



## Vacation Rental Permitting & Enforcement Program Summary

### Introduction

Vacation rentals are a hot topic all across the country. In our community, applications for vacation rental (VR) permits flooded in at the adoption of the new LUDC. Since then, applications and inquiries have remained constant. A summary of the permitting activity is displayed in the tables below.

**City-Wide VR Permit Summary Table**

Currently Active VR Permits (all zones)	Pending VR Applications (all zones)	Expired VR Permits (all zones)	Withdrawn VR Permits (all zones)	Denied VR Permits (all zones)
33	13	11	8	2

**EN-1 & EN-2 VR Permit Summary Table**

	Pending VR Permit Applications	Currently Active VR Permits	Total Pending or Active Permits	Total Allowed
EN-1 Zone District	8	12	20	22
EN-2 Zone District	4	7	11	17

The Community Development Department is also getting many inquiries and/or complaints from property owners questioning the legality of vacation rental activity in their area. In regards to enforcement of the VR standards, there are two main categories:

1. **Non-Permitted VRs:** Vacation rentals which are operating without permits that must either cease-and-desist or obtain necessary permits.
2. **Inspection & Licensing Requirements for Permitted VRs:** Vacation rentals must be shown to meet the conditions of approval in their permit and must maintain business licenses and remit lodger's taxes.

Significant multi-departmental efforts have already begun to track vacation rentals in our community and enforce the standards adopted by City Council. As Council was finalizing the vacation rental regulations, City staff initiated a research and enforcement program to better understand the vacation rental situation in our community. Staff has always responded to complaints regarding illegal vacation rentals, but this effort has gone a step further in proactively weeding out illegal VRs and helping bring eligible VRs into compliance.

The City Manager had been corresponding with and planning to engage VRCompliance Inc. to perform VR enforcement checks. Unfortunately, the VRCompliance service is no longer available. For that reason, staff has prepared the following summary of enforcement actions taken thus far and a proposal for how to proceed with enforcement of the City's VR regulations.

### Non-Permitted VRs

#### Recent Efforts

Community Development staff began actively searching for and tracking advertisements for illegal vacation rentals. Since July 1, 2014, staff has mailed approximately twenty (20) letters to VRs that have been identified as operating illegally. We have received a wide range of responses, but many have ceased operating or changed the terms of their operations to comply with the VR regulations.



Additionally, staff has created a simple but informative map of all the permitted VRs in the City ([www.durangogov.org/vacationrentals](http://www.durangogov.org/vacationrentals)). This can be viewed by citizens and complaints can be submitted directly to Community Development staff via this website. We hope this displays open and transparent governance and encourages concerned citizens to assist the City in enforcing VR regulations.

One potential loophole which has been identified is that units can be listed on popular VR websites such as Airbnb, VRBO, Homeaway, etc., as 'long-term rentals' (30 days or longer) and they technically comply with the City's standards. However, it is difficult to confirm whether or not the unit is actually being rented long-term or if property managers are still allowing short-term rental contracts.

### **Proposal**

From this point on, staff proposes to monitor the most popular VR websites on a monthly basis. Staff will designate one day each month to conduct a search of these sites and enter suspicious listings into a digital database used to track our enforcement efforts.

To address the potential loophole of listing units as 'long-term' on these VR sites, staff will use various means to investigate the validity of the 'long-term' designation.

Staff will continue to maintain the VR interactive map and allow for complaints to be submitted online.

### **Penalties**

Communities typically enforce their short-term rental regulations in two ways: (1) in accordance with a generally applicable enforcement provision contained in the code of ordinances or zoning ordinance, or (2) through a specific enforcement provision incorporated into the VR regulations. The new LUDC treats VR violations as a general violation and enforcement actions are the same as other zoning or land use violations.

Currently, Code Enforcement staff typically sends one warning letter prior to issuing any sort of citation. The citations can cause these cases to drag on and typically result in a fine that is trivial. In order to streamline the process, we will track the letters which are sent and repeat offenders will not be given the courtesy warning. Citations will be repeatedly and directly issued if an illegal VR operator fails to comply following one (1) initial warning letter.

## **Inspection & Licensing Requirements for Permitted VRs**

### **Recent Efforts**

As for the group of permitted VRs, the Community Development, Administrative Services, and Finance Departments have undertaken a comprehensive review of existing, permitted VRs' business license and tax reporting status. Starting in early July, when the new LUDC regulations became effective, staff sent ten (10) letters to permitted VRs that had a deficiency in their business license requirements, tax reporting, or both. All of these licensing and tax reporting issues have been dealt with and all currently permitted VRs, except for one, are in compliance.

### **Proposal**

As VRs are permitted, staff will take steps to ensure that VRs meet the conditions of approval in their permits. Various means can be used to determine this compliance including site visits, walk-through inspections, and/or a requirement that an applicant submit photos demonstrating compliance. Prior to approval of a business license, code enforcement staff will arrange and conduct a simple walk-through inspection of the premises.



Staff from Community Development, Administrative Services, and Finance propose to conduct licensing and tax reporting reviews of permitted VRs every three (3) months. Staff from the Community Development Department will also be sure to clearly communicate these requirements to VR applicants as they issue permits.

### **Penalties**

The VR permit may be revoked if a VR operator is found to be deficient in reporting or paying taxes, maintaining a business license, or complying with the conditions of their permit. We will typically contact the operator to notify them and give them a specific period of time to attain compliance prior to revoking a permit. Penalties, decided on a case-by-case basis, can also include revocation of a property manager's business license and/or pursuit of 'back taxes'.

Noise, trash, parties, and other operational complaints are rare for permitted VRs. These can be addressed through the typical nuisance provisions in the Code. Staff will also review options for incorporating specific penalties for these types of offenses such as revocation of a VR permit after a certain number of complaints. The previous LUDC had a system like this, but unfortunately it was not brought forth into the new LUDC.

### **Overall VR Enforcement Program Summary**

- **Maintain Digital Database** tracking permitted VRs, licensing compliance, illegal VR addresses, letters sent, citations issued, property managers, and other factors.
- **Monthly Search of Most Popular VR Websites** including VRBO.com, Homeaway.com, Flipkey.com, Airbnb.com, Craigslist.com, and others as needed.
- **Investigate** units advertised as 'long-term rentals' to ensure compliance
- **Real-Time Mapping** of permitted VRs and **On-line Complaint System**
- Follow a **Streamlined Enforcement Process** for VR violations
- **Quarterly Licensing Review** on permitted VRs