

SHORT-TERM RENTAL COMMITTEE BACKGROUND, FINDINGS AND RECOMMENDATIONS

BACKGROUND:

A dedicated Short-Term Rental (STR) Committee was created in the spring of 2022 to focus on research and recommendations on the management of Short-Term Rentals within the Riviera Community Club (RCC). They were tasked with the responsibility to:

1. Determine and recommend processes that are compliant with the Riviera's governing documents and Pierce County in addressing STRs.
2. Assess noise, traffic, parking, over-occupancy, safety and other related issues that may be associated with STRs. Confirm compliance with Pierce County and Riviera Community Club regulations.
3. Interface with island organizations as appropriate, including the Volunteer Island Patrol, Fire Department and Anderson Island Citizens Advisory Board to understand additional impacts of STRs on the Riviera Community Club community.
4. Create a strategy to educate and share the Riviera Community Club and Pierce County rules, regulations, and expectations with members/owners conducting STRs.
5. Create a strategy to educate and share the Riviera Community Club rules and expectations with STR renters.

During the course of committee meetings, members reviewed governing documents, prior community complaints regarding STR's, members knowledge, experience and understanding of STR's, discussed issues specific to Riviera and larger community of Anderson Island as a whole regarding STR's, researched legal issues pertaining to STR's and discussed a wide range of possible policies to implement to address community concerns with STR's while maintaining a legally permissible use of their properties by member STR owners.

FINDINGS:

The committee identified two governing sources for Short Term Rentals within the Riviera: The RCC Covenants and Bylaws, and Pierce County Code 18A.37.040(B).

In review of the RCC Covenants and Bylaws, the term "renter" is used seven times, most often in reference to use of amenities. The context of the term could be construed to refer to long-term rental of a member's property, as it refers to assignment of rights and that the renter may then purchase golf, campground and marina memberships. However, absent a distinction in the Covenants and Bylaws between long-term renters and short-term renters, the committee believes that it should most likely be read as referring to both until such time as a formalized distinction is made.

Pierce County Code 18.37.040(B) Specifically addresses the operation and use of Short-Term Rentals within Pierce County and is the overall governing authority. The code sets forth the following requirements for STR operations:

- 2 B. A Vacation Rental (VR) is a short-term rental accommodation within a legally established single-family or accessory dwelling. Longer term rentals exceeding 30 days are not regulated under this Chapter. Vacation rentals shall be allowed when the following criteria are met:
 1. A total of five guest rooms may be provided.
 2. Two guests per bedroom, not to exceed a total of ten guests may be lodged at any time.
 3. Compensation of any kind is paid for the lodging.
 4. The VR owner or representative shall provide guests with information indicating the location of guest parking spaces.
 5. The VR owner or representative shall provide notification of the presence of the vacation rental business to all neighboring property owners directly adjacent to the vacation rental property.
 6. The property owner shall file a Vacation Rental Affidavit with the Pierce County Planning and Public Works Department which indicates the following:

- a) The property owner's intent to use their residence as a Vacation Rental.
 - b) Contact information for either the owner, representative, or property management company including phone number and e-mail.
 - c) Listing of the internet site(s) where the Vacation Rental property is advertised.
 - d) The required neighborhood notification has been provided.
7. A Good Neighbor brochure for short-term rentals is provided to each renter describing the appropriate etiquette of residing in a Vacation Rental.

The Committee researched laws, ordinances, and judicial rulings regarding Short-Term Rentals in other jurisdictions and communities. Responses to STR's in US cities, communities and various Homeowner Associations have ranged from no regulation, to specifically permitted by law, to restrictive regulation, and to complete bans. While these may provide examples to draw from, each has a great deal of legal nuance and should not attempt to be applied to the Riviera community as a model approach without legal consultation.

A ruling from the Washington State Supreme Court, however, does appear to apply and addresses an often-heard concern of alleged STR violations of Riviera Covenant 7.01, Business and Use Restrictions, which govern member use of their residences as businesses. The 2014 Washington State Supreme Court [Wilkinson v. Chiwawa Communities Association] ruled specifically that short-term rentals are a residential activity and not a commercial activity, in this case also within an HOA governed community. It is certain that there is a great deal of potentially applicable case law regarding STR's in HOA's and communities that the Committee is unaware of that could guide future efforts made by the Board to regulate STR's in Riviera.

There is a wide range of knowledge and misunderstanding by members of the use and operations of short-term rentals in the Riviera and of the applicable rules and codes by member STR to be in compliance with their operation. All members would likely benefit from education regarding STR's and their place in this community.

There are less than 80 islands in the US served by ferries only, and many of those are only day use, not residential communities. No other lodging options currently exist on Anderson Island and future development of commercial lodging seems extremely unlikely, if not impossible. STRs currently provide the only lodging option on Anderson Island. Visitors to the island come for a variety of reasons, including family gatherings, community events, prospective homeowners, business and professional purposes, as well as vacations.

The Short-Term Rental Committee believes that this type of rental classification can benefit our residents by having a place for their guests to stay while visiting the island. We also believe that this must be done in a manner that does not deprive owners of the enjoyment of their property. The benefits of Short-Term Rentals would not outweigh the disruptions caused by noisy, boisterous behavior by renters. The mission statement of our Covenants begins with the following two paragraphs:

"WHEREAS, Anderson Island and the Lake Josephine Riviera Subdivision (hereinafter "Subdivision") is an area of great natural beauty which includes distinctive terrain, a unique island biological, botanical and geological ecosystem, forests, open spaces, fresh water lakes and streams, and salt water exposure, all of which combine to form a natural habitat for plants and animals and a unique recreational and residential community; and,

*WHEREAS, The Subdivision Owners desire to maintain and perpetuate the planned and platted development for residential use, and to preserve its natural beauty for the enjoyment and convenience of the property Owners and persons living therein so as to maintain property values and to enhance their quality of life; to provide necessary community services; and
to enforce the Rules, conditions, restrictions, and easements (hereinafter "Covenants") established by these Declarations to secure such objectives; etc."*

Our efforts should be to help Riviera owners understand the benefits, rules and enforcement consequences of Short-Term Rentals. We need to balance the benefits of STR's and the impact they have on our quality of life in Riviera. Will they add to or detract from our Covenants Mission Statement? Further, enforcement will be key. If we are not willing to take enforcement action seriously then we believe life in Riviera will deteriorate as the number of rentals increases.

A count was done by the Committee of current Riviera STR listings on the two most popular internet listing services, AirBnB and VRBO. A small number of properties were listed on both sites, and it is believed that many of the listings are only on these two sites. At the time of this inventory, it was found that there were approximately 24 Riviera properties listed as Short-Term Rentals, but it is suspected that there are many more.

This number is known to increase or decrease for a variety of reasons and is not static. No data could be collected as to frequency of use or number of days rented, as owners are able to block dates selectively and an unavailable date does not necessarily indicate that the property is rented for that date. Anecdotally, many listings are rented only one to three times a month. From details on the internet listings, some properties appear to be compliant with some of the Pierce County Code requirements, particularly as to occupancy, while others do not. A small number appear to be either owned or operated commercially, as opposed to member occupied and operated.

Complaints regarding Short-Term Rentals in Riviera are mostly anecdotal and undocumented, with a few exceptions, but appear to be universal in nature. The complaints most often concern excessive noise, outdoor activity, and not following Riviera rules. They include loud parties and music, especially late night, incivility, and excessive vehicles parked in the roadway occasionally blocking access of fire/medical emergency vehicles.

Complaints often include perceived over-use of the various amenities and ferries, but there is little to no information or data to confirm that these complaints involve short-term renters. The committee recognizes that without further surveys or data collection, it is not possible to identify many complaints that arise as being caused by short term renters or by residents and other guests. Currently there is no clear or set path for membership to make their complaints available to the Riviera regarding these issues.

Aside from the day-to-day concerns of nuisance renters, there is a larger picture quality-of-life concern for the Riviera community. The committee recognized there is a significant difference between a STR operator that makes significant use of the home themselves and a STR operator that views the property as an investment and rarely if ever comes to the island. It seems more likely that those individuals that operate a STR that are also engaged members of the community are more likely to be responsive to the concerns of their neighbors and the quality of life on the island. A vacation or family home that sees rental when not in use can have a very different impact from a home that is only seen as a potential source of income. Any STR policies adopted by the Riviera should seek to engage operators in the community and actively discourage "absentee landlords".

RECOMMENDATIONS:

The Committee discussed a wide range of possible policy and rule change recommendations for Short-Term Rentals within the Riviera, evaluating them for feasibility, compliance, impacts and implementation. The Committee recognizes that the Riviera community has unique challenges and structure and that what has been used in other communities may or may not be possible here. Recommendations need to balance the good of the community and an emphasis on its tranquil nature, with the property rights of owners. Any recommendations needed to be not overly burdensome to comply with or to enforce, but also address concerns of the community.

- The Committee believes that a positive, supportive approach to regulation of STR's will ensure and increase voluntary compliance.
- Providing a means to register complaints will also reassure members that their concerns are being heard, documented, and tracked for reliable data and metrics. All of which can then be applied to possible accountability and corrective actions concerning VR property owners.
- Implementation of any changes should be gradual and progressive in response to measured effectiveness of previous regulation attempts.
- There must be a plan in place that would provide for enforcement.

Thereby The Committee recommends the following Short-Term Rental policies in the Riviera:

1. Owners of Short-Term rentals are required to register and comply with Pierce County STR regulations.
2. Require owners of STR's to register with the Riviera. This provides the Riviera a way to help STR owners understand and comply with Riviera STR policy, as well as monitor and enforce compliance. Registration should include a copy of their affidavit obtained from Pierce County.
3. Create a form specifically for STRs transfer of amenity use and establish reasonable annual fee for the transfer and an Amenities Pass.
4. Create a STR Renter Pass registered to each STR owner, such as an assigned specific number, which can then associate an STR renter with the property they are renting. STR Owners provide a STR renter with the pass along with education on Riviera amenities and policies.
5. Provide the Good Neighbor Brochure to owners/renters and the membership at large that has information on where to report issues and has general information on the processes and policies for STRs.
6. Create and publicize a Riviera email address specifically for complaints regarding STR's. This will provide members with a means to immediately file their complaint, as well as provide Riviera management with a method of tracking and monitoring numbers, frequency, and type of complaint and identification of problem properties.
7. Report to Pierce County Code Enforcement any STRs that appear to be in violation of the Pierce County Code.
8. Establish specific enforcement procedures, up to and including fines, regarding STRs that have repeated violations that impact the quality of life of other members.

While we also understand that there are many challenges involved in doing so, we feel it would be appropriate to add a section regarding STR to the Riviera Covenants.

1. Create a definition of Short-Term Rentals consistent with WAC [458-20-166](#) and Pierce County Code 18.37.040(B) and a distinction from long term rentals.
2. Adopt language to discourage the operation of STRs strictly for investment purposes with the Riviera. When the Pierce County Code 18.37.040(B) was initially proposed it included language that in order to operate a STR it must be owner occupied at least 90 days a year or one quarter of the time. Similar language would allow members to rent their homes when not in use but discourage the operation of an STR strictly as an investment.

The Board of Trustees is requesting membership feedback on the Committee's recommendations prior to implementing any policies and procedures.