

314 b. After three minor violations within 12 consecutive months, the owner shall be issued a
315 major violation on the fourth and subsequent occurrences.

316 c. Each minor violation shall be subject to an administrative penalty as provided in **Sec**
317 **108-23-XX**.

318 (2) *Major violation.* A major violation shall consist of the failure of the responsible agent to perform
319 their responsibilities as provided in **Sec. XXX-XX-X**, or the fourth and subsequent minor violations
320 within a 12 month consecutive time frame as provided in **Sec. XXX-XX-X**.

321 a. Owners will be given one warning in the event of a responsible agent failing to perform
322 their responsibilities within each calendar year.

323 b. Each major violation shall be subject to administrative penalties as provided in **Sec XXX-**
324 **XX-X**.

325 (3) *Unlicensed violation.* An unlicensed violation is committed upon the rental of an unlicensed
326 property on a short-term basis.

327 a. Owners will be given one warning within each calendar year. Each violation thereafter
328 shall be subject to administrative penalties as provided in **Sec XXX-XX-X**.

Sec 108-23-X Administrative Penalty

330 Any person found in violation of any provision(s) of this Chapter is liable for an administrative penalty in the
331 form of a monetary fine based on the property's average nightly rate. The average rental rate of the property
332 shall be determined through advertised nightly rental rate. Each day a violation remains unresolved shall carry a
333 daily administrative penalty and monetary fine as follows:

334 (a) *Minor violations.* Monetary fines shall be **50%** of the advertised nightly rental rate on the date/s of the
335 violation.

336 (b) *Major violations.* Monetary fines shall be **100%** of the advertised nightly rental rate on the date/s of the
337 violation.

Attachment A

338 (c) *Unlicensed violations.* Monetary fines shall be 200% of the advertised nightly rental rate on the date/s of
339 the violation. If the unlicensed property does not have advertised rental rates, then the administrative
340 penalty shall be the average nightly rental rate for all rental properties located in unincorporated Weber
341 County for the dates associated with the violation.

Sec 108-23-X License Revocation

342 (a) *Revocation due to minor violations.* If a short-term rental unit has four minor violations within three
343 consecutive months, or six minor violations within twelve consecutive months, the short-term rental
344 license shall be revoked in accordance with the provisions of Sec. 102-4-3.

345 (1) If a short-term rental license is revoked due to an accumulation of minor violations, for a
346 minimum of one year following the revocation, the County shall not accept an application for a
347 new license for the same short-term vacation rental property; with the exception that a new
348 application by a new property owner, proven to be unaffiliated with the property owner whose
349 license was revoked, may be considered.

350 (b) *Revocation due to major violations.* If a short-term rental unit has two major violations within three
351 consecutive months, or four major violations within twelve consecutive months, the short-term rental
352 license shall be revoked in accordance with the provisions of Sec. 102-4-3.

353 (1) If a short-term rental license is revoked due to major violations, for a minimum of two years
354 following the revocation, the County shall not accept an application for a new license for the
355 same short-term vacation rental property; with the exception that a new application by a new
356 property owner, proven to be unaffiliated with the property owner whose license was revoked,
357 may be considered.

Sec 108-23-X License Revocation Appeal Procedure

360 Any owner who has been issued a notice of impending license revocation may file an appeal with the Planning
361 Division as directed by Sec 102-4-3.

362 Amendment to Sec 102-4-3: (Required to accommodate this new ordinance and permit type.)

363 A land use permit or conditional use permit may be revoked for violation of any part of this Land Use Code
364 related to the specific use or permit in accordance with the following:

365 (a) Revocation shall be conducted by the land use authority that is authorized to approve the permit.

366 ~~(b) Prior to permit revocation, the land owner and, if different, permittee shall be given reasonable~~
367 ~~opportunity to resolve the violation by bringing the property into compliance or by diligently pursuing~~
368 ~~an amendment or modification to the permit, as may be allowed by this Land Use Code.~~

369 ~~(c)(b) In the event compliance cannot be attained, the land-owner and, if different, permittee shall be~~
370 ~~given a notice of the impending permit revocation 14 days prior to final revocation. The notice of the~~
371 ~~impending permit revocation shall specify the violation, and inform the land-owner and, if different,~~
372 ~~permittee of the right to request a hearing.~~

373 ~~(c)(c) The land owner and, if different, permittee shall have a right to a hearing with the land use~~
374 ~~authority to show cause for why the permit should not be revoked, if a written request for such is~~
375 ~~submitted prior to a final written revocation decision. If a hearing is requested, final revocation of the~~
376 ~~permit shall be stayed until after the hearing. The hearing shall be scheduled at a time specified by the~~
377 ~~land use authority.~~

Commented [P56]: These amendments will need to consider "License" vs. "Permit" nomenclature in order to be consistent.

Attachment A

380 ~~(e)~~(d) Revocation of a permit is final upon the issuance of a final written
381 decision may be appealed pursuant to title 102, chapter 3.
382 ~~(f)~~(e) Revocation of a permit shall not prohibit prosecution or any other legal action taken on account
383 of the violation, as provided in this Land Use Code or any other applicable law
384

From: Clark Duellman <clark@cjlegal.com>
Sent: Tuesday, November 10, 2020 11:14 PM
To: Perkes, Scott
Subject: [EXTERNAL]Re: Draft Short-Term Rental Ordinance - HOAs & Private Covenants

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Good morning Scott, I appreciate being given the chance to weigh-in on the two subsections of the draft short-term rental (STR) ordinance pertaining to HOAs and private covenants. Any changes to the County’s ordinance or policies regarding STRs will have a significant impact on Ogden Valley communities, so I especially appreciate the time and attention you are putting into this effort.

I’ll share my proposed revised language for each of the two subsections, followed by a few explanatory comments.

(c) *Private Covenants.* A short-term rental license will not be issued for any property that is subject to any recorded private covenants that restrict the property’s use for short-term rentals, regardless of whether or not such private covenants are enforced by a homeowners association or committee. Private covenants may be identified as covenants, conditions and restrictions (CC&Rs), protective covenants, restrictive covenants or neighborhood covenants.

Here are my comments:

- > Many Ogden Valley communities are subject to private covenants that are identified as “Covenants, Conditions & Restrictions” (CC&Rs). Other communities, however, are subject to private covenants with other names such as “protective covenants,” “restrictive covenants,” etc. For example, the private covenants currently recorded against the entire Elkhorn subdivision are simply labeled “Protective Covenants.” I think it would be helpful to clarify that subsection (c) equally applies to all private covenants, regardless of how they are identified.
- > Throughout Ogden Valley, some private covenants are governed and enforced by a homeowners association or committee, while other private covenants are not. The language I’ve proposed is intended to apply to all private covenants, including those that are recorded against communities that have no HOA or have no currently active HOA.
- > While some private covenants in Ogden Valley are governed and enforced by an HOA, others are merely governed by a homeowners committee with the same or similar authority of an HOA.

f. For properties that are subject to any recorded private covenants, applicants must submit a letter from the community’s homeowners association or committee, or submit a copy of the private covenants including any amendments to such private covenants, to verify the short-term rental of dwellings is not restricted.

Here are my comments:

- > Instead of referring to properties located within an HOA community, I've referred to "properties that are subject to any recorded private covenants." This ties Subsection (d)(2)f to the language of subsection (c) regarding private covenants, including private covenants that are enforced by an HOA and private covenants that may have been recorded against a community with no HOA or no currently active HOA. As currently written, Subsection (d)(2)f appears to require the submission of private covenants (CC&Rs) only if the property is located in an HOA community.
- > As I noted in my comments regarding subsection (c), some private covenants in Ogden Valley are governed and enforced by an HOA, while others are governed by a homeowners committee. I've added language to that effect.
- > I've eliminated the reference to CC&Rs, and instead referred to "private covenants" as that term is described under subsection (c).
- > I added the phrase "including any amendments" to cover the fact that private covenants may be periodically amended.
- > I eliminated the word "regulation" because that could be interpreted to broadly encompass not only private covenants but also any "rules and regulations" that might be adopted by a homeowners association or committee. It's important to note that Utah's HOA laws allow rules and regulations to be fairly easily adopted by a Board of Directors. Meanwhile, private covenants may only be adopted or amended by at least a majority vote, and often no less than 67% of the homeowners. In my experience, it's not unusual for HOA Boards to be overzealous by using rules and regulations (with zero homeowner approval) to address an issue that should actually be addressed under the private covenants (which requires a significant amount of homeowner approval). I strongly believe any restrictions regarding STRs should only be adopted and enforced as part of the community's private covenants – not as part of the community's rules and regulations.

Those are my only suggestions and comments regarding the HOA and private covenant language. Of course, please don't hesitate to email or call with any follow-up comments or questions you might have.

Best regards,
Clark
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