

# The State of Short-Term Rentals in Colorado

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*This article provides an overview of the current state of short-term rental regulation in Colorado. It focuses on local requirements across the state.*

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Colorado property owners have enjoyed record-setting appreciation in property values over the last decade. But soaring property prices have arguably caused a housing crisis, which has contributed to a severe labor shortage, particularly in resort communities. Causes of the housing crisis have been targeted through legislation, ballot initiatives, and local ordinances, with short-term residential lodging rentals (STRs) singled out as a primary culprit. This article offers an overview of STR regulation in Colorado. It focuses on county and municipal requirements throughout the state.

#### **Regulatory Overview**

STRs are governed by layers of state and local laws and regulations, and through private leases and covenants enforced by homeowners' associations (HOAs). STRs are generally defined as residential properties available for rent for a period of fewer than 30 days.<sup>1</sup> STRs may include all or a portion of a property and range from entire luxury homes to single rooms. STR owners and/or authorized property managers must typically obtain an STR-specific license and a sales and lodging tax or business license.<sup>2</sup>

In recent years, and especially in the last few months, state legislators and local officials have introduced a rash of legislation, ballot initiatives, and local regulations aimed at controlling the growth of STRs and, in some cases, curbing or banning them altogether.<sup>3</sup>

#### **Legislative Initiatives**

During the 2020 legislative session, the Colorado General Assembly passed HB 20-1093, which authorizes counties to adopt ordinances to license and regulate STRs.<sup>4</sup> The bill became effective September 14, 2020.

Legislators have also attempted to increase taxes on STRs in recent years. Legislation was

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introduced in 2020 proposing to reclassify residential properties leased as STRs, which are currently taxed at a lower rate, to “non-residential” (i.e., commercial) properties that are taxed at a rate more than three times

higher than residential properties.<sup>5</sup> A similar bill was introduced by the General Assembly's Legislative Oversight Committee Concerning Tax Policy and Task Force in 2021.<sup>6</sup> While the 2020 and 2021 bills were ultimately rejected, a bill to reclassify the tax status of STRs is expected to be introduced in the 2022 legislative session.

#### **Ballot Initiatives**

Ballot initiatives to increase taxes on STRs to support initiatives to offset or counteract the effects of STRs have become increasingly popular. These efforts are particularly popular in mountain towns, which face critical housing shortages for resort workers. For example, in November 2019 Telluride voters approved a 2.5% tax on all STRs, effective January 1, 2020, to be applied to an affordable housing fund.<sup>7</sup>

In 2021, voters in Avon, Crested Butte, Leadville, and Ouray considered similar taxes. Avon voters approved a 2% tax on STRs.<sup>8</sup> The proceeds from the tax, which went into effect on January 1, 2022, are earmarked for community housing funds and expected to generate between \$1 and \$1.5 million in revenue annually.<sup>9</sup> Crested Butte voters approved a 2.5% increase on STRs, increasing the total excise tax on STRs to 7.5%,<sup>10</sup> to support workforce housing.<sup>11</sup> Leadville voters approved a 4.92% accommodation tax on STRs units, among other accommodations,<sup>12</sup> to fund affordable and community housing.<sup>13</sup> Ouray voters approved a 15% excise tax to support workforce housing and wastewater treatment facilities.<sup>14</sup>

In 2021, Telluride voters also raised the business license fees for STRs, with the increased revenue to be dedicated to Telluride's Affordable Housing Fund.<sup>15</sup> In addition, Telluride voters considered two competing ballot initiatives on capping STR licenses. Voters rejected a cap on short-term rental licenses at 400 and an annual lottery system for permits,<sup>16</sup>

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Thus, the increase in municipal tax proceeds resulting from spending by STR renters, versus the negative impacts STRs have on communities where they're located, continues to be a policy and legal struggle for local governments, police departments, and other regulators. Accordingly, local governments around the state have imposed a range of regulations, and some have either capped or suspended the issuance of new STR licenses.

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which would have cut the existing number of licenses nearly in half.<sup>17</sup> Instead, Telluride voters approved a cap to limit the number of STR licenses to the number that had been issued as of election day, November 2, 2021.<sup>18</sup>

#### Local Rules and Ordinances

Even before boards of county commissioners were handed specific authority to license and regulate STRs, municipalities regulated them by requiring licenses or permits to rent STRs and collecting taxes on the rentals.<sup>19</sup> Local and county requirements vary substantially. For example, unincorporated Eagle County has no restrictions on STRs, and unincorporated Routt County bans them altogether.<sup>20</sup> Durango and Breckenridge cap STR permits and have long permit waiting lists.<sup>21</sup>

Many other counties and municipalities have similar ordinances and rules. As noted above, STRs are typically defined as rentals of residential dwellings for less than 30 consecutive days. Some jurisdictions add occupancy limits<sup>22</sup> and parking requirements to the duration requirement.<sup>23</sup> In counties and municipalities that require STR licenses or permits, those licenses and permits are typically effective for one- or two-year terms and must be renewed before such period expires.<sup>24</sup> Proof of insurance is typically required,<sup>25</sup> as is designation of a point

person who must be available 24 hours a day to respond to emergencies.<sup>26</sup>

Some municipalities engage third-party companies that monitor STRs to identify illegal STR operations within the municipalities and to ensure compliance.<sup>27</sup>

Notwithstanding the breadth of regulations, the STR market continues to expand, with more companies competing with giants such as Airbnb and VRBO to attract both listings and renters. Local realtors also participate in brokering STRs. Not to be left behind, the traditional hospitality industry also has a presence in the STR market through platforms such as Homes & Villas by Marriott International.<sup>28</sup> And aggregator and property management sites offer strong analytical tools to sell data to subscribers about everything from nightly pricing to the STR market strength in particular locations.<sup>29</sup>

Yet local governments must balance the competing and conflicting desired policy outcomes of various players. Some constituents want less STR regulation to benefit STR operators and listing owners, tourism, and the resulting STR-generated tax dollars. Others want more regulation to limit STRs based on the perceived negative impact STRs have had on housing prices in general, the affordable housing market, neighborhood safety, and the character of communities that are not designed for tourists.

The push for increased regulation is driven in part by studies indicating the negative effects of STRs. For example, according to several studies, the conversion of leases for periods over 30 days into STRs has exacerbated the housing crisis,<sup>30</sup> which may have created worker shortages as workforce housing evaporates in some communities. A study in Boston concluded that “home sharing is increasing rents by decreasing the supply of units available to potential residents.”<sup>31</sup> This study also concluded that an increase in Airbnb listings relative to total housing units is correlated with a decrease in the number of non-STR units offered for rent.<sup>32</sup> Thus, the increase in municipal tax proceeds resulting from spending by STR renters, versus the negative impacts STRs have on communities where they're located, continues to be a policy and legal struggle for local governments, police departments, and other regulators. Accordingly, local governments around the state have imposed a range of regulations, and some have either capped or suspended the issuance of new STR licenses. Regulations for specific counties and, where applicable, their constituent municipalities, are described below.

#### The City and County of Denver

The City and County of Denver (Denver) implemented its first STR licensing requirements

in 2016.<sup>33</sup> Denver requires a license to offer a short-term rental in a primary residence, which is the only type of premises eligible for an STR license. A person can have only one primary residence, which is where the person's habitation is fixed for the term of the license and is the person's usual place of return, as documented by specified identification such as a driver's license.<sup>34</sup> Accordingly, Denver does not allow investor-owned STRs or multiple licenses per person.<sup>35</sup> The license applicant must provide a valid Colorado driver's license or state identification card and at least two other documents to demonstrate primary residency.<sup>36</sup> The applicant must also self-certify that the information on the application is accurate and truthful under penalty of perjury.<sup>37</sup>

Denver limits the services offered by third-party booking providers to facilitating STRs. It is unlawful for booking service providers to receive payment, directly or indirectly, for an unlicensed STR located in Denver, and providers face strict liability and civil penalties of \$1,000 per violation per day.<sup>38</sup> STR owners and third-party booking providers must collect Denver's lodger's tax at 10.75% of the listing price, including cleaning fees, for the first 29 nights of any reservation.

### **El Paso County**

The El Paso County commissioners discussed STRs at meetings in 2019<sup>39</sup> but did not adopt a countywide permitting or licensing system. However, several municipalities within the county have permitting systems.

### **Colorado Springs**

In 2018, the Colorado Springs City Council adopted a permitting system for STRs.<sup>40</sup> In 2019, the city amended its STR permitting ordinance to establish two types of permits, owner occupied and non-owner occupied.<sup>41</sup> "Owner occupied" means the property owner occupies the dwelling for at least 185 days each year.<sup>42</sup> Permissible STR locations are also limited. Owner-occupied STR units are allowed in lawful dwelling units in zones where residential units are allowed.<sup>43</sup> Non-owner-occupied STRs are not permitted in single-family zoning districts and must be 500 feet from another permitted STR unit.<sup>44</sup>

While the city does not cap the number of permits issued, the limitation on non-owner-occupied permits likely acts to suppress or decrease the number of non-owner-occupied permits sought and issued. Further, the city limits the number of licenses to one permit per lawful dwelling unit<sup>45</sup> on a property and up to four STR units per property.<sup>46</sup> Each owner of a condominium or similar building is limited to two STR units per property.<sup>47</sup> And the use of STRs for commercial or large social events, including weddings, is prohibited.<sup>48</sup>

### **Manitou Springs**

Manitou Springs limits STRs to 2% of the available residential structures within city limits.<sup>49</sup> According to official data, that figure is 58 potential permits.<sup>50</sup> STR units must be a minimum of 500 feet from other STRs.<sup>51</sup> Property owners who meet these conditions may apply for a Minor Conditional Use Permit (MCUP), to be approved by the planning commission.<sup>52</sup> To maintain the MCUP, the property owner must rent the property for a minimum of 21 days per year.<sup>53</sup> On December 7, 2021, Manitou Springs promulgated a temporary one-year moratorium for the acceptance and processing of applications for STRs, which is effective until October 31, 2022.<sup>54</sup>

### **Boulder County**

Boulder County requires a license to operate an STR in unincorporated Boulder County.<sup>55</sup> It offers a primary dwelling license or a secondary dwelling license for STRs, and a vacation rental license.<sup>56</sup> A vacation rental license is permitted only in certain zone districts in unsubdivided land and is not permitted in subdivisions. The difference between a secondary dwelling license and a vacation rental license is based on the number of nights rented, with rentals for over 60 nights per year subject to a vacation rental license.

### **Boulder**

Boulder has a "system of rental licenses for all dwelling and rooming accommodations in the city that are rented to tenants"<sup>57</sup> and requires a valid license for all rental properties in Boulder.<sup>58</sup> Additional rules apply to STRs.<sup>59</sup>

Owners are required to obtain an STR license before advertising their property for rent, and the property must be the owner's principal residence.<sup>60</sup> "Principal residence" is defined as the dwelling unit in which a person resides for more than one half of the year.<sup>61</sup> The name on the license must be the same as the name on the deed for the property, and the owner must be a natural person, trust, or nonprofit organization.<sup>62</sup> The owner must follow the city's occupancy limits, and advertisements must contain the maximum allowed unrelated occupancy as well as the rental housing license.<sup>63</sup> A license will not be issued for a permanently affordable dwelling unit.<sup>64</sup> An accessory unit or a principal dwelling unit on a single-family lot or parcel with an accessory unit may not be rented as an STR unless certain additional requirements are met, and it may not be rented for more than 120 days in a calendar year.<sup>65</sup>

### **City and County of Broomfield**

The City and County of Broomfield (Broomfield) prohibits STRs of a residence that is not the property owner's principal residence.<sup>66</sup> A principal residence is defined as the dwelling unit in which a person resides for more than half the year, with additional limitations based on the address on the license and number of days listed.<sup>67</sup> The property owner must be a natural person or the beneficiary of a trust whose name appears on the deed to the property on which the dwelling unit to be rented is located.<sup>68</sup> Broomfield limits the number of occupants based on the square feet of the interior living space and does not permit more than four cars at or near the property.<sup>69</sup>

### **Larimer County**

Larimer County passed an ordinance for the enforcement of STRs on November 8, 2021, and a license is now required in unincorporated Larimer County for STRs.<sup>70</sup>

### **Fort Collins**

Fort Collins requires an STR license for both primary and non-primary residences.<sup>71</sup> A primary STR is one occupied by the property owner for at least nine months and includes a duplex or carriage house on the same property. Non-primary STRs are not owner occupied.

STRs are only permitted in single-family (R-1) dwellings.<sup>72</sup> STRs are not allowed in multifamily R-2 buildings, which are apartment or condominium buildings with three or more dwelling units on a single property, unless such buildings were built to R-1 building standards. Fort Collins considers STR use of multifamily buildings to be too risky, because only single-family homes have extra fire wall protection at the property lines and roof areas.<sup>73</sup>

Fort Collins also requires a certification from the owner that the dwelling unit complies with specific sanitation, mechanical, electrical, structural, and fire safety requirements.<sup>74</sup> The dwelling unit must be located in a zone district that allows short-term primary rentals as specified in the Fort Collins Land Use Code;<sup>75</sup> or it must have been used as an STR since before March 31, 2017, and owners must show that a valid sales and use and lodging tax license was obtained before October 31, 2017.<sup>76</sup> The lodging tax in Fort Collins is 3%.

### **Eagle County**

Eagle County has not adopted a permitting or licensing system for STRs.

### **Vail**

Vail requires the owner or property management firm to register the STR.<sup>77</sup> Registration requires an affidavit, signed by the owner or the property management firm, under penalty of perjury, certifying that the STR is in habitable condition and complies with certain health and safety standards.<sup>78</sup> If the STR is located within a duplex, the owner or property manager must provide written notice to the last known address of the adjoining residential dwelling unit.<sup>79</sup> Each owner or property management firm is required to appoint a natural person who remains within “a sixty (60) minute distance” of the STR and is available 24 hours per day, seven days a week, to serve as the STR’s local representative.<sup>80</sup> Complaints related to the STR are to be directed to the local representative.<sup>81</sup>

### **Grand County**

All property owners who engage in STRs in unincorporated Grand County must obtain a license.

### **Winter Park**

Winter Park requires STR registration before advertising or operating the STR.<sup>82</sup> A “high impact” STR, which is one that accommodates more than 20 people, must also apply for a special use permit before registration.<sup>83</sup>

The Winter Park Town Council recently passed an incentive program, “The Short Term Fix,” to encourage owners to rent their properties to full-time tenants rather than nightly visitors.<sup>84</sup> For a one-bedroom unit, the town offers property owners who choose to rent to an employee working at least 35 hours a week in Winter Park \$5,000 for a six-month lease and \$10,000 for a year lease.<sup>85</sup> For a two- or three-bedroom unit, the town provides a \$10,000 upfront payment for a six-month lease and \$20,000 for a year lease.<sup>86</sup> Winter Park’s Short-Term Fix 2021–22 budget was exhausted, so applications are no longer being accepted at this time.

### **Summit County**

Summit County has been regulating short-term lodging and vacation rentals since 2018 when it initially began requiring property owners to obtain permits.<sup>87</sup> In June 2021, the Summit County Board of County Commissioners (Board) adopted Ordinance 20 to improve existing STR regulations.<sup>88</sup>

Shortly after adopting Ordinance 20, in September 2021, the Board noted that “more than 30% of all Summit County’s housing stock [was] being utilized as short-term vacation rentals.”<sup>89</sup> Further, an increase in short-term rentals was contributing to a loss of workforce housing, “resulting in local businesses being understaffed and cutting hours and services due to the lack of employees.”<sup>90</sup> With such concerns in mind, and to “prevent [] the further conversion of potential long-term housing stock,” the Board instituted a 90-day moratorium on the acceptance of new STR applications to give the county time to review data and propose further regulations and amendments.<sup>91</sup> The moratorium was effective from September 17, 2021, to December 17, 2021.<sup>92</sup>

Six months after adopting Ordinance 20, on December 16, 2021, Summit County adopted Ordinance 20-B, amending and revising Ordinance 20.<sup>93</sup> Under Ordinance 20-B, the county adopted

regulations creating a two-tier license system, assigned by zones—the STR Resort Overlay Zone and the STR Neighborhood Overlay Zone.<sup>94</sup> As their names suggest, the zones distinguish between resort communities and residential neighborhoods.<sup>95</sup> Resort licenses are required for areas within the STR Resort Overlay Zone, which includes Keystone, Copper Mountain, Tiger Run Resort, and unincorporated areas at the base of Peak 8 in Breckenridge.<sup>96</sup> Resort licenses have greater occupancy and allowances, and place no restrictions on the number of nights rented.<sup>97</sup> On the other hand, the STR Neighborhood Overlay Zone provides for three types of licenses, varying by the number of nights leased.<sup>98</sup>

### **Breckenridge**

According to its city council, Breckenridge has experienced a “steady and dramatic” increase in the issuance of STR licenses from 2012 to 2020.<sup>99</sup> Accordingly, Breckenridge imposed a cap on the number of licenses allowed for nonexempt STR properties at 2,200, effective November 2, 2021.<sup>100</sup> The city council believes the cap will achieve an overall reduction of 276 nonexempt accommodation unit licenses.<sup>101</sup>

### **Routt County**

STRs are prohibited in unincorporated Routt County, except in commercial districts.<sup>102</sup>

### **Steamboat Springs**

Steamboat Springs requires owners of residential properties used for “vacation home rentals” to obtain a vacation home rental permit, except for properties located in resort and gondola districts.<sup>103</sup> A “vacation home rental” is defined as a single-family dwelling or duplex used as a lodging establishment where the owner does not reside and in which the owner is not residing during the rental period.<sup>104</sup> The resort and gondola districts are not currently subject to restrictions and are referred to as “by-right” areas—places where property owners have the right to rent their properties without a permit or approval from the city.<sup>105</sup> STRs are prohibited in the city’s open space, industrial, and commercial districts.<sup>106</sup> The permitting process requires public notice and the opportunity for objections

to be filed with the planning director.<sup>107</sup> Valid objections are referred to the city council for review at a public hearing.<sup>108</sup>

Steamboat Springs also allows STRs under its temporary use regulations, without requiring the property owner to obtain a vacation home rental permit.<sup>109</sup> Under a temporary use permit, a single-family dwelling or duplex may be used as an STR two or less times per year for a maximum of 30 days per calendar year.<sup>110</sup>

A “vacation rental” (as opposed to a vacation home rental) is defined as “[a] dwelling unit, in a multiple-family or mixed-use building, used as a lodging establishment where the owner does not reside in the dwelling unit.”<sup>111</sup> Vacation rentals may be rented on a short-term basis by-right, except in open space and industrial zones.<sup>112</sup> A permit is not required for a vacation rental.<sup>113</sup>

After members of the Steamboat community expressed concerns regarding the impacts of vacation homes and STRs,<sup>114</sup> the Steamboat Springs City Council imposed a 90-day moratorium on receipt of applications for permits in June 2021, citing “a severe shortage of housing of the local workforce” and the diversion of existing and new housing into the STR pool as a contributing factor to the housing shortage.<sup>115</sup> The city council later extended the moratorium to January 31, 2022, to allow time for the planning commissioners to continue their comprehensive review of the city’s policies regarding vacation home rentals and STRs.<sup>116</sup>

During the moratorium, the council has been engaging with the community to obtain feedback concerning STR regulations and the impacts of STRs on the community.<sup>117</sup> In early 2022, the Steamboat Springs Planning Commission director and the City Attorney’s Office began the process of creating a proposed set of “overlay zones” for review and approval by the planning commission. The zones will dictate how the properties in each zone are regulated with regard to STRs. There will likely be three levels of regulation: STRs will be banned, restricted, or not subject to any restrictions, depending on their locations within the overlay zones.<sup>118</sup>

Steamboat Springs seems to be unique in that it doesn’t define the period or length of stay of vacation rentals or STRs.

### **Pitkin County**

Pitkin County is currently considering imposing license requirements for STRs in unincorporated parts of the county. On December 15, 2021, the Pitkin County commissioners unanimously approved the first reading of an ordinance that would require short-term rentals to be licensed with the county and in compliance with various regulations.<sup>119</sup> A second reading of the ordinance and a public hearing occurred on January 26, 2022, and was continued for subsequent public hearings.<sup>120</sup>

### **Aspen**

Aspen requires STR owners to obtain a vacation rental permit to operate a vacation rental,<sup>121</sup> which is defined as “[t]he short term occupancy of a residential dwelling unit by the general public for a fee.”<sup>122</sup> Individual rooms within a residential dwelling unit are expressly exempt from the definition of vacation rental.<sup>123</sup> The requirement to obtain a permit does not apply to lodges, timeshare lodges, bed and breakfasts, and hotels.<sup>124</sup> Currently, Aspen allows a dwelling unit to be leased on a short-term basis (i.e., 30 consecutive days or less) without limitations in most city zones.<sup>125</sup> Aspen also requires property owners to notify any applicable HOAs when they apply for a vacation rental permit.<sup>126</sup>

However, changes to Aspen’s STR regulations are forthcoming. On December 8, 2021, the Aspen City Council imposed an immediate, emergency moratorium on the acceptance of residential development and building permits and applications for STR licenses based, at least partially, on concerns for lack of availability of affordable local housing for employees and residents.<sup>127</sup> The moratorium is being challenged in court by the Aspen Board of Realtors, which is seeking declaratory and injunctive relief to stop the city from enforcing the moratorium.<sup>128</sup>

### **San Miguel County**

San Miguel County approved STRs of single-family residences in 2014 and requires owners to obtain a permit for such use.<sup>129</sup>

### **Telluride**

Telluride allows STRs for a period of 29 days or less.<sup>130</sup> However, in Residential Zone Districts,

STRs are capped at three STRs annually for a cumulative number of rental days not to exceed 29 days.<sup>131</sup> Notably, “long-term rentals” (for periods of at least 30 consecutive days) are allowed throughout the entire town, but a single property may not exceed three rentals in a calendar year.<sup>132</sup>

### **Tax Issues**

In 2019, the Colorado Legislature passed HB 19-1240, which assigned sales tax collection responsibilities to “marketplace facilitators,” who must collect and remit sales tax for sales made by “marketplace sellers” on the marketplace facilitator’s marketplace.<sup>133</sup> As a result of this legislation, STR facilitators must now collect and remit Colorado sales tax. According to the Colorado Department of Revenue, “[o]wners and managers of units rented for less than 30 consecutive days are required to collect and remit sales taxes. Applicable state, special district taxes, county lodging and local marketing district taxes, [and] all state-collected local and county sales taxes are also due on the rental price.”<sup>134</sup> Although the legislature has considered the issue, Colorado has not passed a change in the property tax classification of property used for STRs.<sup>135</sup>

### **HOA Issues**

STR-related issues may also be regulated by HOAs, which struggle with many of the same issues that local governments face. HOAs do not enjoy the power that local governments have over STR issues because the Colorado Common Interest Ownership Act<sup>136</sup> governs most HOAs and limits their ability to make regulations that differ from the recorded covenants and declarations establishing the HOA community. For example, CRS § 38-33.3-205(1)(I) requires that any restrictions on the use, occupancy, and alienation of units be contained in the recorded declaration. CRS § 38-33.3-217(4.5) requires that no amendment may change the uses to which any unit is restricted in the absence of a vote or agreement of at least 67% of owners, or any larger percentage specified in the declaration. As a result, declarations that permit STRs must be amended to change the provisions in the declaration governing STRs,

to the extent the HOA community desires to prohibit or limit STRs.

The Colorado Court of Appeals has upheld the statutory provisions, stating that “[f]or short-term vacation rentals to be prohibited, the covenants themselves must be amended. . . . [T]he board’s attempt to accomplish such amendment through its administrative procedures was unenforceable.”<sup>137</sup> From a practical standpoint, practitioners drafting new documents for an HOA or amending existing documents should discuss STR issues with the developer and HOA board, including the differences between a covenant that runs with the land and a rule or regulation that may be amended by the board, because HOA boards lack authority to change covenants in the declaration through rules.

#### Lease Considerations

Given the potential profitability in rental arbitrage, when drafting residential leases for clients, practitioners should encourage clients to consider including either a prohibition of STRs or, alternatively, a specific permitted use. Although many jurisdictions surveyed in this article require the owner’s written consent as part of the application for a third party to obtain a license (whether a property manager or tenant), third-party facilitators do not ask for verification that the person creating the listing has permission to list the property as an STR. If the premises are located in an area with an HOA, the lease’s STR terms should be consistent with those in the HOA documents, because the property owner must answer for any violations.

#### Practice Tips

STR regulation is a constantly changing area. Practitioners advising clients on owning or operating an STR should

- review local government regulations and determine if additional updates are pending.
- advise the client on tax compliance issues. Notably, third-party facilitators must now collect the taxes on behalf of the listing party, but if the third-party facilitator fails to perform, the owner becomes liable for complying with the tax regulations.
- understand applicable HOA requirements.

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Only some local government license application processes include confirmation that the property is not subject to HOA regulations pertaining to STRs, so attorneys should review HOA documents before advising the client on whether an STR is permitted at the property.

- confirm that there are no additional applicable covenants recorded against the property or rental restrictions in the deed.

Ultimately, the property owner retains liability for compliance with all regulations and covenants, as STR platforms and facilitators to date have faced no liability for listings that do not comply with government regulations. Further, when a potential client informs the attorney that the client’s property was successfully listed on an STR platform, the attorney should not assume that the client has complied with the regulations or covenants governing the property.

#### Conclusion

Regulations concerning STRs continue to evolve as counties, municipalities, and HOAs balance competing demands. The shortage of housing in many parts of Colorado is not expected to resolve any time soon, and it is unclear whether STR regulations will stem such shortages. When advising clients about STRs, practitioners should be up to date on all regulations governing the premises and monitor changes at the state and local levels.<sup>138</sup> 



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#### NOTES

1. See, e.g., Colorado Springs, Colo., Code § 7.2.201 (defining “short term rental unit”).
2. See, e.g., Manitou Springs, Colo., Mun. Code § 18.89.020; Aspen, Colo., Mun. Code § 26.575.220(b)(1) and (e)(1)(b); Telluride, Colo., Land Use Code art. 3, §§ 3-201.B, 3-202.B, 3-203.B, 3-204.B, 3-205.B, 3-206.B, 3-219.B, and 3-601.G.
3. The legislation, regulations, and ballot initiatives cited in this article were current as of January 15, 2022. But given the swiftly changing nature of STR laws, practitioners should always verify the currency of laws and regulations before advising clients on STRs.
4. HB 20-1093, Concerning County Authority

- To License And Regulate Short-Term Lodging Rentals, codified at CRS § 30-15-401(1)(s)(l).
5. SB 20-109, Concerning the Property Tax Classification of Property Used for Short-Term Rentals. Residential properties are currently taxed at 6.95% (CRS § 39-1-104.2(r)), while nonresidential lodging properties are taxed at 29% (CRS § 39-1-104(1)).
  6. Interim Comm. Bill 9, Concerning the Property Tax Treatment of Real Property That is Used to Provide Lodging for Short-Term Stays, [https://leg.colorado.gov/sites/default/files/images/lcs/bill\\_9\\_22-0168.pdf](https://leg.colorado.gov/sites/default/files/images/lcs/bill_9_22-0168.pdf).
  7. 2019 Telluride, Colo., Ballot Question 300, [https://results.enr.clarityelections.com/CO/San\\_Miguel/97201/web/#/detail/13](https://results.enr.clarityelections.com/CO/San_Miguel/97201/web/#/detail/13).
  8. 2021 Avon, Colo., Ballot Issue 2C, <https://www.avon.org/civicalerts.aspx?aid=1827>.
  9. Longwell, "Voters go for Avon short term rental tax," *Vail Daily* (Nov. 2, 2021), <https://www.vaildaily.com/news/eagle-valley/voters-show-support-for-avon-short-term-rental-tax-in-early-results>.
  10. Crested Butte, Colo., Ballot Question 2D, <https://results.enr.clarityelections.com/CO/Gunnison/111084/web.278093/#/detail/16>.
  11. *Id.*
  12. Leadville, Colo., Ballot Issue 2A, <https://results.enr.clarityelections.com/CO/Lake/111090/web.278093/#/detail/9>.
  13. *Id.*
  14. Ouray, Colo., Ballot Issue 2A, <https://results.enr.clarityelections.com/CO/Ouray/111103/web.278093/#/detail/13?v=281565%2F>.
  15. Telluride, Colo., Ballot Question 2D, [https://results.enr.clarityelections.com/CO/San\\_Miguel/111114/web.278093/#/detail/11?v=282268%2F](https://results.enr.clarityelections.com/CO/San_Miguel/111114/web.278093/#/detail/11?v=282268%2F).
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  23. See, e.g., Manitou Springs, Colo., Mun. Code § 18.89.030(D)(5), (F); Fort Collins, Colo., Mun. Code § 15-644(a)(3).
  24. See, e.g., Colorado Springs, Colo., Code § 7.5.1702(C).
  25. See, e.g., Colorado Springs, Colo., Code § 7.5.1704(G); Fort Collins, Colo., Mun. Code § 15-644(a)(5).
  26. See, e.g., Colorado Springs, Colo., Ordinance No. 18-112 § 7.5.1703(B)(4).
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  31. Merante and Horn, Is Home Sharing Driving up Rents? Evidence from Airbnb in Boston at 3 (Department of Economics University of Massachusetts Boston, Working Paper 2016-03), [http://repec.umb.edu/RePEc/files/2016\\_03.pdf](http://repec.umb.edu/RePEc/files/2016_03.pdf).
  32. *Id.* at 4.
  33. Revised Mun. Code, City and Cty. of Denver, Colo., Ordinance No. 262-16.
  34. *Id.* at § 33-46(4).
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  46. Colorado Springs, Colo., Ordinance No. 18-112; City of Colorado Springs, Colo., Code § 7.5.1704(B).
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  131. Telluride, Colo., Land Use Code art. 3, § 3-601.A.
  132. Telluride, Colo., Land Use Code art. 3, § 3-601.B.
  133. CRS § 39-26-102.
  134. [https://tax.colorado.gov/sites/tax/files/DR1917\\_2020.pdf](https://tax.colorado.gov/sites/tax/files/DR1917_2020.pdf).
  135. SB 20-109, concerning the property tax classification of property used for short-term rentals, was introduced on January 15, 2020, but postponed indefinitely in committee.
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  137. *Houston v. Wilson Mesa Ranch Homeowners Ass’n, Inc.*, 360 P.3d 255, 261 (Colo.App. 2015).
  138. Several municipalities enacted additional or new legislation while this article was being produced.