



June 2015

Dear Members, Friends & Colleagues:

CAST began its efforts with the impacts of Vacation Home Rentals (VHR's) back in 2009 when we put together a task force, developed an RFP, and subsequently chose a vendor to help our communities identify short-term rentals and bring them into compliance. At the time, our efforts were revenue-focused, as we recognized that our member towns were missing potentially large chunks of revenue from short-term rental owners who were not in compliance with their local government's tax requirements.

This was a lengthy process, but one of major importance as we helped bring this issue to the forefront on a national level. Our vendor, VRCompliance LLC, helped several of our communities bring in many thousands of dollars of otherwise lost revenue by assisting them in tracking and collecting information on VHR's.

While revenue collection still remains an issue, CAST's focus has shifted to include the impacts that VHR's are having on our communities in terms of loss of long-term rental housing, community character, zoning, safety, parking, noise, etc. The VHR industry is growing so rapidly there's a much bigger picture that is changing daily and is a moving target. Many of our member communities are in crisis, or will soon reach a crisis point, because of the proliferation of VHR's and the challenges created in regulating them and mitigating their impact.

To assist our members in better understanding this industry and learn from each other as to how each is handling the challenges, the CAST Board of Directors agreed to commission a study and best practices guide with Melanie Rees of Rees Consulting, Wendy Sullivan of WSW Associates and Chris Cares of RRC Associates. The end result is the attached report.

We hope that you find this report to be informative, insightful and helpful to you in your ongoing efforts. We'd like to thank the ten CAST communities who made this report possible – Breckenridge, Crested Butte, Durango, Estes Park, Frisco, Jackson, Mt. Crested Butte, Ouray, Park City and Steamboat Springs. And we also thank Melanie Rees, Wendy Sullivan and RRC Associates for their time, professionalism and thorough research efforts.

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Sincerely,

*Margaret Bowes*

Margaret Bowes  
Executive Director



# Vacation Home Rentals Issues, Emerging Trends and Best Practices

WIMDU

HOUSE  
TRIP



VRBO®  
from HomeAway®



airbnb

June 2015



FLIPKEY®  
by TripAdvisor®

vacasa  
vacation rentals made easy

Prepared for:

*Colorado Association of Ski Towns*

With Participation by:

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

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# Introduction

## Purpose

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

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

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

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

## Organization of the Report

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

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

Each section consists of four subsections:

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

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

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

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

## How to Use This Report

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

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

## Methodology

Sources referenced in this report include:

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

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

## Terminology

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

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

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



## Executive Summary

### Overview of the VHR Industry

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

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

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

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

### VHR's in the “Sharing Economy”

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

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

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

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

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

## VHR's Presence in Mountain Towns

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

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

### VHR's Compared to Housing Units

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

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

## Community Concerns

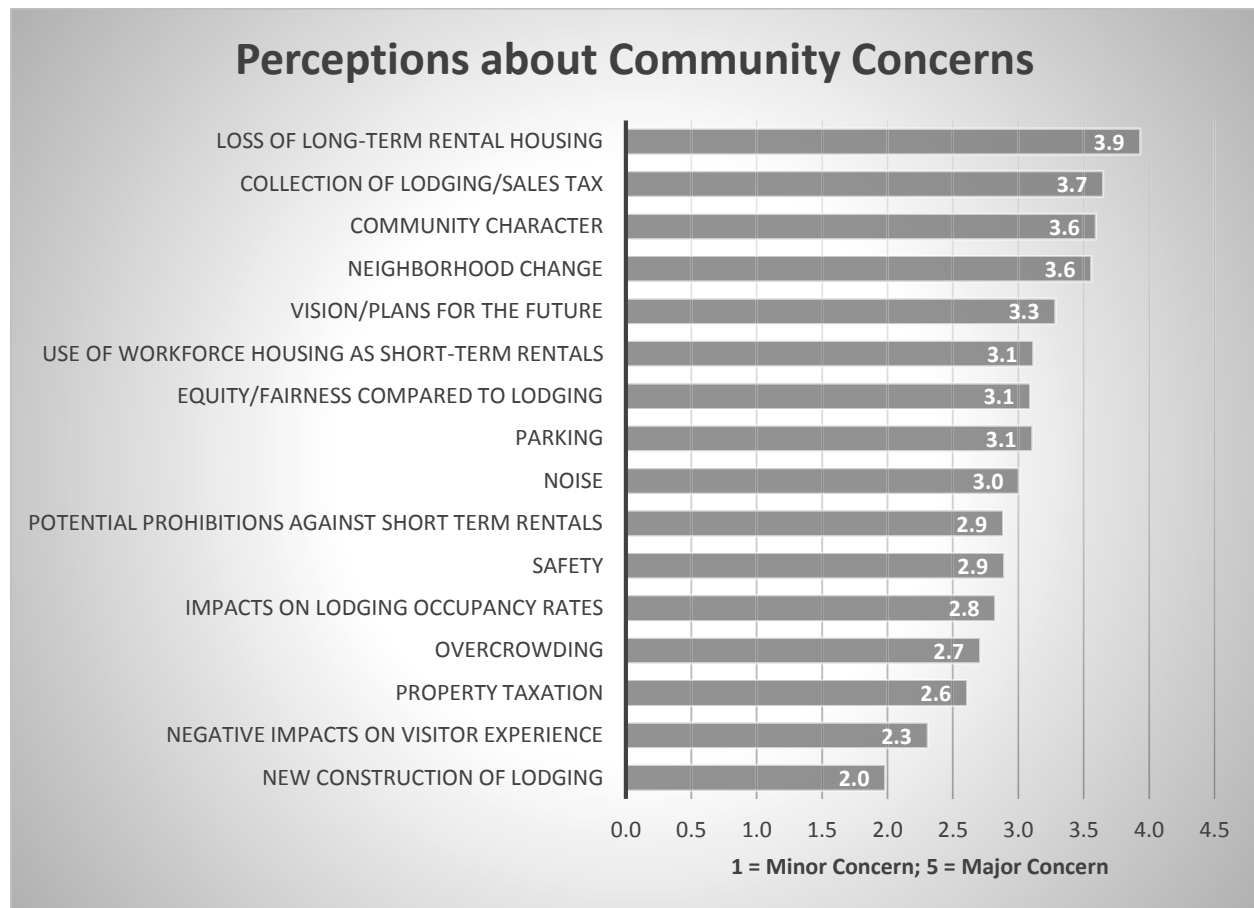
From large cities to small resort towns, the proliferation of VHR's is raising concerns. The National League of Cities reported that common elements among communities of all sizes are the issues of ensuring that safety, regulation and licensing systems are up to par, along with proper taxing procedures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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

## Matrix of Best Practices

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

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

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

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

# I. Tracking

## Issues and Emerging Trends

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

### Progress Made on Hosting Site Compliance

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

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

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

### Tracking Units Has Become Harder

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

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

### Communities Use Subpoenas to Obtain Information

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

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

### Data Mining Barriers

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

### Cities Requiring Hosting Sites to Provide VHR Data

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

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

### State Initiatives Surfacing

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

## **CAST Survey Findings**

### When Communities Began Tracking

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



### Hosting Sites Tracked

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

### Frequency of Tracking

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

### Information Collected

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

### Understanding Owner Occupancy of VHR's

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

### Approach/Methodology

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

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

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

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

### Duplication of Effort

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

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

### Assistance From Complaints

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

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

## **Best Practices**

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

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

#### *Negotiate Airbnb agreement – Portland, Malibu*

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

#### *Post local VHR regulations on Airbnb – Truckee, Snowmass*

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

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

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

*Coordinate VHR tracking across departments – Steamboat*

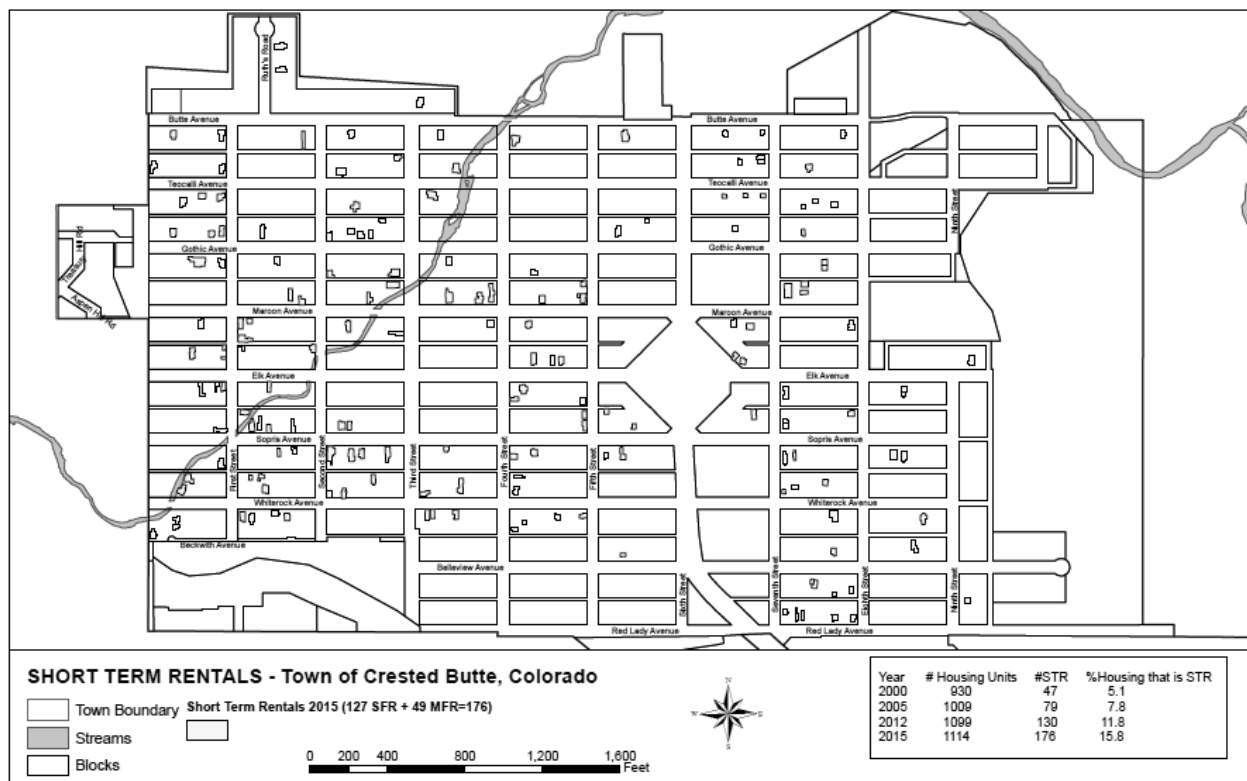
- When collecting information on the CAST survey for this study, several communities needed to pass the survey to various departments to collect the needed information, with inconsistent results. Steamboat has a system where planning staff provides VHR data to finance, who then provides legal VHR listings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

*Work with Code Enforcement on Complaints – Ouray, Estes Park*

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

*Map VHR’s – Durango and Crested Butte*

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



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

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

## **Potential Practice**

*CAST Initiative – Development of Tracking System and Database*

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

## II. Regulations

### Issues and Emerging Trends

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

#### VHR's Proliferate Where Prohibited

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

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

#### Moving From Prohibition to Regulation

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

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

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

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

### Enforcement is the Weak Link

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

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

## Portland and New York Get Aggressive

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

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

## VHR’s Fight Back

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

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

## CAST Survey Findings

### Restrictions on the Number and Location of VHR's

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

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

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

### Variations in Regulations Based on Unit Type or Location

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

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



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

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

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

### Distinguishing between Year-Round and Occasional VHR's

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

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

### Rental of Bedrooms

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

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

### Changes to Regulations

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

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

### Local Property Manager

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

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

### Safety Requirements/Inspections

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

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

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

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

### Guest Experience

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

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

### **Best Practices**

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

### Safety

*Require VHR safety inspections – Park City, Breckenridge, Durango*

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

*Post safety and emergency contact information in the VHR - Breckenridge*

### Property Management

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

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

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

### Neighborhood and Community Character

#### *Restrict number/concentration of VHR's – Durango*

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

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

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

### Provide VHR Options for Owners and Help Protect Local Housing Supply

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

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

#### *Discourage speculative VHR purchases – San Francisco, Portland*

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

#### *Permit Bedroom Rentals With Owner Present – Petaluma (proposed)*

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

## III. Licensing and Permitting

### Issues and Emerging Trends

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

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

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

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

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

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

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

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

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

### License and Permit Fees

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

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

### Enforcement of Licensing and Permitting Requirements

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

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

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

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

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

### Revocation of Licenses or Permits

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

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

## **CAST Survey Findings**

### Who Requires Licenses and Permits

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

### License and Permit Requirements

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

For communities requiring permits:

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

### Permit and License Fees

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

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



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

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

#### Cost of Permits

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

#### License and Permit Requirements

License applications collect varying information within the CAST participating communities.

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

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

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

### Information Required on Licenses/Permits

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

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

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

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

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

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

### Enforcement of Licensing and Permitting Requirements

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

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

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

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

### Revocation of Licenses or Permits

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

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

## Best Practices

### License requirements

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

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

### Fees

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

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

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

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

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

**Compliance: Investigation, Education, Enforcement**

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

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

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

*Publish VHR requirements in newspaper, websites – Breckenridge, Durango*

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

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

*Link complaints to legal and illegal VHR's - Steamboat*

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

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

**Revocation**

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

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

**Potential practices**

*Increase license fees to mitigate workforce housing impacts.*

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

*Collect VHR unit operating detail on permit/license application*

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

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

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

## IV. Taxing

### Issues and Emerging Trends

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

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

### Taxes Help Pay for VHR Services and Impacts

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

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

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

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

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

### Hosting Sites Have Shown Some Signs of Cooperation

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

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

### Locating VHR Tax Evaders Remains a Challenge

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

### Tax Collection Agreements Do Not Extend to All Hosting Companies

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

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



## CAST Survey Findings

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

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

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

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

### Tax Rates on VHR's

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

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

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

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

#### Local Tax Collections by Type

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

#### VHR Tax Revenues

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

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

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

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

### VHR and Total Lodge Tax Collections Compared: 2014 Collections

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

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

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

## Best Practices

### Coordinated Tax Collection

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

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

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

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

Improved Tracking of VHR Tax Revenues

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

## Potential Practices

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

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## V. Staffing

### Issues and Emerging Trends

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

#### Staff Responsibilities Shift as Issues Grow

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

#### Existing Staff Take On Increase in Duties

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

#### Allocating Time/Staff Resources is Low/Moderate Priority

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

#### Administrative Costs are Unclear

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

#### Staffing Not Shared - Regional Inefficiencies

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

## Large Cities Get Aggressive

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

## **CAST Survey Findings**

### Responsible Departments

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

#### **Town Departments Responsible for VHR Management**

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

### Number of Staff Involved and Hours Spent

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

### Staffing and Time Spent on VHR Management

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

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

#### Costs

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

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

#### **Best Practices**

##### Staffing Alternatives

###### *Community Development Department Takes the Lead – Durango*

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

###### *VHR Oversight Coordinated by Economic Development Staff – Park City*

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

###### *Staff Specialist Added – Park City*

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

## Potential Practices

### Share Staff/Contract Services through Regional Cooperation

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

### Compare Costs/Benefits

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



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## VI. Neighborhood Impacts

### Issues and Emerging Trends

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

### Metro Areas React to Neighborhood Concerns

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

### Neighborhoods Organize Across the Country

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

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

### National Group(s) Form to Deal with Issues

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

## Hosting Sites Cooperatively Defend Rights

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

## Code Enforcement and Local Property Managers Effective Tools in Mountain Towns

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

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

## **CAST Survey Findings**

### Concerns About Neighborhoods

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

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

#### **Neighborhood Concern Ratings**

*1 = minor concern; 5 = major concern*

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

## Complaints

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

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

### **VHR-Related Complaints Received**

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

\*Total exceeds 100% since multiple reasons sometimes cited.

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

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

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

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

## Best Practices

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

### Outreach and Education

#### *Website – Durango*

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

#### *Mapping of Permitted VHR's – Durango*

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

#### *Neighbor Notices – Sonoma County and Petaluma (proposed)*

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

#### *Stakeholder Roundtables – Durango*

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

#### *Chamber Outreach – Breckenridge*

- Meetings held for education about rules and procedures.

#### *Newspaper Notices and Articles – Breckenridge*

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

#### *Community Engagement – Durango*

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

#### *Complaint Handling Process – Durango*

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

#### *Educate Visitors – Breckenridge*

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

## Nuisance Mitigation

### *Occupancy Limits*

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

### *Visitor Limits – Sonoma County*

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

### *Outdoor Party Limits*

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

### *Trash Management – Grand Lake*

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

### *Parking*

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

### *Noise Limits*

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

### *General Nuisance*

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

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## VII. Workforce Housing

### Issues and Emerging Trends

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

#### Loss of Long-Term Rentals

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

#### Rent Increases

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

#### Large Cities Also Concerned

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

#### Using Workforce Housing as Vacation Home Rentals

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

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

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

### Quantifying the Situation

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

### Impacts on Accessory Units

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

## **CAST Survey Findings**

### Loss of Long-Term Rentals

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

### Tracking Conversion from Long-Term to Short-Term Rentals

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

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

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## Using Deed Restricted Workforce Housing as VHR's

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

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

## **Best Practices**

### Tracking Conversion of Employee Housing Into VHR's

#### *Real Estate Database – Breckenridge*

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

#### *Housing Census – Crested Butte*

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

### Prohibiting Use of Workforce Housing as VHR's

#### *Deed Restriction Provisions – Breckenridge*

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

#### *Web Site Notice - Aspen*

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



## Potential Practices

### *License Check for Housing Compliance*

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

### *Tracking System Crosscheck*

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

### *Allocate VHR Revenue to Housing*

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

### *Replace Lost Housing Units*

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